

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1135

Short Title: Swain County Local Option Sales Tax. (Local)

Sponsors: Representative Haire.

Referred to: Finance.

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SWAIN COUNTY TO LEVY A ONE-CENT LOCAL SALES AND USE TAX FOR PUBLIC SCHOOL CAPITAL OUTLAY PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to Swain County only.

SECTION 2. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"Second One-Cent (1¢) Local Government Sales and Use Tax.

"§ 105-535. Short title.

This Article is the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

"§ 105-536. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter, and the third one-half cent (1/2¢) local sales and use tax under Article 44 of this Chapter.

"§ 105-537. Levy.

The board of commissioners of a county may, by resolution, levy one percent (1%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Before adopting a resolution under this Article, the board of commissioners must give at least 10 days' public notice of its intent to adopt the resolution and must hold a public hearing on the issue of adopting the resolution.

"§ 105-538. Administration.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of the additional taxes authorized by this Article shall be in accordance with

1 Article 39 of this Chapter. A tax levied under this Article does not apply to the sales
2 price of food that is exempt from tax pursuant to G.S. 105-164.13B.

3 **"§ 105-539. Distribution and use.**

4 (a) Distribution. – The Secretary shall, on a monthly basis, distribute to each
5 taxing county the net proceeds of the tax collected in that county under this Article. If
6 the Secretary collects taxes under this Article in a month and the taxes cannot be
7 identified as being attributable to a particular taxing county, the Secretary shall allocate
8 these taxes among the taxing counties in proportion to the amount of taxes collected in
9 each county under this Article in that month and shall include them in the monthly
10 distribution.

11 (b) Use. – Counties may use the proceeds of a tax levied under this Article only
12 for public school capital outlay purposes as defined in G.S. 115C-426(f) and to retire
13 indebtedness incurred by the county for these purposes.

14 (c) Nonsupplant Restriction. – It is the purpose of this Article for counties to
15 appropriate funds generated under this Article to increase the level of county spending
16 for public school capital outlay purposes above the level of spending before the levy of
17 the tax authorized in this Article. A county that levies a tax under this Article must
18 continue to spend for public school capital outlay purposes the same amount of money it
19 would have spent for those purposes if it had not levied the tax.

20 **"§ 105-540. Expiration.**

21 A tax levied under this Article expires 20 years after the effective date of its levy. A
22 county's authorization to levy a tax under this Article expires 20 years after the effective
23 date of the first tax the county levies under this Article, even if the tax has not remained
24 in effect for the entire 20-year period. The expiration of a tax pursuant to this Article
25 does not affect the rights or liabilities of a county, a taxpayer, or another person arising
26 under the expired tax; nor does it affect the right to any refund or credit of a tax that
27 would otherwise have been available under the expired tax before its expiration.

28 If the Secretary receives a valid request for a refund of a tax levied under this Article
29 after the tax has expired and the net proceeds have been distributed, the Secretary shall
30 draw the refund from the taxing county's share of the net proceeds of the tax it levies
31 under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, as
32 applicable."

33 **SECTION 3.** A tax levied under Article 46 of Chapter 105 of the General
34 Statutes, as enacted by this act, does not apply to construction materials purchased to
35 fulfill a lump-sum or unit-price contract entered into or awarded before the effective
36 date of the levy or entered into or awarded pursuant to a bid made before the effective
37 date of the levy when the construction materials would otherwise be subject to the tax
38 levied under Article 46 of Chapter 105 of the General Statutes.

39 **SECTION 4.** This act is effective when it becomes law.