

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 999
HOUSE BILL 2136

AN ACT TO ALLOW DURHAM COUNTY TO CREATE A SPECIAL PROJECTS DISTRICT AS A SEPARATE POLITICAL SUBDIVISION WITHIN THE COUNTY FOR THE PURPOSE OF FUNDING JOINT PROJECTS UNDERTAKEN THROUGH INTERLOCAL COOPERATION AGREEMENTS BETWEEN THE COUNTY OF DURHAM, THE CITY OF DURHAM, AND THE TOWN OF CHAPEL HILL TO ENSURE PROPORTIONAL EQUALITY OF CITY AND COUNTY TAXPAYER PARTICIPATION AND TO ALLOW AN EXTENSION OF TIME FOR DURHAM COUNTY HOSPITAL CORPORATION TO FILE AN APPLICATION FOR A SALES AND USE TAX REFUND.

The General Assembly of North Carolina enacts:

Section 1. **Definitions.** As used in this act:

- (1) "City" means a city as defined in G.S. 160A-1 which is located wholly or partly within the county creating a Special Projects District under this act;
- (2) "District" means a Special Projects District established under this act;
- (3) "Joint Project" means any capital project, governmental program or activity the undertaking, planning, building, maintenance, or otherwise funding of which is shared between a county and a city or cities and which each is authorized by law to undertake, plan, build, maintain, or otherwise fund on its own; and
- (4) "Special Projects District Board" means the board of county commissioners creating the District when that board is acting ex officio as the governing board of the District.

Sec. 2. **Purpose and intent; exclusion.** This act is intended to allow a county to establish certain areas of that county as a separate body politic and corporate to be known as a Special Projects District as provided by this act. Through such a separate political subdivision, a county on behalf of the area of that county in the district may

- (1) Enter into Interlocal Cooperation Agreements pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes with a city or cities, or;
- (2) As otherwise permitted by law jointly undertake with a city or cities one or more joint projects that their governing boards have determined to be beneficial to their collective constituencies.

The act authorizes the District, as a part of its regular budget-making process, to levy a separate tax on property within the District at a rate specifically identified as that necessary to fund the District's portion of the joint project, which when added to a property tax appropriation from the city or cities will fund the project and result in proportional equality of tax payments to the project by each taxpayer of the particular city and District participating in the joint project.

Sec. 3. Authority to create a Special Projects District; area included; powers. The board of commissioners of a county may establish a certain area of the county as a separate body politic and corporate to be known as the _____ County Special Projects District (insert name of county creating the District). The District may be created by the board of commissioners by ordinance after a public hearing, notice of which shall be given at least 10 days prior to the date of the hearing, and shall consist of all that portion of the county lying outside each city that has joined or intends to join with the District in one or more joint projects.

Sec. 4. District Governing Board. The Board of Commissioners of a county shall serve ex officio as the governing board of the District, and shall develop operating procedures for the functioning of the Special Projects District Board, including a schedule of meetings to adequately carry out the duties and functions of that Board and the business of the District.

Sec. 5. Effect on District of annexation by a city. Upon annexation of any portion of the District by a city that has joined with the District in a joint project, the portion annexed shall, on the effective date of the annexation, cease to be part of the District. When the whole or any portion of the District has been annexed by a city that has joined with the District in one or more joint projects, and the effective date of the annexation is a date other than a date in the month of June, the amount of the tax levied on property in the District for the fiscal year in which municipal taxes are prorated under G.S. 160A-58.10 shall be multiplied by the following fraction: the denominator shall be 12 and the numerator shall be the number of full calendar months remaining in the fiscal year following the day on which the annexation becomes effective. For each owner, the product of the multiplication is the prorated Special Projects District payment. The finance officer of the annexing municipality shall obtain from the tax assessor or tax collector of Durham County a list of the owners of property on which Special Projects District taxes were levied in the territory being annexed, and the annexing municipality shall no later than 90 days after the effective date of the annexation, pay the amount of the prorated Special Projects District tax payment to the owners of that property. Such payments shall come from any funds not otherwise restricted by law. Annexation of a portion of the District shall not, however, invalidate any joint project between the District and the annexing municipality.

Sec. 6. Joint participation in projects required. Before the Special Projects District can levy a tax pursuant to law, it shall have first either be jointly participating with a city in a project, or have agreed either through an Interlocal Cooperation Agreement or some established course of conduct with such municipality to jointly undertake a project.

Sec. 7. **Applicability to existing projects.** Upon creation of the Special Projects District as provided for herein, taxes may be levied to finance between a county (through a District) and a city joint projects already in existence at the time of the creation of the District, provided that the county assign to the District all of its rights and obligations toward the project.

Sec. 8. **Powers of Special Projects District.** A Special Projects District created under this act shall have the following powers:

- (1) To join with a city or cities in the design, creation, construction, operation, maintenance, repair, renovation, alteration or funding of projects, programs, or governmental activities authorized by law, to acquire real and personal property associated with the same, and to enter into Interlocal Cooperation Agreements pursuant to Part 1, Article 20 of Chapter 160A of the General Statutes with any city for the purpose of joining together in carrying out such projects and programs if the same may be deemed necessary to effectuate the intent of this act;
- (2) To levy taxes on property within the District for the purposes for which a county can levy taxes under Article 7 of Chapter 153A of the General Statutes; and
- (3) To acquire, own, and dispose of real and personal property in the same manner as a county under Article 8 of Chapter 153A of the General Statutes.

Sec. 8.1. **Effect of annexation or incorporation.** If, after the creation of a District, a city is incorporated within that county, or a city annexes into the county which had not annexed territory within the county prior to the creation of the District, the area within the annexing or incorporating city shall remain in the District unless the District and the annexing or incorporating city shall enter into an agreement for the annexing or incorporating city to participate in the joint project, in which case the area shall cease to be in the District upon the effective date of the agreement, with taxation handled as provided by Section 5 of this act.

Sec. 9. **Procedure for tax levy.** Unless Special Projects Districts have been authorized to levy taxes on property by general law uniformly applicable throughout the State, such taxes may be levied only with the approval of the qualified voters of the Special Projects District. Such referendum shall be called by the Special Projects District Board under the same procedures as G.S. 153A-149(d).

Sec. 10. **Short title.** This act may be cited as the Special Projects District Act.

Sec. 11. Sections 1 through 10 of this act apply only to Durham County and any municipalities located within that county.

Sec. 12. Notwithstanding the provisions of G.S. 105-164.14(b) and (d), an application filed by Durham County Hospital Corporation requesting a refund of sales and use taxes paid during the first six months of the calendar year 1987, that otherwise complies with the requirements of G.S. 105-164.14(b), shall be considered timely if it is filed on or before December 31, 1990.

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1990.