

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2137

Short Title: School Construction Optimization Act. (Public)

Sponsors: Representatives Gibson, Folwell, Yongue, Pate (Primary Sponsors); Bell, Blackwood, Boylan, Brown, Coates, England, Faison, Glazier, Goforth, T. Harrell, Insko, Johnson, Justice, McGee, Setzer, Spear, and Tucker.

Referred to: Finance, if favorable, Appropriations.

May 19, 2008

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW A SALES AND USE TAX EXEMPTION FOR LOCAL
2 SCHOOL ADMINISTRATIVE UNITS AND TO REENACT THE SALES AND
3 USE TAX REFUND FOR LOCAL SCHOOL ADMINISTRATIVE UNITS, SO AS
4 TO OPTIMIZE SCHOOL CONSTRUCTION FUNDING.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 105-164.13 is amended by adding a new subdivision to
7 read:

8 "**§ 105-164.13. Retail sales and use tax.**

9 The sale at retail and the use, storage, or consumption in this State of the following
10 tangible personal property and services are specifically exempted from the tax imposed
11 by this Article:

12 ...

13 (58) Items subject to sales and use tax under G.S. 105-164.4, other than
14 electricity, telecommunications service, and ancillary service, if all of
15 the following conditions are met:

16 a. The items are purchased by a local school administrative unit
17 for its own use and in accordance with G.S. 105-164.29B.

18 b. The items are purchased pursuant to a valid purchase order
19 issued by the local school administrative unit that contains the
20 exemption number of the local school administrative unit and a
21 description of the property purchased; or the items purchased
22 are paid for with a check, electronic deposit, credit card,
23 procurement card, or credit account of the local school
24 administrative unit.

25 c. For all purchases other than by a purchase order issued by the
26 local school administrative unit, the local school administrative
27

1 unit must provide to or have on file with the retailer the local
2 school administrative unit's exemption number."

3 **SECTION 2.** Part 5 of Article 5 of Chapter 105 of the General Statutes is
4 amended by adding a new section to read:

5 **"§ 105-164.29B. Local school administrative unit exemption process.**

6 (a) Application. – To be eligible for the exemption provided in
7 G.S. 105-164.13(58), a local school administrative unit must obtain from the
8 Department a sales tax exemption number. The application for exemption must be in the
9 form required by the Secretary, be signed by the finance officer of the local school
10 administrative unit, and contain any information required by the Secretary. The
11 Secretary must assign a sales tax exemption number to a local school administrative unit
12 that submits a proper application.

13 (b) Liability. – A local school administrative unit that does not use the items
14 purchased with its exemption number must pay the tax that should have been paid on
15 the items purchased, plus interest calculated from the date the tax would otherwise have
16 been paid."

17 **SECTION 3.** G.S. 105-164.14(c)(2b) and (2c) are reenacted.

18 **SECTION 4.** G.S. 105-164.44H is repealed.

19 **SECTION 5.** Section 7.51(c) of S.L. 2005-276, as amended by Section 7 of
20 S.L. 2005-345 and by Section 7.20(b) of S.L. 2006-66, reads as rewritten:

21 ~~"SECTION 7.51.(c) Subsection (b) of this section becomes effective July 1, 2006.~~
22 ~~Notwithstanding the provisions of G.S. 105-164.44H, for the 2006-2007 fiscal year, the~~
23 ~~amount transferred to the State Public School Fund each quarter shall equal one fourth~~
24 ~~of the amount refunded under G.S. 105-164.14(c)(2b) and (2c) during the 2005-2006~~
25 ~~fiscal year for State sales and use taxes only plus or minus the percentage of that amount~~
26 ~~by which the total collection of State sales and use tax increased or decreased during the~~
27 ~~preceding fiscal year. The remainder of this~~ This section becomes effective July 1,
28 2005, and applies to sales made on or after that date."

29 **SECTION 6.** G.S. 105-467(b) reads as rewritten:

30 "(b) Exemptions and Refunds. – The State exemptions and exclusions contained
31 in G.S. 105-164.13, the State sales and use tax holiday contained in G.S. 105-164.13C,
32 and the State refund provisions contained in G.S. 105-164.14 apply to the local sales
33 and use tax authorized to be levied and imposed under this Article. ~~Except as provided~~
34 ~~in this subsection, a~~ A taxing county may not allow an exemption, exclusion, or refund
35 that is not allowed under the State sales and use tax. ~~A local school administrative unit~~
36 ~~and a joint agency created by interlocal agreement among local school administrative~~
37 ~~units pursuant to G.S. 160A-462 to jointly purchase food service related materials,~~
38 ~~supplies, and equipment on their behalf is allowed an annual refund of sales and use~~
39 ~~taxes paid by it under this Article on direct purchases of tangible personal property and~~
40 ~~services, other than electricity, telecommunications service, and ancillary service. Sales~~
41 ~~and use tax liability indirectly incurred by the entity on building materials, supplies,~~
42 ~~fixtures, and equipment that become a part of or annexed to any building or structure~~
43 ~~that is owned or leased by the entity and is being erected, altered, or repaired for use by~~
44 ~~the entity is considered a sales or use tax liability incurred on direct purchases by the~~

1 ~~entity for the purpose of this subsection. A request for a refund shall be in writing and~~
2 ~~shall include any information and documentation required by the Secretary. A request~~
3 ~~for a refund is due within six months after the end of the entity's fiscal year. Refunds~~
4 ~~applied for more than three years after the due date are barred."~~

5 **SECTION 7.** Sections 1, 3, 4, and 6 of this act become effective January 1,
6 2009, and apply to purchases made on or after that date. The remainder of this act is
7 effective when it becomes law.