

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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HOUSE BILL 334

Short Title: Buncombe Cty Sales Tax Use Expansion. (Local)

Sponsors: Representatives Ramsey and Moffitt (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Government, if favorable, Finance.

March 20, 2013

A BILL TO BE ENTITLED

AN ACT TO AUGMENT THE USES OF CERTAIN MONEYS IN THE BUNCOMBE
SCHOOL CAPITAL FUND.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 134 of the 1983 Session Laws, as amended by Chapter 534 of the 1983 Session Laws, reads as rewritten:

"Section 1. There is hereby created a Commission to be known as the School Capital Fund Commission for Buncombe County, which Commission shall have and possess all the powers conferred by this act and such other powers as may be useful or necessary to permit it fully to carry out the purposes of this act. The Commission is hereby declared to be a corporation with perpetual succession, the right to adopt and use a corporate seal, to sue and to be sued, and to hold, manage and control the moneys and properties received by it under the provisions of this act. It shall have the right to make reasonable rules and regulations for the conduct of its business.

"Sec. 2. The Commission shall consist of five members. Initial members of the Commission shall be Richard B. Stone, Ronald K. Payne, John F. Shuford, Nilous M. Avery, and John L. Simmons, who shall each serve for a term ending June 30, 1985, or as soon thereafter as his successor is appointed. After June 30, 1985, members of the Commission shall serve two-year terms and shall be appointed as follows: one appointed by the Asheville City Council, one appointed by the Asheville City Board of Education, one appointed by the Buncombe County Board of Education, one appointed by the Buncombe County Board of Commissioners, and one appointed by the other four appointees. A member appointed by a local governing board or a school board shall serve at the pleasure of that board. The member appointed by the other appointees shall serve at the pleasure of the majority of the other appointees. Any vacancy occurring during the term of the original appointees shall be filled by the other members of the Commission. Vacancies occurring after June 30, 1985, shall be filled by the appointing authority of the member creating the vacancy to fill the unexpired term.

"Sec. 3. A quorum shall be three members of the Commission.

"Sec. 4. The first meeting of the Commission shall be held within 30 days after the ratification of this act, at which meeting, or any adjournment thereof, the Commission shall organize, adopt bylaws or rules and regulations to govern its procedure and the conduct of the business and affairs of the Commission and appoint a chairman and vice-chairman from among its membership who shall serve a one-year term and appoint a secretary for a one-year term and until their successors are appointed by the Commission. The finance officer for Buncombe County shall be the finance officer of the Commission. The county finance officer shall give



1 bond for the faithful performance of his duties as the finance officer of the Commission in an
2 amount determined by the Commission. The finance officer of the Commission shall manage
3 the funds of the Commission only as directed by the Commission. At said meeting the
4 Commission shall select and appoint an attorney of the Commission and fix his compensation,
5 such attorney to serve at the pleasure of the Commission.

6 "Sec. 5. Regular or stated meetings of the Commission shall be held at such time and place
7 as may be provided by the Commission in its bylaws or rules and regulations, and special
8 meetings may be held on the call of the chairman after due notice.

9 "Sec. 6. One half of any local government sales and use tax revenue distributed to
10 Buncombe County under G.S. 105-472, and one half of any State sales and use tax revenue
11 distributed to Buncombe County, shall be paid to the Commission by the Secretary of Revenue;
12 provided that if distribution of the local government sales and use tax revenue is made under
13 G.S. 105-472(2), (the ad valorem method), then taxing districts shall receive their funds under
14 G.S. 105-472(2) as if no funds had been paid to the Commission by the Secretary of Revenue,
15 and in computing what amount is one-half of the sales and use tax revenue, the Secretary of
16 Revenue shall not reduce the total by the amount to be distributed to the taxing districts. This
17 section does not affect the distribution of any local or State sales and use tax revenue to the
18 municipalities in Buncombe County.

19 "Sec. 7. All of the special property tax levied by Buncombe County for necessary capital
20 outlay improvements of County and City Schools in Buncombe County, approved by the voters
21 of Buncombe County in 1959, shall be appropriated by Buncombe County to the Commission
22 and paid by the Tax Collector to the Commission.

