

# GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

## Legislative Fiscal Note

**BILL NUMBER:** House Bill 63 (First Edition)

**SHORT TITLE:** Property Tax - School Capital Leases.

**SPONSOR(S):** Representatives Yongue, Johnson, Jones, and Lucas

### FISCAL IMPACT

Yes ( )

No (x)

No Estimate Available ( )

FY 2007-08

FY 2008-09

FY 2009-10

FY 2010-11

FY 2011-12

**REVENUES:** \*No fiscal impact – see assumptions and methodology\*

**PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:** NC Department of Revenue, County Tax Assessors and Local School Administrative Units

**EFFECTIVE DATE:** Effective for taxes imposed for taxable years beginning July 1, 2007.

**BILL SUMMARY:** House Bill 63 would exempt school facilities subject to a capital lease from property tax. To qualify for the exemption, the property must be subject to a capital lease and be used as a public school facility. The bill is a recommendation of the House Select Committee on Public School Construction.

**BACKGROUND:** In 2006, General Assembly adopted Senate Bill 2009, which allows local school administrative units to enter into capital leases for school facilities. Prior to the enactment of this law, school boards were allowed to enter into operating leases for school facilities, but the property on which the facilities were located had to be owned in fee simple by the local unit. In addition, all construction and repairs were required to be under the direction and control of the local board of education. Senate Bill 2009 provides that when the building is the subject of a capital lease, the board is not required to own the property and the lease may provide that the lessor is responsible for repairs and renovations.

**ASSUMPTIONS AND METHODOLOGY:** Under generally accepted accounting principles a capital lease is a non-cancelable contract in which legal title to the property is transferred to the lessee. Capital leases also contain bargain or nominal purchase options and the lease term equals or exceeds 75% of the asset's useful life. Moreover, a capital lease is generally considered to have the economic characteristics of ownership. As a result, the NC Department of Revenue indicates that the current practice of counties is to treat the lessee in a capital lease as the responsible party for

the payment of property taxes. Therefore, in the case of a school capital lease, the local school administrative unit would currently be considered the owner for tax purposes and the property would be exempt from property tax. House Bill 63 clarifies that property subject to a school capital lease is excluded from property tax and is expected to have no significant fiscal impact.

**SOURCES OF DATA:** NC Department of Revenue

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** April 23, 2007



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