

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1740

Short Title: School Board Fiscal Accountability Act. (Public)

Sponsors: Representatives Glazier, Jones, England, Johnson (Primary Sponsors); and Harrison.

Referred to: Education, if favorable, Finance.

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FISCAL ACCOUNTABILITY OF SCHOOL BOARDS
BY AUTHORIZING LOCAL BOARDS TO RAISE REVENUE FOR THE
SUPPORT OF PUBLIC EDUCATION AND BY MAKING THOSE BOARDS
RESPONSIBLE TO THE VOTERS FOR THE DECISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Fiscal Responsibility for Local Boards of Education. –
Beginning with the 2008-2009 fiscal year, eligible local boards of education shall have authority to levy and collect taxes for the support of public education as provided in this act.

SECTION 2. Requirements for Boards to Be Given Fiscal Responsibility. –
Eligible local boards of education are those that satisfy all of the following conditions:

- (1) The school board is elected rather than appointed.
- (2) The school board and the board of county commissioners of each county in which the local school administrative unit is located have passed resolutions authorizing the school board to levy taxes under this act.

SECTION 3. Applicability of Local Government Budget and Fiscal Control Act. – (a) For fiscal year 2008-2009 and subsequent fiscal years, the eligible local boards of education granted tax-levying authority shall be considered units of local government under G.S. 159-7(b)(15) and, accordingly, shall follow the provisions of the Local Government Budget and Fiscal Control Act in Article 3 of Chapter 159 of the General Statutes rather than the School Budget and Fiscal Control Act in Article 31 of Chapter 115C of the General Statutes. The eligible local boards of education shall continue to follow the budget format and fund structure in the School Budget and Fiscal Control Act, however. The reports an eligible board of education is required to file with the secretary of the Local Government Commission pursuant to G.S. 159-33, 159-33.1, and 159-34 shall also be filed with the State Board of Education.

1 **SECTION 3.(b)** The superintendent for the eligible local board of education
2 shall be the budget officer.

3 **SECTION 3.(c)** Any questions concerning the budget format and procedures
4 to be followed by the eligible local boards of education granted tax-levying authority
5 shall be resolved by the Local Government Commission.

6 **SECTION 4.** Authority to Levy Property Tax. – (a) Beginning with the
7 budget to be prepared and adopted for the 2008-2009 fiscal year, the eligible local
8 boards of education selected by the State Board of Education shall have the same
9 authority as a board of county commissioners has for purposes of public education to
10 levy and collect taxes on property having situs within the local school administrative
11 unit.

12 **SECTION 4.(b)** For the listing, assessment, and collection of the ad valorem
13 tax, the eligible local school units shall have the same authority and shall follow the
14 same procedures as a municipality under Article 22 of Chapter 105 of the General
15 Statutes except as follows:

- 16 (1) An eligible board of education shall not have the option under
17 G.S. 105-326 of requiring property owners to list their property
18 separately with the school unit. Instead, the eligible board of education
19 shall use the abstracts and tax records of the county to determine the
20 property subject to taxation by the board of education.
- 21 (2) For the property it is entitled to tax, the eligible board of education
22 shall accept and adopt the appraisals and assessments fixed by the
23 county. The eligible board of education shall not constitute a separate
24 board of equalization and review for taxpayers' appeals but shall
25 accept and be bound by the decisions made by the county board of
26 equalization and review and any adjustments made by the board of
27 county commissioners pursuant to G.S. 105-325.
- 28 (3) The eligible local board of education may appoint a tax collector,
29 pursuant to G.S. 105-349, or may enter an interlocal agreement with
30 the board of county commissioners to allow the county's tax collector
31 to serve the same function for the school unit. If the eligible board of
32 education appoints its own tax collector, it still may enter an interlocal
33 agreement with the county to perform parts of the tax collection and
34 foreclosure functions. Whether the eligible board of education appoints
35 its own tax collector or enters an agreement with the county for the
36 county tax collector to perform all or some of those functions, the
37 collection and foreclosure of taxes shall be conducted according to the
38 provisions of Article 26 of Chapter 105 of the General Statutes.

