

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1679

Short Title: Orange/Chatham Finance Omnibus.

(Local)

Sponsors: Senators Lee and Walker.

Referred to: Local Government and Regional Affairs.

June 6, 1994

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE SUNDRY AMENDMENTS RELATING TO LOCAL  
3 GOVERNMENTS IN ORANGE AND CHATHAM COUNTIES.

4 The General Assembly of North Carolina enacts:

5 **PART 1. CHATHAM OCCUPANCY TAX.**

6 Section 1. Occupancy tax. (a) **Authorization and scope.** The Chatham County  
7 Board of Commissioners may by resolution, after not less than 10 days' public notice  
8 and after a public hearing held pursuant thereto, levy a room occupancy tax of up to  
9 three percent (3%) of the gross receipts derived from the rental of any room, lodging, or  
10 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within  
11 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).  
12 This tax is in addition to any State or local sales tax. This tax does not apply to  
13 accommodations furnished by nonprofit charitable, educational, or religious  
14 organizations.

15 (b) **Collection.** Every operator of a business subject to the tax levied under this  
16 section shall, on and after the effective date of the levy of the tax, collect the tax. This  
17 tax shall be collected as part of the charge for furnishing a taxable accommodation. The  
18 tax shall be stated and charged separately from the sales records, and shall be paid by  
19 the purchaser to the operator of the business as trustee for and on account of the county.  
20 The tax shall be added to the sales price and shall be passed on to the purchaser instead  
21 of being borne by the operator of the business. The county shall design, print, and  
22 furnish to all appropriate businesses and persons in the county the necessary forms for  
23 filing returns and instructions to ensure the full collection of the tax. An operator of a  
24 business who collects the occupancy tax levied under this section may deduct from the

1 amount remitted to the county a discount equal to the discount the State allows the  
2 operator for State sales and use tax.

3 (c) **Administration.** The county shall administer a tax levied under this section.  
4 A tax levied under this section is due and payable to the county finance officer in  
5 monthly installments on or before the 15th day of the month following the month in  
6 which the tax accrues. Every person, firm, corporation, or association liable for the tax  
7 shall, on or before the 15th day of each month, prepare and render a return on a form  
8 prescribed by the county. The return shall state the total gross receipts derived in the  
9 preceding month from rentals upon which the tax is levied.

10 A return filed with the county finance officer under this section is not a public  
11 record as defined by G.S. 132-1 and may not be disclosed except as required by law.

12 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to  
13 file the return or pay the tax required by this section is subject to the civil and criminal  
14 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use  
15 taxes. The Chatham County Board of Commissioners has the same authority to waive  
16 the penalties for a room occupancy tax that the Secretary of Revenue has to waive the  
17 penalties for State sales and use taxes.

18 (e) **Use of tax revenue.** Chatham County shall use at least two-thirds of the  
19 net proceeds of the tax levied under this section to promote travel and tourism in  
20 Chatham County and shall use the remainder for tourism-related expenditures. The  
21 following definitions apply in this subsection:

22 (1) Net proceeds. – Gross proceeds less the cost to the county of  
23 administering and collecting the tax, as determined by the finance  
24 officer, not to exceed seven percent (7%) of the gross proceeds.

25 (2) Promote travel and tourism. – To advertise or market an area or  
26 activity, publish and distribute pamphlets and other materials, conduct  
27 market research, or engage in similar promotional activities that attract  
28 tourists or business travelers to the area. The term includes  
29 administrative expenses incurred in engaging in the listed activities.

30 (3) Tourism-related expenditures. – Expenditures that are designed to  
31 increase the use of lodging facilities in the county or to attract tourists  
32 or business travelers to the county. The term includes expenditures to  
33 construct, maintain, operate, or market a convention or meeting  
34 facility, a visitors' center, or a coliseum and other expenditures that, in  
35 the judgment of the board of commissioners, will facilitate and  
36 promote tourism.

37 (f) **Effective date of levy.** A tax levied under this section shall become  
38 effective on the date specified in the resolution levying the tax. That date must be the  
39 first day of a calendar month, however, and may not be earlier than the first day of the  
40 second month after the date the resolution is adopted.

41 (g) **Repeal.** A tax levied under this section may be repealed by a resolution  
42 adopted by the Chatham County Board of Commissioners. Repeal of a tax levied under  
43 this section shall become effective on the first day of a month and may not become  
44 effective until the end of the fiscal year in which the repeal resolution was adopted.

1 Repeal of a tax levied under this section does not affect a liability for a tax that was  
2 attached before the effective date of the repeal, nor does it affect a right to a refund of a  
3 tax that accrued before the effective date of the repeal.

4 **PART 2. ORANGE LOCAL GIS/QUALIFIED EXEMPTION.**

5 Sec. 2. Section 2 of Chapter 285 of the 1991 Session Laws, as amended by  
6 Chapter 845 of the 1991 Session Laws, reads as rewritten:

7 "Sec. 2. This act applies to Brunswick, Catawba, ~~Johnston and Lincoln~~ Johnston,  
8 Lincoln, and Orange Counties and the Cities of Chapel Hill, Carrboro, Conover,  
9 Hickory, Lincolnton, and Newton only."

10 **PART 3. ORANGE SCHOOL PROPERTY ACQUISITION/IMPACT FEES.**

11 Sec. 3. (a) Chapter 885 of the 1989 Session Laws, as amended by Chapters 120, 533,  
12 832, 848, 865, and 1001 of the 1991 Session Laws, and as codified as G.S. 153A-157,  
13 reads as rewritten:

14 **"§ 153A-157. Power to acquire property in certain counties.**

15 (a) A county may acquire, by gift, grant, devise, bequest, exchange, purchase,  
16 lease, or any other lawful method, the fee or any other lesser interest in real or personal  
17 property for use by the county or any department, board, commission, or agency of the  
18 county or a school administrative unit within the county. In exercising the power of  
19 eminent domain a county shall use the procedures of Chapter 40A.

