

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 334
Mar 19, 2013
HOUSE PRINCIPAL CLERK

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HOUSE DRH70141-MC-130 (03/14)

Short Title: Buncombe Cty Sales Tax Use Expansion. (Local)

Sponsors: Representative Ramsey.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUGMENT THE USES OF CERTAIN MONEYS IN THE BUNCOMBE
SCHOOL CAPITAL FUND.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 134 of the 1983 Session Laws, as amended by Chapter 534
of the 1983 Session Laws, reads as rewritten:

"Section 1. There is hereby created a Commission to be known as the School Capital Fund
Commission for Buncombe County, which Commission shall have and possess all the powers
conferred by this act and such other powers as may be useful or necessary to permit it fully to
carry out the purposes of this act. The Commission is hereby declared to be a corporation with
perpetual succession, the right to adopt and use a corporate seal, to sue and to be sued, and to
hold, manage and control the moneys and properties received by it under the provisions of this
act. It shall have the right to make reasonable rules and regulations for the conduct of its
business.

"Sec. 2. The Commission shall consist of five members. Initial members of the Commission
shall be Richard B. Stone, Ronald K. Payne, John F. Shuford, Nilous M. Avery, and John L.
Simmons, who shall each serve for a term ending June 30, 1985, or as soon thereafter as his
successor is appointed. After June 30, 1985, members of the Commission shall serve two-year
terms and shall be appointed as follows: one appointed by the Asheville City Council, one
appointed by the Asheville City Board of Education, one appointed by the Buncombe County
Board of Education, one appointed by the Buncombe County Board of Commissioners, and one
appointed by the other four appointees. A member appointed by a local governing board or a
school board shall serve at the pleasure of that board. The member appointed by the other
appointees shall serve at the pleasure of the majority of the other appointees. Any vacancy
occurring during the term of the original appointees shall be filled by the other members of the
Commission. Vacancies occurring after June 30, 1985, shall be filled by the appointing
authority of the member creating the vacancy to fill the unexpired term.

"Sec. 3. A quorum shall be three members of the Commission.

"Sec. 4. The first meeting of the Commission shall be held within 30 days after the
ratification of this act, at which meeting, or any adjournment thereof, the Commission shall
organize, adopt bylaws or rules and regulations to govern its procedure and the conduct of the
business and affairs of the Commission and appoint a chairman and vice-chairman from among
its membership who shall serve a one-year term and appoint a secretary for a one-year term and
until their successors are appointed by the Commission. The finance officer for Buncombe
County shall be the finance officer of the Commission. The county finance officer shall give
bond for the faithful performance of his duties as the finance officer of the Commission in an



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1 amount determined by the Commission. The finance officer of the Commission shall manage
2 the funds of the Commission only as directed by the Commission. At said meeting the
3 Commission shall select and appoint an attorney of the Commission and fix his compensation,
4 such attorney to serve at the pleasure of the Commission.

5 "Sec. 5. Regular or stated meetings of the Commission shall be held at such time and place
6 as may be provided by the Commission in its bylaws or rules and regulations, and special
7 meetings may be held on the call of the chairman after due notice.

8 "Sec. 6. One half of any local government sales and use tax revenue distributed to
9 Buncombe County under G.S. 105-472, and one half of any State sales and use tax revenue
10 distributed to Buncombe County, shall be paid to the Commission by the Secretary of Revenue;
11 provided that if distribution of the local government sales and use tax revenue is made under
12 G.S. 105-472(2), (the ad valorem method), then taxing districts shall receive their funds under
13 G.S. 105-472(2) as if no funds had been paid to the Commission by the Secretary of Revenue,
14 and in computing what amount is one-half of the sales and use tax revenue, the Secretary of
15 Revenue shall not reduce the total by the amount to be distributed to the taxing districts. This
16 section does not affect the distribution of any local or State sales and use tax revenue to the
17 municipalities in Buncombe County.

18 "Sec. 7. All of the special property tax levied by Buncombe County for necessary capital
19 outlay improvements of County and City Schools in Buncombe County, approved by the voters
20 of Buncombe County in 1959, shall be appropriated by Buncombe County to the Commission
21 and paid by the Tax Collector to the Commission.

