

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 2137 (First Edition)

SHORT TITLE: School Construction Optimization Act

SPONSOR(S): Representatives Yongue, Gibson, Pate, and Folwell

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	(\$ In Millions)				
	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>
REVENUES					
End Transfer to Public School Fund	24.7	54.4	57.8	61.2	64.7
LEA State Sales and Use Tax Exemption	(21.5)	(46.3)	(47.6)	(49.2)	(51.2)
Net General Fund Impact	3.2	8.2	10.2	11.9	13.5
EXPENDITURES					
POSITIONS (cumulative):					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Department of Public Instruction					
EFFECTIVE DATE: January 1, 2009					

BILL SUMMARY:

Effective for purchases made on or after January 1, 2009, HB 2137, the School Construction Optimization Act, provides a sales tax exemption for local school administrative units (LEAs) on purchases that meet specified conditions and reinstates the repealed LEA state sales and use tax refund. It also repeals a mandatory distribution from the Department of Revenue to the State Public School Fund (SPSF) that was intended to replace the repealed tax refund.

S.L. 2005-276 repealed the state sales tax refund for LEAs and replaced it with a recurring transfer of the equivalent amount of state funds to the Public School Fund. The result was to direct these state funds for public education through the budgetary process instead of returning the state funds directly to LEAs as refunds. The provision did not affect the local sales tax refund for school districts. This bill reenacts the state sales and use tax refund and exemption for LEAs.

ASSUMPTIONS AND METHODOLOGY:

Reinstating the state sales and use tax exemption and refund to LEAs would add \$3.2 million to the General Fund during the 2008-09 fiscal year. Between January 1, 2009 and June 30, 2009, LEAs are expected to qualify for \$21.5 million in state sales and use tax exemptions, while the Department of Revenue transfer to the Public School Fund is estimated at \$24.7 million, a difference of \$3.2 million.

The State Public School Fund receives a quarterly transfer from the Department of Revenue, as directed under G.S. 105-164.44H, in lieu of a refund of state sales and use taxes to LEAs. The transfers were initially based on the amount of sales and use taxes refunded to LEAs during the 2005-2006 fiscal year, the last year in which LEAs could still receive the refund. In subsequent years, the allocation uses the amount transferred in the previous year as a base, plus or minus the percentage state sales and use tax collections increased or decreased.

LEA spending for which a local sales and use tax refund was received declined by 11 percent between 2005-06 and 2006-07, coinciding with the repeal of the LEA state sales and use tax exemption. There may be no complete explanation of why LEA spending declined after instating the SPSF transfer, but anecdotal evidence suggests that LEAs began purchasing items through their respective county governments.

Shifting spending to the county allowed the schools to take advantage of the local government sales and use tax exemption while using the higher, pre 2006-07 spending levels as the basis for the SPSF transfer. Should the state sales and use tax exemption be created in addition to the reinstatement of the refund, LEA spending will increase as schools reallocate expenditures from the county level back to the LEA. Eliminating the transfer to the SPSF, however, will more than offset the expenditures associated with a tax refund and exemption providing a net surplus to the General Fund.

While there will be a net surplus to the General Fund, elimination of the state sales and use tax transfer will negatively impact amount of support schools receive through the SPSF. For example, under this legislation and notwithstanding any other adjustments, SPSF availability and expenditures will decline by \$54.4 million in FY2009-10.

SOURCES OF DATA:

LEA Sales and Use Tax Refunds—North Carolina Department of Revenue, *Amounts Refunded During Designated Fiscal Years under G.S. 105-164.14(2b), (2c)*.

Public School Fund Appropriations—BD-701, *Public School Fund*, Budget Code 13510, Fund 1800, Account 438150.

TECHNICAL CONSIDERATIONS: None

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