

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-380
SENATE BILL 389

AN ACT TO ESTABLISH THE FORSYTH-GUILFORD METROPOLITAN
BASEBALL PARK DISTRICT, TO PROVIDE FOR A REFERENDUM ON
BASEBALL PARK FINANCING IN THE DISTRICT, AND TO ALLOW
BASEBALL PARK DISTRICTS TO ENTER INTO INSTALLMENT
FINANCING AGREEMENTS.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Forsyth-Guilford Metropolitan Baseball Park District is enacted as follows:

"CHARTER OF THE FORSYTH-GUILFORD METROPOLITAN
BASEBALL PARK DISTRICT.

"Section 1. **Legislative Findings.** – (a) The General Assembly determines that the construction, financing, and operation of a major league baseball park in the Triad area serves a public purpose in that it will:

- (1) Enhance the opportunities for recreational entertainment for all North Carolinians;
- (2) Generate new economic activity in the Triad area, leading to the establishment of many new businesses;
- (3) Encourage economic development throughout North Carolina by enhancing the State's attractiveness to new and relocated businesses and its attractiveness as a tourist destination; and
- (4) Provide numerous new jobs for North Carolinians.

(b) The General Assembly further determines that because constructing a major league baseball park is an extraordinarily complex task and because being able to construct such a park in as short a time as possible is crucial to the award of a major league baseball franchise to the Triad area, it is necessary to waive the application of the usual construction contracting requirements for the park's construction.

"Sec. 2. **Definitions.** – The words and phrases defined in this section have the meanings indicated when used in this Charter, unless the context clearly requires another meaning.

- (1) 'Authority' means the Forsyth-Guilford Metropolitan Baseball Park Authority.
- (2) 'District' means the Forsyth-Guilford Metropolitan Baseball Park District, established by this Charter.

- (3) 'Major League Baseball' means the organization that controls the administrative functions for the ownership and operation of major league baseball operations in the United States and Canada.
- (4) 'Major league baseball park' means a sports facility designed for use primarily as a major league baseball park or stadium. Such a facility may include, without limitation, features such as parking areas and facilities, office facilities for the District or any team or other user of the facility, associated retail and other commercial facilities, and other ancillary facilities necessary or desirable for the sports facility and its success. Such a facility also includes the landscaped grounds surrounding the baseball park and related and ancillary facilities.

"Sec. 3. **District Incorporated.** – The inhabitants of the counties listed in this section are a body corporate and politic and a political subdivision of the State under the name 'Forsyth-Guilford Metropolitan Baseball Park District'. The District initially comprises the following counties: Forsyth and Guilford. If the voters in a county do not vote in favor of the question in Section 8 of this Charter, then upon the certification of the results of the election, the District is dissolved. Upon dissolution, all property of the District and all assets and liabilities of the District vest by operation of law jointly in the Counties of Forsyth and Guilford. The District is a baseball park district.

"Sec. 4. **Authority Established.** – (a) The District is governed by the Authority, which has 13 members, appointed as follows:

- (1) The Governor appoints one member who shall be a resident of the District, and who shall be the chair of the Authority.
- (2) The Board of Commissioners of Forsyth County shall appoint four members who at the time of appointment were residents of Forsyth County.
- (3) The Board of Commissioners of Guilford County shall appoint four members who at the time of appointment were residents of Guilford County.
- (4) The General Assembly appoints two members upon the recommendation of the President Pro Tempore of the Senate, who at the time of their appointment were residents of the District.
- (5) The General Assembly appoints two members upon the recommendation of the Speaker of the House of Representatives, who at the time of their appointment were residents of the District.

(b) Members of the Authority serve four-year terms, but in appointing the initial members of the Authority, the Boards of Commissioners of Forsyth and Guilford Counties shall each designate two of their appointees to serve until July 1, 1999, and two to serve until July 1, 2001, the General Assembly upon the recommendation of the Speaker of the House of Representatives and the General Assembly upon the recommendation of the President Pro Tempore shall each designate one of their appointees to serve until July 1, 1999, and one to serve until July 1, 2001. The initial appointee of the Governor serves a term expiring July 1, 2001. In making appointments under subdivisions (a)(2) and (a)(3) of this section, the appointing authority shall

consider the demographic diversity of the county. If a vacancy occurs in the membership of the Authority, it shall be filled by the appointing authority for the remainder of the unexpired term. If the person causing the vacancy was appointed by the General Assembly, the vacancy shall be filled pursuant to G.S. 120-122. Initial terms commence upon appointment.