39 **SECTION 4.(c)** Because ad valorem taxes levied by the eligible local boards
40 of education for fiscal year 2008-2009 will not become due until September 1, 2006,
41 and may be paid without penalty beyond that date, the Local Government Commission
42 and the State Budget Office shall assist each eligible board of education in developing
43 plans for assuring that sufficient revenues are available for the operation of schools
44 during the beginning portions of the initial fiscal year for the eligible boards to exercise

1 taxing authority. The plans may include the carrying forward of fund balances from the
2 previous year, advancement of State appropriations, transfer of moneys from other
3 funds available in the county, and such other means as may be appropriate.

4 **SECTION 4.(d)** The provisions of G.S. 105-374(h) and G.S. 105-375(k)
5 concerning joint foreclosure and consolidation of liens, respectively, shall apply to
6 eligible local boards of education under this act to the same extent as to counties, cities,
7 and other taxing units.

8 **SECTION 5.** Abolition of Supplemental Taxes. – Effective July 1, 2008,
9 any supplemental taxes enacted for the support of the public schools in school units
10 which are authorized to levy and collect taxes pursuant to this act are repealed. Article
11 36 of Chapter 115C of the General Statutes, concerning voted tax supplements for
12 school purposes, shall not apply in counties in which the local board of education is
13 eligible to levy and collect taxes pursuant to this act.

14 **SECTION 6.** Local Sales Tax Proceeds. – (a) In each county in which a
15 local board of education is authorized to levy and collect taxes pursuant to this act, the
16 board of education shall receive a portion of the county's distribution from the net
17 proceeds of the local sales and use tax under G.S. 105-472(b) (the first one-cent local
18 tax), 105-486(c) (the first half-cent local tax), 105-501 (the second half-cent local tax),
19 and 105-520(c) (third half-cent local sales tax), as provided in subsection (b) of this
20 section. This provision shall not affect the share of the local sales and use tax proceeds
21 distributed to municipalities in the county.

22 **SECTION 6.(b)** The eligible local board of education's share of the net
23 proceeds of local sales and use taxes shall be determined by the ad valorem method as
24 described in G.S. 105-472(b)(2). The distribution of net proceeds of local sales and use
25 tax between counties and municipalities shall first be determined according to the per
26 capita or ad valorem method as chosen by the county. After that calculation is made,
27 the county's distribution then shall be divided between the school unit and the county
28 according to the ad valorem method.

29 **SECTION 6.(c)** The Secretary of Revenue shall allocate and distribute the
30 school unit's share of the local sales and use tax to the eligible board of education on a
31 monthly basis the same as such allocations and distributions are made to counties and
32 municipalities.

33 **SECTION 7.** Existing Indebtedness and Related Local Sales Tax Proceeds.
34 – (a) An eligible local board of education shall enter an interlocal agreement pursuant to
35 G.S. 160A-461 under which the eligible board of education shall make the payments
36 due from the county on any existing indebtedness of the county related to the
37 construction of public school facilities for that school unit, beginning July 1, 2008. The
38 form of the interlocal agreement shall be set by the Local Government Commission.

39 **SECTION 7.(b)** To the extent that G.S. 105-487 requires a percentage of the
40 county proceeds from the first half-cent local sales and use tax to be dedicated to school
41 capital outlay purposes, and to the extent that G.S. 105-502 requires a percentage of the
42 county proceeds from the second half-cent local sales and use tax to be dedicated to
43 school capital outlay purposes, those proceeds shall be paid by the Secretary of Revenue
44 to the eligible local board of education rather than the board of county commissioners in

1 those counties in which the local board of education has been authorized to levy and
2 collect taxes pursuant to this act. This provision shall apply to sales tax collected July 1,
3 2008, and subsequently.

4 **SECTION 7.(c)** Upon entry of an interlocal agreement pursuant to this
5 section, the county shall transfer to the eligible board of education any capital reserve
6 fund it has created pursuant to G.S. 159-18 for capital expenditures related to the
7 construction of public school facilities. The county shall transfer to the eligible board of
8 education the amount in the reserve fund as of July 1, 2007, plus any additional sums
9 appropriated to the fund or earned by the fund after that date, minus any amount
10 expended from the fund to reduce indebtedness related to the construction of public
11 school facilities. This section also shall apply to any capital reserve fund created by the
12 county after July 1, 2007, for indebtedness related to the construction of public school
13 facilities.

