

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1369*
Committee Substitute Favorable 6/3/98
Third Edition Engrossed 7/29/98

Short Title: Comm. Colleges' Lease Purchase Authority.

(Public)

Sponsors:

Referred to:

May 21, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY COMMUNITY COLLEGES' AUTHORITY TO ENTER INTO
3 LEASE PURCHASE AND INSTALLMENT PURCHASE CONTRACTS FOR
4 EQUIPMENT.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 115D-20 is amended by adding a new subdivision to read:

7 "(11) To enter into lease purchase and installment purchase contracts for
8 equipment under G.S. 115D-58.15."

9 Section 2. Article 4A of Chapter 115D of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 115D-58.15. Lease purchase and installment purchase contracts for equipment.**

12 (a) Authority. – The board of trustees of a community college may use lease
13 purchase or installment purchase contracts to purchase or finance the purchase of
14 equipment as provided in this section.

15 (b) Contract Approval. – Contracts for more than one hundred thousand dollars
16 (\$100,000) or for a term of more than three years shall be subject to review and approval
17 as provided in this subsection. If the source of funds for payment of the obligation by the
18 community college is intended to be local funds, the contract must be approved by

1 resolution of the tax-levying authority, and the authority must acknowledge in writing its
2 understanding that the community college may require appropriations from the tax-
3 levying authority in order to meet the college's obligations under the contract. The tax-
4 levying authority may in each fiscal year appropriate sufficient funds to meet the amounts
5 to be paid during the fiscal year under the contract. If the source of funds for payment of
6 the obligation by the community college is intended to be State funds, the contract must
7 be approved by resolution of the State Board of Community Colleges. The State Board
8 may in each fiscal year allocate sufficient funds to meet the amounts to be paid during the
9 fiscal year under the contract.

10 (c) Local Government Commission. – A contract that is subject to approval by the
11 tax-levying authority also shall be subject to approval by the Local Government
12 Commission as provided in Article 8 of Chapter 159 of the General Statutes if the
13 contract:

14 (1) Extends for five or more years from the date of the contract;

15 (2) Obligates the board of trustees to pay sums of money to another,
16 regardless of whether the payee is a party to the contract; and

17 (3) Obligates the board of trustees to pay five hundred thousand dollars
18 (\$500,000) or more over the full term of the contract.

19 (d) Application of Section. – When determining whether a contract is subject to
20 approval under this section the total cost of exercising an option to upgrade property shall
21 be taken into consideration. The term of a contract shall include periods that may be
22 added to the original term through the exercise of an option to renew or extend.

23 (e) Nonsubstitution Clause. – No contract entered into under this section may
24 contain a nonsubstitution clause that restricts the right of a board of trustees to:

25 (1) Continue to provide a service or activity; or

26 (2) Replace or provide a substitute for any property financed or purchased
27 by the contract.

28 (f) Nonappropriations Clause. – No deficiency judgment may be rendered against
29 any board of trustees, any tax-levying authority, the State Board of Community Colleges,
30 or the State of North Carolina in any action for breach of a contractual obligation
31 authorized by this section. The taxing power of a tax-levying authority and the State is
32 not and may not be pledged directly or indirectly to secure any moneys due under a
33 contract authorized by this section."

34 Section 3. G.S. 115D-5 is amended by adding a new subsection to read:

35 "(1) The State Board shall review and approve lease purchase and installment
36 purchase contracts as provided under G.S. 115D-58.15(b). The State Board shall adopt
37 policies and procedures governing the review and approval process."

38 Section 4. This act is effective when it becomes law and applies to contracts
39 entered into on or after that date.