(c) The Authority may elect a vice-chair and such other officers as it determines for terms established in the bylaws of the Authority.

(d) The chair of the Authority shall determine the time and place of the Authority's initial meeting and shall cause notice of the meeting to be given to each member of the Authority and to the public. Thereafter, the Authority may establish a schedule of regular meetings and may provide in its bylaws for the manner in which special meetings may be called.

(e) A majority of the members of the Authority, not counting vacant seats, constitutes a quorum. The Authority may meet by conference telephone call as provided by G.S. 143-318.13(a).

(f) The Authority may take action only upon the vote of a majority of its members, not counting vacant seats and not counting members who have disclosed a conflict of interest in the matter under discussion and vote.

(g) The Authority may adopt bylaws for the regulation of its affairs and the conduct of its business, including rules of procedure, consistent with this Charter and other applicable statutes.

(h) Members of the Authority are not compensated for their service, but the Authority may provide that members are to be reimbursed for actual expenses incurred while serving as an Authority member.

"Sec. 5. **Conflicts of Interest.** – (a) G.S. 14-234 applies to the District and its employees and to the members of the Authority.

(b) If a member of the Authority, or any member of the immediate family of a member of the Authority, or the employer of a member of the Authority has a direct financial interest in any matter that comes before the Authority, the affected member shall disclose the interest and shall abstain from participating in the discussion of or vote on the matter.

(c) Violation of this section does not affect the validity of any debts or obligations incurred by the District.

"Sec. 6. **District Powers.** – In addition to powers set out elsewhere in this Charter and powers granted to the District by other statutes, the District may:

- (1) Enter into contracts.
- (2) Sue and be sued in its own name, and plead and be impleaded.
- (3) Adopt an official seal.
- (4) Apply for, accept, receive, and disburse funds and grants made available to it by the United States of America or any agency thereof, the State of North Carolina or any agency thereof, any unit of local government or other political subdivision, and any private entity or person; and accept donations of property. The District may comply

with the conditions and requirements respecting any gift, grant, or donation of any property or funds.

- (5) Employ and compensate such personnel as the Authority determines. The Authority may delegate to any employee of the District the authority to employ, supervise, discipline, or discharge other employees of the District. The District is subject to G.S. 153A-98 with respect to the personnel files of its employees.
- (6) Contract with consultants and other independent contractors.
- (7) Contract with and appropriate money to any person, association, or corporation, public or private, in order to carry out any public purpose that the District is authorized by this Charter or other law to engage in.
- (8) Procure insurance to protect against loss of the District's property or other assets, and against liabilities incurred by the District, the Authority, or any officer, employee, or agent of the District. The District may, pursuant to G.S. 160A-167, provide the defense of any officer or employee of the District.
- (9) Acquire and maintain administrative offices.
- (10) Acquire by purchase, lease, gift, eminent domain, or otherwise, or obtain options for the acquisition of, any real property or interest therein, in order to carry out the powers granted by this section. The District may not acquire property through the exercise of eminent domain until after Major League Baseball has announced approval of the award of a franchise for a location within the District. In exercising the power of eminent domain, the District shall follow the procedures of Chapter 40A of the General Statutes applicable to local public condemnors, except that before any eminent domain proceeding may be commenced under this Charter, the board of commissioners of the county in which the property to be condemned is located must have approved of the condemnation by adoption of a resolution.
- (11) Sell, lease, exchange, transfer, or otherwise dispose of, or grant options for any such purposes with respect to, any real or personal property or interest therein. In disposing of property or any interest in property, the District may proceed under such procedures as it determines and is not subject to any procedural requirements not included in this Charter.
- (12) Promote award of a Major League Baseball franchise to a location within the District.
- (13) Design, construct, equip, improve, promote, operate, maintain, lease, or contract for the operation and maintenance of a major league baseball park. The baseball park shall be located on a tract of land at least forty percent (40%) of which is located in each of the two most populous counties in the district, according to the most recent decennial federal census. In light of the findings made by Section 1(b) of this Charter in the application of G.S. 143-135.26(9)b., the State Building Commission shall grant to the District whatever necessary

waivers are authorized by G.S. 143-135.26(9) in order to expedite the construction of the major league baseball park if the District demonstrates to the Commission that such waivers, if any, are necessary to expedite the project. Specifically, if approval is received to move a Major League Baseball franchise to a location within the District, and a condition of moving of the franchise is expedited construction of the major league baseball park, then the Commission shall consider that relocation when acting on the request of the District.