22 "Sec. 8. Any other funds appropriated by Buncombe County for public school construction
23 of any amount, and public school improvement and renovation projects estimated to cost in
24 excess of one hundred thousand dollars (\$100,000) in any one location in Buncombe County
25 shall be paid to the Commission, provided that the board of county commissioners may choose
26 to designate funds under this section to a specific account under Section 10 of this act rather
27 than pro rata.

28 "Sec. 9. All funds received by the Commission under Sections 6, 7, and 8 of this act shall
29 be placed in a capital reserve fund as provided in Part 2 of Article 3 of Chapter 159 of the
30 General Statutes.

31 "Sec. 10. All funds in the capital reserve ~~fund~~ fund, other than unencumbered revenue
32 distributed to Buncombe County under G.S. 105-472, shall be used to finance new public
33 school construction of any amount, and public school improvement and renovation projects
34 estimated to cost in excess of one hundred thousand dollars (\$100,000) at any one location or to
35 retire any indebtedness incurred by the county after July 1, 1983 for these purposes.
36 Unencumbered revenue distributed to Buncombe County under G.S. 105-472 shall be used (i)
37 to finance new public school construction of any amount and public school improvement and
38 renovation projects estimated to cost in excess of one hundred thousand dollars (\$100,000) at
39 any one location, (ii) to retire any indebtedness incurred by the county after July 1, 1983, for
40 these purposes, or (iii) to provide for digital learning needs such as school connectivity, digital
41 textbooks and instructional resources, digital devices, and associated ongoing professional
42 development for teachers. The Commission shall annually divide the funds received that year
43 into two accounts, one for the Buncombe County Board of Education and one for the Asheville
44 City Board of Education. The division of funds shall be pro rata according to average daily
45 membership in the two systems. If the funds in the capital reserve fund are to be expended to
46 retire any indebtedness incurred by the county, they shall be drawn out of the two accounts
47 established by this section pro rata, according to the average daily membership in the two
48 systems. Any funds not expended in a fiscal year shall remain in that system's account for use
49 in later years, including any accrued interest.

50 By joint agreement of the Board of County Commissioners and both boards of education,
51 money may be transferred from the account under this section of one board of education to the

1 account under this section of the other board of education, provided that the agreement must
2 require a transfer back of an equal amount of funds at some fixed date in the future, plus a sum
3 to be determined at that date which represents interest which would have accrued on the funds
4 if they had remained in the first account.

5 "Sec. 11. Moneys in the Capital Reserve Fund shall be subject to appropriation by the board
6 of county commissioners. The Commission shall disburse such moneys as a ministerial duty
7 upon receiving a written request from the board of county commissioners after the county
8 board of commissioners has adopted an ordinance and after receipt of a written request from
9 the appropriate board of education indicating it is prepared to enter into a contract, and
10 G.S. 115C-521 shall continue to apply.

11 "Sec. 11.1. Notwithstanding any other provision of this act, if the Buncombe County Board
12 of Commissioners appropriates any federal revenue sharing funds to the Commission for the
13 purpose of substituting revenue sharing funds for sales tax funds, then it must at the same time
14 appropriate from the Commission to the county an equal amount of funds received under
15 Section 6 to be used for such purposes as the Board of Commissioners shall deem appropriate
16 and are otherwise authorized by law, provided that such federal revenue sharing funds shall be
17 divided pro rata under Section 10 of this act.

18 "Sec. 12. The reasonable and necessary expenses of the Commission, including the
19 compensation of its officers and employees and the cost of any bond required by it, shall be
20 paid by the County of Buncombe. The chairman of the Commission shall, on or about the first
21 day of each calendar month, certify to the governing body of Buncombe County the expenses
22 of the Commission incurred during the preceding month, and the governing body of the county
23 shall forthwith, and within five days thereafter, cause to be paid to the Commission the
24 expenses required to be paid. All such payments shall be charged to the general fund of the
25 county.

26 "Sec. 13. Sections 1 through 5, 11.1 and 12 of this act are effective upon ratification.
27 Sections 6 through 11 shall become effective July 1, 1983. The Secretary shall make the first
28 distribution of local sales and use tax revenue to the Commission at the end of the quarter that
29 begins on July 1, 1983."

30 **SECTION 2.** This act is effective when it becomes law.