23 "Sec. 8. Any other funds appropriated by Buncombe County for public school construction
24 of any amount, and public school improvement and renovation projects estimated to cost in
25 excess of one hundred thousand dollars (\$100,000) in any one location in Buncombe County
26 shall be paid to the Commission, provided that the board of county commissioners may choose
27 to designate funds under this section to a specific account under Section 10 of this act rather
28 than pro rata.

29 "Sec. 9. All funds received by the Commission under Sections 6, 7, and 8 of this act shall
30 be placed in a capital reserve fund as provided in Part 2 of Article 3 of Chapter 159 of the
31 General Statutes.

32 "Sec. 10. All funds in the capital reserve ~~fund~~ fund, other than unencumbered revenue
33 distributed to Buncombe County under G.S. 105-472, shall be used to finance new public
34 school construction of any amount, and public school improvement and renovation projects
35 estimated to cost in excess of one hundred thousand dollars (\$100,000) at any one location or to
36 retire any indebtedness incurred by the county after July 1, 1983 for these purposes.
37 Unencumbered revenue distributed to Buncombe County under G.S. 105-472 shall be used (i)
38 to finance new public school construction of any amount and public school improvement and
39 renovation projects estimated to cost in excess of one hundred thousand dollars (\$100,000) at
40 any one location, (ii) to retire any indebtedness incurred by the county after July 1, 1983, for
41 these purposes, or (iii) to provide for digital learning needs such as school connectivity, digital
42 textbooks and instructional resources, digital devices, and associated ongoing professional
43 development for teachers. The Commission shall annually divide the funds received that year
44 into two accounts, one for the Buncombe County Board of Education and one for the Asheville
45 City Board of Education. The division of funds shall be pro rata according to average daily
46 membership in the two systems. If the funds in the capital reserve fund are to be expended to
47 retire any indebtedness incurred by the county, they shall be drawn out of the two accounts
48 established by this section pro rata, according to the average daily membership in the two
49 systems. Any funds not expended in a fiscal year shall remain in that system's account for use
50 in later years, including any accrued interest.

1 By joint agreement of the Board of County Commissioners and both boards of education,
2 money may be transferred from the account under this section of one board of education to the
3 account under this section of the other board of education, provided that the agreement must
4 require a transfer back of an equal amount of funds at some fixed date in the future, plus a sum
5 to be determined at that date which represents interest which would have accrued on the funds
6 if they had remained in the first account.

7 "Sec. 11. Moneys in the Capital Reserve Fund shall be subject to appropriation by the board
8 of county commissioners. The Commission shall disburse such moneys as a ministerial duty
9 upon receiving a written request from the board of county commissioners after the county
10 board of commissioners has adopted an ordinance and after receipt of a written request from
11 the appropriate board of education indicating it is prepared to enter into a contract, and
12 G.S. 115C-521 shall continue to apply.

13 "Sec. 11.1. Notwithstanding any other provision of this act, if the Buncombe County Board
14 of Commissioners appropriates any federal revenue sharing funds to the Commission for the
15 purpose of substituting revenue sharing funds for sales tax funds, then it must at the same time
16 appropriate from the Commission to the county an equal amount of funds received under
17 Section 6 to be used for such purposes as the Board of Commissioners shall deem appropriate
18 and are otherwise authorized by law, provided that such federal revenue sharing funds shall be
19 divided pro rata under Section 10 of this act.

20 "Sec. 12. The reasonable and necessary expenses of the Commission, including the
21 compensation of its officers and employees and the cost of any bond required by it, shall be
22 paid by the County of Buncombe. The chairman of the Commission shall, on or about the first
23 day of each calendar month, certify to the governing body of Buncombe County the expenses
24 of the Commission incurred during the preceding month, and the governing body of the county
25 shall forthwith, and within five days thereafter, cause to be paid to the Commission the
26 expenses required to be paid. All such payments shall be charged to the general fund of the
27 county.

28 "Sec. 13. Sections 1 through 5, 11.1 and 12 of this act are effective upon ratification.
29 Sections 6 through 11 shall become effective July 1, 1983. The Secretary shall make the first
30 distribution of local sales and use tax revenue to the Commission at the end of the quarter that
31 begins on July 1, 1983."

32 **SECTION 2.** This act is effective when it becomes law.