The State Building Commission alternatively may allow the District to contract with the entity that has been awarded the Major League Baseball franchise for that entity, or an affiliated, parent, or subsidiary entity, to construct the baseball park, with clear title to the baseball park passing to the District at the completion of construction, and in such case construction is not subject to State laws on public contract bidding, but the State Building Commission shall condition its approval with requirements that the entity constructing the baseball park use procedures to ensure that all qualified persons are afforded an opportunity to present bids, and bids are evaluated fairly, and the entity constructing the park shall use North Carolina contractors where feasible.

The District may contract for the right to name any park or other facility owned by the District, or may include the right to contract for the park's or facility's name in any lease of or contract for the operation of the park or facility.

- (14) Acquire real property or interests in real property for highway improvements that will benefit the major league baseball park, and convey, with or without monetary consideration, such property or interests in property to the Department of Transportation. The District may not acquire property for highway improvements through the exercise of eminent domain until after Major League Baseball has announced approval of the award of a franchise for a location within the District. In the acquisition by eminent domain of such real property or interests in real property, the District may use the procedures of Article 9 of Chapter 136 of the General Statutes. For the purpose of this subdivision, whenever the words 'Department of Transportation' appear in Article 9, they are deemed to include the District or Authority, and whenever the words 'Administrator', 'Administrator of Highways', 'Administrator of the Department of Transportation', or 'Chairman of the Department of Transportation' appear in Article 9, they are deemed to include an appropriate official of the District as designated by the Authority.
- (15) Establish and collect fees and charges for the use of its facilities.

- (16) Enter into partnerships, joint ventures, common ownership, operating agreements, and other arrangements with other persons to further District purposes.
- (17) Do all acts and things necessary, convenient, or desirable to carry out the purposes of and exercise the powers granted to it by this Charter.

"Sec. 7. **Triple Net Lease Required.** – Any lease of the baseball park for the purpose of operating it for Major League Baseball must be triple net for a minimum of 25 years, with the lessee responsible for upkeep and maintenance.

"Sec. 8. **District Taxes.** – (a) Authorization. – The Authority may, by resolution, subject to the conditions set out in this subsection and in Sections 9 and 10 of this Charter, levy one or both of the following taxes within the District: (i) a local tax on prepared food and beverages as provided in Section 9 of this Charter and (ii) a local tax on admissions to major league baseball parks as provided in Section 10 of this Charter. Before it may adopt a resolution under this section, however, the following conditions must be met:

- (1) Major League Baseball must have announced approval of the award of a franchise for a location within the District no later than December 31, 2001.
- (2) The District's voters must have approved the levy of the taxes in a referendum called and held for that purpose.

(b) Use of Proceeds. – The Authority may use the proceeds of the taxes levied pursuant to this Charter for any authorized activities of the District. Any of these proceeds used to design, construct, equip, or improve a major league baseball park as provided in Section 6(13) of this Charter must be matched by private funds on the basis of at least one dollar (\$1.00) of private funds used for this purpose for every two dollars (\$2.00) of these proceeds used for this purpose. Any of these proceeds not matched as required in this subsection shall not be used to design, construct, equip, or improve a major league baseball park as provided in Section 6(13) of this Charter.

In addition, the net proceeds of the tax authorized in Section 9 of this Charter may be used to finance a principal amount of no more than one hundred forty million dollars (\$140,000,000) for this purpose, plus interest, issuance costs, and the remaining components of related debt service. The tax authorized in Section 9 of this Charter sunsets as provided in Section 9 after the cumulative net proceeds equal the amount necessary to finance a principal amount of one hundred forty million dollars (\$140,000,000), plus interest, issuance costs, and the remaining components of related debt service. Any proceeds collected in excess of this amount shall not be used to design, construct, equip, or improve a major league baseball park as provided in Section 6(13) of this Charter.