14 **SECTION 8. Issuance of Bonds by Local Board of Education.** – (a) An
15 eligible local board of education shall be authorized to issue bonds for the purposes in
16 G.S. 159-48(c)(4) to the same extent and in the same manner as a county is authorized
17 to do so. The faith and credit of the issuing school unit are pledged for the payment of
18 the principal and interest on all bonds issued pursuant to this section, and the power and
19 obligation of the issuing school unit to levy taxes and raise other revenue for the prompt
20 payment of installments of principal and interest shall be unrestricted as to rate and
21 amount.

22 **SECTION 8.(b)** The issuance of bonds by a local school unit pursuant to
23 this section shall be subject to the same procedures and requirements of the Local
24 Government Bond Act as the issuance of such bonds by a county.

25 **SECTION 8.(c)** The Local Government Commission shall determine the
26 authorization and procedure for an eligible local board of education to issue bonds
27 pursuant to this section.

28 **SECTION 9.** G.S. 159-160 reads as rewritten:

29 **"§ 159-160. Definitions.**

30 As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government'
31 as defined in G.S. 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81,
32 school unit whose local board of education is authorized to levy and collect taxes, and
33 the State of North Carolina."

34 **SECTION 10.** G.S. 159-168 reads as rewritten:

35 **"§ 159-168. 'Unit' defined.**

36 For purposes of this Part, 'unit,' 'unit of local government,' or 'issuing unit' mean a
37 'unit of local government' as defined by G.S. ~~159-7(b)~~159-7(b), a school unit whose
38 board is authorized to levy and collect taxes, and a 'public authority' as defined by
39 G.S. 159-7(b)."

40 **SECTION 11.** Article 32 of Chapter 115C of the General Statutes is
41 amended by adding a new section to read:

42 **"§ 115C-458.1. Loans from State Literary Fund directly to certain school units.**

43 In addition to the authority granted in G.S. 115C-458 to lend moneys from the State
44 Literary Fund to counties, the State Board of Education may make loans from the fund

1 directly to local boards of education which are authorized to levy and collect taxes. The
2 provisions of this Article and of the rules of the State Board of Education concerning
3 loans from the State Literary Fund shall apply to the loans made directly to local boards
4 of education, except that the county board of commissioners shall have no responsibility
5 for repayment of such loans."

6 **SECTION 12.** Information Provided to County. – In counties in which the
7 local board of education has been authorized to levy and collect taxes pursuant to this
8 act, the provisions of G.S. 115C-429(c) obligating the board of education to provide
9 certain information to the board of commissioners and similar provisions in the School
10 Budget and Fiscal Control Act and other statutes shall not apply. The board of
11 education may provide such information to the board of county commissioners in its
12 discretion.

13 **SECTION 13.** G.S. 115C-452 reads as rewritten:

14 **"§ 115C-452. Fines and forfeitures.**

15 (a) The clear proceeds of all penalties and forfeitures and of all fines collected in
16 the General Court of Justice in each county shall be remitted by the clerk of the superior
17 court to the county finance officer, who shall forthwith determine what portion of the
18 total is due to each local school administrative unit in the county and remit the
19 appropriate portion of the amount to the finance officer of each local school
20 administrative unit. Fines and forfeitures shall be apportioned according to the projected
21 average daily membership of each local school administrative unit as determined by
22 and certified to the local school administrative units and the board of county
23 commissioners by the State Board of Education pursuant to G.S. 115C-430.

24 (b) In counties in which the local board of education has been authorized to levy
25 and collect taxes, the clerk of superior court shall remit the clear proceeds of all
26 penalties and forfeitures and all fines collected in the General Court of Justice directly
27 to the finance officer of the local school administrative unit. If both a county board of
28 education and city board of education within the same county have such taxing
29 authority, the clerk of superior court shall remit the proceeds to the finance officer of the
30 county school administrative unit who shall be responsible for determining and
31 remitting to the finance officer of the city school administrative unit that city unit's
32 portion of the proceeds based on projected average daily membership."

