

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**D**

**HOUSE DRH60086-LBx-74A (2/2)**

Short Title: Governor Not Withhold Local Reimbursements. (Public)

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Sponsors: Representative Holloway.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO LIMIT  
THE ABILITY OF THE GOVERNOR TO WITHHOLD LOCAL  
REIMBURSEMENTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article III, Section 5(3) of the North Carolina Constitution  
reads as rewritten:

"(3) Budget. The Governor shall prepare and recommend to the General Assembly  
a comprehensive budget of the anticipated revenue and proposed expenditures of the  
State for the ensuing fiscal period. The budget as enacted by the General Assembly shall  
be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall  
not exceed the total of receipts during that fiscal period and the surplus remaining in the  
State Treasury at the beginning of the period. To insure that the State does not incur a  
deficit for any fiscal period, the Governor shall continually survey the collection of the  
revenue and shall effect the necessary economies in State expenditures, after first  
making adequate provision for the prompt payment of the principal of and interest on  
bonds and notes of the State according to their terms, whenever he determines that  
receipts during the fiscal period, when added to any surplus remaining in the State  
Treasury at the beginning of the period, will not be sufficient to meet budgeted  
expenditures. This section shall not be construed to impair the power of the State to  
issue its bonds and notes within the limitations imposed in Article V of this  
Constitution, nor to impair the obligation of bonds and notes of the State now  
outstanding or issued hereafter.

The General Assembly recognizes that it has required units of local government to  
adopt and maintain annual balanced budgets and take other steps to assure financially  
sound operations. Accordingly, the General Assembly finds that in order to satisfy those

1 statutory requirements and provide adequate services to their citizens, units of local  
2 government must be able to rely on the funds and local revenue sources the General  
3 Assembly has provided.

4 In exercising the powers contained in this subsection, the Governor shall not  
5 withhold from distribution funds that have been collected by the State on behalf of local  
6 governments or funds that the General Assembly has appropriated, earmarked, or  
7 otherwise committed to local governments unless, after making adequate provision for  
8 the prompt payment of principal of and interest on bonds and notes of the State  
9 according to their terms, the Governor has exhausted all other sources of revenue of the  
10 State including surplus remaining in the treasury at the beginning of the fiscal period.  
11 The intent of this paragraph is that debt service be paid first, local government second,  
12 and then other appropriations.

13 This subsection does not authorize the Governor to withhold revenues from taxes  
14 levied by units of local governments and collected by the State. The General Assembly  
15 recognizes that under Section 19 of Article I of this Constitution and under the Due  
16 Process Clause of the United States Constitution, the State is prohibited from taking  
17 local tax revenue."

18 **SECTION 2.** The amendment set out in this act shall be submitted to the  
19 qualified voters of the State at a statewide election to be held on the Tuesday after the  
20 first Monday in November of 2006, which election shall be conducted under the laws  
21 then governing elections in the State. Ballots, voting systems, or both may be used in  
22 accordance with Chapter 163 of the General Statutes. The question to be used in the  
23 voting systems and ballots shall be:

24 **"[ ] FOR [ ] AGAINST**

25 **Constitutional amendment limiting the ability of the Governor to withhold**  
26 **local reimbursement."**

27 **SECTION 3.** If a majority of the votes cast on the question are in favor of  
28 the amendment set out in this act, the State Board of Elections shall certify the  
29 amendment to the Secretary of State and shall enroll the amendment so certified among  
30 the permanent records of that office. If approved, the amendment set out in this act  
31 becomes effective January 1, 2007.

32 **SECTION 4.** This act is effective when it becomes law.