(c) Referendum. – The State Board of Elections shall, upon the written request of the Authority, call a referendum for the purpose of submitting to the voters of the District the question of whether a prepared food and beverage tax at the rate of one percent (1%) and a major league baseball park admission tax at the rate of fifty cents (50¢) shall be levied in the District. The date of the referendum shall be the date of the statewide primary election in 1998. Notice of the referendum shall be given in the

manner and at the times required by G.S. 163-33(8). The referendum and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in the referendum.

Ballots, voting systems authorized by Article 14 of Chapter 163 of the General Statutes, or both may be used in accordance with rules prescribed by the State Board of Elections. The question to be presented on the ballots or voting systems shall be as follows:

'MAJOR LEAGUE BASEBALL PARK INITIATIVE

☐ YES

☐ NO

When Major League Baseball has announced approval of a major league baseball franchise for a location within the Forsyth-Guilford Metropolitan Baseball Park District, may Guilford and Forsyth Counties, which compose the district, help finance no more than two-thirds of the cost of a major league baseball park through the levy of a local tax on sales of prepared food and beverages at the rate of one percent (1%) and a local tax of fifty cents (50¢) on admissions to major league baseball parks?

The results of the referendum shall be canvassed and declared as provided by law for elections of State officers; the results of the referendum shall be certified by the State Board of Elections to the Authority in the manner and at the time provided by the general election laws of the State for certifications of State elections. If a majority of persons voting in the referendum in both counties vote in favor of levying the tax, the issue is approved. The votes shall be tallied separately in each county in the District. If the voters of one or both counties do not vote in favor of the question, the issue is not approved.

"Sec. 9. **Prepared Food and Beverage Tax.** – (a) Authorization. – If the conditions of Section 8(a) of this Charter are met, and if the Authority has levied the admissions tax provided in Section 10 of this Charter, the Authority may, by resolution, levy a prepared food and beverage tax of one percent (1%) of the sales price of prepared food and beverages sold within the District at retail, for consumption on or off the premises, by a retailer within the District that is subject to sales tax under G.S. 105-164.4(a)(1). This tax is in addition to State and local sales tax.

The authority to levy this tax remains in effect only if the Authority continues to levy the admissions tax provided in Section 10 of this Charter. If the Authority repeals the admissions tax provided in Section 10, the tax authorized in this section is repealed on the effective date of the repeal of the admissions tax.

(b) Definitions; Sales and Use Tax Statutes. – The definitions in G.S. 105-164.3 apply to this section to the extent they are not inconsistent with this section. In addition, the term 'prepared food and beverages' means any meals, food, or beverages which a retailer has added value to or whose state has been altered (other than solely by cooling) by preparing, combining, dividing, heating, or serving, in order to make it available for immediate human consumption. The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to this section to the extent they are not inconsistent with the provisions of this section.

(c) Exemptions. – The prepared food and beverage tax does not apply to the following sales of prepared food and beverages:

- (1) Prepared food and beverages served to residents in boarding houses and sold together on a periodic basis with rental of a sleeping room or lodging.
- (2) Retail sales exempt from taxation under G.S. 105-164.13.
- (3) Retail sales through or by means of vending machines.
- (4) Prepared food and beverages served by a retailer subject to the local occupancy tax if the charge for the meals or prepared food or beverages is included in a single, nonitemized sales price together with the charge for rental of a room, lodging, or accommodation furnished by the retailer.
- (5) Prepared food and beverages furnished without charge by an employer to an employee.
- (6) Retail sales by grocers or by grocery sections of supermarkets or other diversified retail establishments, other than sales of prepared food and beverages in the delicatessen or similar department of the grocer or grocery section.

(d) Collection. – Every retailer subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing prepared food and beverages. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the retailer as trustee for and on account of the District. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the retailer. The Authority shall design, print, and furnish to all appropriate businesses and persons in the District the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(e) Administration. – The Authority shall administer a tax levied under this section. A tax levied under this section is due and payable to the Authority in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every retailer liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the Authority. The return shall show the total gross receipts derived in the preceding month from sales to which the tax applies.

