

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 751
Committee Substitute Favorable 6/26/97

Short Title: Cabarrus Three-Year Sales Tax/Schools.

(Local)

Sponsors:

Referred to:

April 2, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE RELIANCE ON DEBT FOR PUBLIC SCHOOL
3 CONSTRUCTION IN CABARRUS COUNTY BY AUTHORIZING THE COUNTY
4 TO LEVY A TEMPORARY SALES AND USE TAX OF ONE PERCENT, IF
5 APPROVED BY THE VOTERS OF THE COUNTY, FOR PUBLIC SCHOOL
6 CONSTRUCTION.

7 The General Assembly of North Carolina enacts:

8 Section 1. This act applies only to Cabarrus County.

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

11 "ARTICLE 43.

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

13 "**§ 105-505. Short title.**

14 This Article shall be known as the Second One-Cent (1¢) Local Government Sales
15 and Use Tax Act.

16 "**§ 105-506. Purpose.**

17 This Article gives the counties of this State an opportunity to obtain a temporary
18 source of revenue with which to meet their public school construction needs. It provides

1 all counties of the State that are subject to this Article with authority to levy one percent
2 (1%) sales and use taxes.

3 **"§ 105-507. Limitations.**

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

8 **"§ 105-508. County election on adoption of tax.**

9 (a) Resolution. – The board of commissioners of a county may, by resolution
10 adopted by the affirmative vote of at least four-fifths of the commissioners, direct the
11 county board of elections to conduct an advisory referendum on the question of whether a
12 temporary local sales and use tax at the rate of one percent (1%) will be levied in
13 accordance with this Article. The election shall be held on a date jointly agreed upon by
14 the two boards and shall be held in accordance with the procedures of G.S. 163-287.

15 (b) Public Hearing. – The board of commissioners shall hold a public hearing on
16 the question at least 30 days before the date the election is to be held. At the hearing, the
17 board shall provide information on the public school building capital projects for which
18 the tax revenue would be expected to be used, the approximate cost of each project, the
19 approximate savings that could be realized by avoiding debt financing, and the fact that
20 the tax expires automatically after three years.

21 (c) Ballot Question. – The form of the question to be presented on a ballot for a
22 special election concerning the levy of the taxes authorized by this Article shall be:

23 **' [] FOR [] AGAINST**

24 temporary one percent (1%) local sales and use taxes, in addition to the current two
25 percent (2%) local sales and use taxes, to be used only for public school capital projects.'

26 (d) Subsequent Elections. – If a county has previously levied a tax under this
27 Article and the tax is no longer in effect, the county may levy a new tax in accordance
28 with this Article. An election regarding the levy of a subsequent tax may not be held,
29 however, earlier than 90 days after the expiration or repeal of the previous tax under this
30 Article.

31 **"§ 105-509. Levy and collection of additional taxes.**

32 If the majority of those voting in a referendum held pursuant to this Article vote for
33 the levy of the tax, the board of commissioners of the county may, by resolution, levy one
34 percent (1%) local sales and use taxes in addition to any other State and local sales and
35 use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy,
36 collection, administration, and repeal of these additional taxes shall be in accordance with
37 Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this
38 Article, references to 'this Article' mean 'Article 43 of Chapter 105 of the General
39 Statutes'.

40 **"§ 105-510. Distribution and use of additional taxes.**

41 (a) Distribution. – The Secretary shall, on a quarterly basis, distribute to each
42 taxing county the net proceeds of the tax levied under this Article by that county. If the
43 Secretary collects taxes under this Article in a month and the taxes cannot be identified as

1 being attributable to a particular taxing county, the Secretary shall allocate these taxes
2 among the taxing counties in proportion to the amount of taxes collected in each county
3 under this Article in that month and shall include them in the quarterly distribution.

4 (b) Use. – A county may use the net proceeds distributed to it under this Article
5 only for public school building capital outlay projects including the planning,
6 construction, reconstruction, enlargement, improvement, repair, or renovation of public
7 school buildings and for the purchase of land for public school buildings. A county shall
8 allocate the net proceeds distributed to it under this Article among the local school
9 administrative units in the county according to the per capita distribution of local funds
10 formula calculated annually by the State Board of Education. A county shall not use the
11 proceeds to pay debt service or to fund a public school building capital outlay project that
12 is or will be financed in part by debt.

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

20 **"§ 105-511. Expiration.**

21 A tax levied under this Article expires three years after the effective date of its levy or
22 most recent extension, unless the voters of the county approve its extension for an
23 additional three years as provided in this section. During the third year after the levy or
24 most recent extension of the tax authorized in this Article, the county board of
25 commissioners may direct the county board of elections to conduct an advisory
26 referendum on the question of whether the tax should be extended for an additional three
27 years. The election shall be held on a date jointly agreed upon by the two boards and
28 shall be held in accordance with the procedures of G.S. 163-287.

29 The form of the question to be presented on a ballot for a special election concerning
30 the extension of the taxes authorized by this Article shall be:

31 **'[] FOR [] AGAINST**

32 extension of current one percent (1%) local sales and use taxes in addition to the two
33 percent (2%) local sales and use taxes, to be used only for public school capital projects.'

34 If the majority of those voting in a referendum held pursuant to this section vote for
35 the extension of the tax, the board of commissioners may, by resolution, extend the tax
36 for an additional three years.

37 The expiration of a tax pursuant to this Article does not affect the rights or liabilities
38 of the State, a taxpayer, or another person arising under the expired tax; nor does it affect
39 the right to any refund or credit of a tax that would otherwise have been available under
40 the expired tax before its expiration."

41 Section 3. This act is effective when it becomes law.

42 Section 4. A tax levied under Article 43 of Chapter 105 of the General
43 Statutes, as enacted by this act, does not apply to construction materials purchased to

- 1 fulfill a lump sum or unit price contract entered into or awarded before the effective date
- 2 of the levy or entered into or awarded pursuant to a bid made before the effective date of
- 3 the levy when the construction materials would otherwise be subject to the tax levied
- 4 under Article 43 of Chapter 105 of the General Statutes.