33 **SECTION 14.** Reserved.

34 **SECTION 15.** Reserved.

35 **SECTION 16.** Erection of School Buildings. – The provisions of
36 G.S. 115C-521(b) concerning submission of building needs to the board of county
37 commissioners shall not apply in counties in which the local board of education has
38 been given authority to levy and collect taxes pursuant to this act. Nor shall the
39 provisions of G.S. 115C-521(d) concerning approval of the board of county
40 commissioners for appropriations apply in such counties.

41 **SECTION 17.** Provision of Equipment for Buildings. – In counties in which
42 the local board of education has been authorized to levy and collect taxes pursuant to
43 this act, the provisions of G.S. 115C-522 concerning the provision of suitable supplies
44 and good water supplies shall not apply to the board of county commissioners.

1 **SECTION 18.** Fire Prevention. – In counties in which the local board of
2 education has been authorized to levy and collect taxes pursuant to this act, the
3 provisions of G.S. 115C-525(b)(2) requiring the board of county commissioners to
4 appropriate funds for fire inspections of school buildings shall not apply. The local
5 board of education shall be responsible for the costs of such inspections in those
6 counties.

7 **SECTION 19.** Lease Purchase and Installment Purchase Contracts. – In
8 counties in which the local board of education has been authorized to levy and collect
9 taxes pursuant to this act, the provisions of G.S. 115C-528(g) concerning submission of
10 information on lease purchase and installment purchase contracts to the board of county
11 commissioners shall not apply.

12 **SECTION 20.** Operational Leases of School Buildings and Facilities. – In
13 counties in which the local board of education has been authorized to levy and collect
14 taxes pursuant to this act, the provisions of G.S. 115C-530 requiring approval of leases
15 by the board of county commissioners shall not apply.

16 **SECTION 20.1.** Capital Leases of School Buildings and Facilities. – In
17 counties in which the local board of education has been authorized to levy and collect
18 taxes pursuant to this act, the provisions of G.S. 115C-531 requiring approval of leases
19 by the board of county commissioners shall not apply.

20 **SECTION 21.** Public School Building Capital Fund. – In counties in which
21 the local board of education has been authorized to levy and collect taxes pursuant to
22 this act, the responsibilities given to the county and the county board of commissioners
23 by Article 38A of Chapter 115C of the General Statutes, the Public School Building
24 Capital Fund, shall be assumed by the administrative school unit and eligible board of
25 education. In those counties, monies should be allocated to the administrative school
26 unit rather than to the county.

27 **SECTION 22.** No Other Taxing Authority for Board of Education. – Except
28 as provided in this act, a local board of education shall have no authority to impose or
29 collect a tax.

30 **SECTION 23.** Commissioners' Discretion to Provide Additional Support. –
31 Nothing in this act shall prohibit a board of county commissioners from providing
32 additional financial support to an eligible local board of education in its discretion.

33 **SECTION 24.** Limitations on Tax Rate for Fiscal Year 2008-2009. – For the
34 2008-2009 fiscal year, an eligible local board of education may not adopt a property tax
35 rate greater than the rate needed to produce revenue sufficient to offset the county
36 appropriations, calculated on a per-student basis, that will no longer be available to the
37 public schools for that fiscal year, plus an amount necessary to cover the cost-of-living
38 increase from July 1, 2007. To enable the eligible board of education to determine the
39 necessary tax rate for the 2008-2009 fiscal year, the board of county commissioners
40 shall notify the board of education by May 1, 2008, of any county funds other than
41 property and sales tax revenues that previously have been appropriated to the board of
42 education but which will no longer be provided. In determining the property tax rate for
43 fiscal year 2008-2009 needed to equal the amount previously appropriated by the county

1 per student, the eligible board of education shall use the highest per-student
2 appropriation of the three previous fiscal years.

3 **SECTION 25.** This act is effective when it becomes law.