A return filed with the Authority finance officer under this section is not a public record and may not be disclosed except to the same extent as provided in G.S. 153A-148.1 as if the District were a county.

(f) Refunds. – The Authority shall refund to a nonprofit or governmental entity the prepared food and beverage tax paid by the entity on eligible purchases of prepared food and beverages. A nonprofit or governmental entity's purchase of prepared food and beverages is eligible for a refund under this subsection if the entity is entitled to a refund under G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase. The time limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(b) and (d) shall apply to refunds to nonprofit entities; the time, limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(c) and (d) shall apply to refunds to governmental entities. When an entity

applies for a refund of the prepared food and beverage tax paid by it on purchases, it shall attach to its application a copy of the application submitted to the Department of Revenue under G.S. 105-164.14 for a refund of the sales and use tax on the same purchases. An applicant for a refund under this subsection shall provide any information required by the Authority to substantiate the claim.

(g) Penalties. – A person, firm, corporation, or association who fails or refuses to file the return or pay the tax required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Authority has the same authority to waive the penalties for a tax levied under this section that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(h) Effective Date of Levy. – A tax levied under this section shall become effective on the date specified in the resolution levying the tax. The date must be the first day of a calendar month and may not be before the first day of the fourth month after the date that the resolution is adopted.

(i) Repeal. – A tax levied under this section may be repealed by a resolution adopted by the Authority. Any repeal shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution is adopted. A tax levied under this section may also be repealed as provided in subsection (a) or (j) of this section. Repeal of a tax levied under this section does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

(j) Sunset. – The authority to levy a tax under this section is repealed effective on the first day of the fourth calendar month after all debt incurred to design, construct, equip, and improve a major league baseball park has been retired, as determined by the Finance Officer of the Authority. Any tax levied under this section is repealed effective on that date. In addition, the authority to levy a tax under this section is repealed effective on the first day of the fourth calendar month after the cumulative net proceeds of the tax equal the amount necessary to finance a principal amount of one hundred forty million dollars (\$140,000,000), plus interest, issuance costs, and the remaining components of related debt service, as determined by the Finance Officer of the Authority. Any tax levied under this section is repealed effective on that date.

"Sec. 10. **Major League Baseball Park Admissions Tax.** – (a) Authorization and scope. Notwithstanding the provisions of G.S. 105-37.1(b), the Authority may, by resolution, levy an admissions tax on every person, firm, or corporation offering or managing any form of entertainment, amusement, or athletic or commercial event for which an admission is charged and which is presented in the District in a major league baseball park. The tax shall be at a rate of fifty cents (50¢) per seat or admission sold. This tax is in addition to any State or local tax.

(b) Collection. – Every person, firm, or corporation selling admissions taxable under this section shall, on and after the effective date of the levy, collect the tax. This tax shall be collected at the same time as the charge for furnishing a taxable admission and shall be paid by the purchaser to the seller of the admission as trustee for and on account of the District. The tax shall be stated and charged separately from the sales

price and shall be added to the admissions price and passed on to the purchaser instead of being borne by the seller.

(c) **Administration.** – The Authority shall administer a tax levied under this section. A tax levied and collected under this section is due and payable to the Authority on or before the 15th day of the month following the month in which the tax is collected. Every person, firm, or corporation liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the Authority. The return shall state the total number of admissions subject to the tax that were sold in the preceding month.

A return filed with the Authority Finance Officer under this section is not a public record and may not be disclosed except to the same extent as provided in G.S. 153A-148.1 as if the District were a county.

(d) **Penalties.** – A person, firm, corporation, or association who fails or refuses to file the return or pay the tax required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Authority has the same authority to waive the penalties for a tax levied under this section that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(e) **Effective Date of Levy.** – A tax levied under this section shall become effective on the date specified in the resolution levying the tax. The date must be the first day of a calendar month and may not be before the first day of the fourth month after the date that the resolution is adopted.

(f) **Repeal.** – A tax levied under this section may be repealed by a resolution adopted by the Authority. Any repeal shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution is adopted. Repeal of a tax levied under this section does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

"Sec. 11. **Budgeting and Fiscal Control.** – The District is a unit of local government under the Local Government Budget and Fiscal Control Act.