20 The county shall use its authority under this section to acquire the fee or any lesser  
21 interest in real or personal property for use by a school administrative unit within the  
22 county only upon the request of the board of education of that school administrative unit  
23 and after a public hearing.

24 (b) This section applies to Bladen, Cabarrus, Carteret, Columbus, Duplin,  
25 Franklin, Iredell, Johnston, Orange, Pender, Richmond, Rowan, Sampson, and Stanly  
26 Counties."

27 (b) Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, local  
28 boards of education are authorized to enter into contracts for the erection or repair of  
29 school buildings upon sites owned in fee simple by one or more counties in which the  
30 local school administrative units are located. A school administrative unit may also  
31 acquire, by gift, grant, devise, bequest, exchange, purchase, lease, or any other lawful  
32 method, the fee or any lesser interest in real or personal property for use by it from the  
33 county in which it is located and contract for the construction, equipment, expansion,  
34 improvement, renovation, or repair or otherwise make available for use by it of such  
35 property or some part of such property upon such terms as may be agreed upon by it and  
36 such county.

37 (c) Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local  
38 board of education may lease or sell any of its property to the board of commissioners  
39 of the county in which the property is located for any price negotiated between the two  
40 boards.

41 (d) Subsections (b) and (c) of this section apply only to Orange County and to  
42 local boards of education for school administrative units in or for the county.  
43 Subsection (c) of this section applies only to sales and leases of property in connection

1 with additions, improvements, renovations, or repairs to the property or to some part of  
2 the property.

3 Sec. 4. (a) G.S. 153A-331(b)(2), as it applies to Orange County under Section 17 of  
4 Chapter 460 of the Session Laws of 1987, reads as rewritten:

5 "(2) For purposes of this subsection, the term capital improvements  
6 includes the acquisition of land for open space and greenways, capital  
7 improvements to public streets, schools, bridges, sidewalks, bikeways,  
8 on and off street surface water drainage ditches, pipes, culverts, other  
9 drainage facilities, water and sewer facilities and public recreation  
10 ~~facilities.~~ facilities, and the term 'costs' includes obligations incurred or  
11 assumed for payments with respect to borrowed money and for  
12 payments under leases which are required to be capitalized in  
13 accordance with generally accepted accounting principles and under  
14 installment sale contracts in connection with such capital  
15 improvements."

16 (b) G.S. 153A-340(b)(2), as it applies to Orange County under Section 18 of  
17 Chapter 460 of the Session Laws of 1987, reads as rewritten:

18 "(2) For purposes of this subsection, the term capital improvements  
19 includes the acquisition of land for open space and greenways, capital  
20 improvements to public streets, schools, bridges, sidewalks, bikeways,  
21 on and off street surface water drainage ditches, pipes, culverts, other  
22 drainage facilities, water and sewer facilities and public recreation  
23 ~~facilities.~~ facilities, and the term 'costs' includes obligations incurred or  
24 assumed for payments with respect to borrowed money and for  
25 payments under leases which are required to be capitalized in  
26 accordance with generally accepted accounting principles and under  
27 installment sale contracts in connection with such capital  
28 improvements."

29 (c) Section 17.1 of Chapter 460 of the 1987 Session Laws, as rewritten by  
30 Chapter 324 of the 1991 Session Laws, reads as rewritten:

31 "Sec. 17.1. Section 17 of this act shall apply only to Orange County, and applies  
32 only within the planning jurisdiction of Orange County. Provided, however, any  
33 portion of an Orange County ordinance that contains a system of impact fees to provide  
34 for capital improvements to public schools within Orange County, applies everywhere  
35 in Orange County, including within the corporate limits and the extraterritorial planning  
36 jurisdiction of any city, town, or municipal corporation within Orange ~~County.~~ County,  
37 any such ordinance may provide that the term 'costs' includes obligations incurred or  
38 assumed for payments with respect to borrowed money and for payments under leases  
39 which are required to be capitalized in accordance with generally accepted accounting  
40 principles and under installment sale contracts in connection with such capital  
41 improvements."

42 (d) Section 18.1 of Chapter 460 of the 1987 Session Laws, as rewritten by  
43 Chapter 324 of the 1991 Session Laws, reads as rewritten:

1 "Sec. 18.1. Section 18 of this act shall apply only to Orange County, and applies  
2 only within the planning jurisdiction of Orange County. Provided, however, any  
3 portion of an Orange County ordinance that contains a system of impact fees to provide  
4 for capital improvements to public schools within Orange County, applies everywhere  
5 in Orange County, including within the corporate limits and the extraterritorial planning  
6 jurisdiction of any city, town, or municipal corporation within Orange ~~County~~.County,  
7 any such ordinance may provide that the term 'costs' includes obligations incurred or  
8 assumed for payments with respect to borrowed money and for payments under leases  
9 which are required to be capitalized in accordance with generally accepted accounting  
10 principles and under installment sale contracts in connection with such capital  
11 improvements."

12 ♦ Sec. 5. References in this Part to specific sections of the General Statutes  
13 are intended to be references to such sections as they may be amended from time to  
14 time. This Part shall be liberally construed to effectuate its purposes. Insofar as the  
15 provisions of this Part are inconsistent with general law, this Part shall control. If any  
16 provision of this act or the application thereof to any person or circumstance is held  
17 invalid, such invalidity shall not affect other provisions or applications of the Part which  
18 can be given effect without the invalid provision or application, and to this end the  
19 provisions of this Part are severable.

20 Sec. 6. This act is effective upon ratification.