"Sec. 12. **Assistance From Local Governments.** – Any county, city or town, or other unit of local government or public authority located within the District may contribute or advance moneys or other assets or services to the District. The District may reimburse a local government or public authority for any such advance once it is receiving the proceeds of any tax levied by it pursuant to this Charter or otherwise has funds available to do so.

"Sec. 13. **Zoning and Annexation.** – (a) The District may regulate land use upon real property owned by it, and such property is not subject to any zoning ordinance adopted by a county or city.

(b) Real property owned by the District is not subject to annexation pursuant to Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes.

"Sec. 14. **Recognition of Contributions.** – (a) The Authority shall provide for plaques at each entrance to the baseball park recognizing the contributions of the taxpayers of Forsyth and Guilford Counties to the financing of the park.

(b) The Authority shall provide in any lease or otherwise for suitable space to be available in the baseball park for the use of Forsyth County and Guilford County each to display information about those counties. The content of the display shall be in the discretion of the respective county. No charge shall be made for the use of the space for that purpose.

(c) The Authority shall provide in any lease or otherwise for suitable space to be available in the baseball park for the displays about restaurants in Forsyth County and Guilford County. No charge shall be made for the use of the space for that purpose."

Section 2. The General Statutes are amended by adding a new Chapter to read:

"Chapter 160C.

"Baseball Park Districts.

"§160C-1. Baseball park districts.

The General Assembly may establish baseball park districts as bodies politic and corporate and political subdivisions of the State.

"§ 160C-2. Assessments.

(a) If a city or county or any joint city-county agency extends water or sewer lines to serve a major league baseball park constructed by a baseball park district, it shall either not assess property owners (other than the baseball park district or a lessee of that district) or hold any assessments in abeyance until the property owner taps on to the water line or connects to the sewer line. This section does not grant any additional authority to make assessments.

(b) This section prevails over any local act."

Section 3. G.S. 160A-20(h) reads as rewritten:

"(h) As used in this section, the term 'unit of local government' means any of the following:

- (1) A county.
- (2) A city.
- (3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.
- (4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.
- (5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.
- (5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995; provided that the authority granted by this section may be exercised by such a board

or commission with respect to water and wastewater systems or improvements only.

- (6) A local school administrative unit (i) that is located in a county that has a population of over 90,000 according to the most recent federal decennial census and (ii) whose board of education is authorized to levy a school tax.
- (7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.
- (8) A consolidated city-county, as defined by G.S. 160B-2(1).
- (9) A baseball park district."

Section 4. G.S. 159-148(a) reads as rewritten:

"(a) Except as provided in subsection (b) of this section, this Article applies to any contract, agreement, memorandum of understanding, and any other transaction having the force and effect of a contract (other than agreements made in connection with the issuance of revenue bonds, special obligation bonds issued pursuant to Chapter 159I of the General Statutes, or of general obligation bonds additionally secured by a pledge of revenues) made or entered into by a unit of local government (as defined by G.S. 159-7(b) or, in the case of a special obligation bond, as defined in Chapter 159I of the General Statutes), relating to the lease, acquisition, or construction of capital assets, which contract

- (1) Extends for five or more years from the date of the contract, including periods that may be added to the original term through the exercise of options to renew or extend, and
- (2) Obligates the unit to pay sums of money to another, without regard to whether the payee is a party to the contract, and
- (3) Obligates the unit over the full term of the contract, including periods that may be added to the original term through the exercise of options to renew or extend, to the extent of at least five hundred thousand dollars (\$500,000) for baseball park districts and, for other units, to the extent of five hundred thousand dollars (\$500,000) or a sum equal to one tenth of one percent (1/10 of 1%) of the assessed value of property subject to taxation by the contracting unit, whichever is less, and
- (4) Obligates the unit, expressly or by implication, to exercise its power to levy taxes either to make payments falling due under the contract, or to pay any judgment entered against the unit as a result of the unit's breach of the contract.

Contingent obligation shall be included in calculating the value of the contract. Several contracts that are all related to the same undertaking shall be deemed a single contract for the purposes of this Article. When several contracts are considered as a single contract, the term shall be that of the contract having the longest term, and the sums to fall due shall be the total of all sums to fall due under all single contracts in the group."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:40 p.m. this 7th day of August, 1997