



SENATE BILL 267: Buncombe 1/4 Cent Sales Tax Use Restriction.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	June 3, 2020
Introduced by:	Sens. Edwards, Van Duyn	Prepared by:	Trina Griffin
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *Senate Bill 267 would memorialize an agreement reached last year between Buncombe County and Asheville-Buncombe Technical Community College (A-B Tech) that restricts for eight years the use of the quarter-cent local option sales tax levied by Buncombe County for capital needs at A-B Tech.*

CURRENT LAW & BACKGROUND: In 2007, the General Assembly gave counties a local-option, quarter-cent sales tax, which is authorized in Article 46 of Chapter 105. The tax must be approved by voters in a referendum before it can be adopted. The proceeds of the tax are not shared with the cities and may be used for any public purpose. Since the enactment of the authorization, at least 167 referenda have been held in approximately 77 counties. Of those, 45 were approved.

In 2011, the voters of Buncombe County approved the levy of the quarter-cent sales tax. The issue was contentious with officials pledging to use the proceeds for a proposed \$130 million building plan at A-B Tech, while opponents expressed concern that the money would be used to offset the county's existing appropriation to the school and that the current board could not bind commitments of future boards. The referendum passed with 50.76% of the vote. Information distributed in conjunction with the referendum included the following statement, "This sales and use tax will sunset in 2029 and will be used exclusively for the stated capital improvement needs of Asheville-Buncombe Technical Community College." The resolution adopted after the passage of the referendum also reflected the county's intent for the tax to expire in 2029 and for the proceeds to be used for A-B Tech. In 2013, the General Assembly enacted [legislation](#) giving the county authority over certain construction activities on campus.

Beginning with the 2013-2014 fiscal year, the county began transferring a portion of the quarter-cent sales tax revenue to its general fund. The transfers grew incrementally, reaching \$6.5 million in 2018, which was the same amount appropriated to the school that year. While several projects have been completed and paid for with sales tax revenue, including the \$40 million Allied Health Building that opened in 2016 and a \$15 million parking deck, [news reports](#) indicate that proceeds have also been used for operational and maintenance costs and that at least \$15 million of the sales tax revenue was diverted to balance the county's budget. A-B Tech reports an approximate \$25 million backlog of maintenance projects.

BILL ANALYSIS: This bill would memorialize a Memorandum of Understanding reached last year between the county and A-B Tech by restricting the use of the net proceeds of Buncombe's quarter-cent tax and by requiring the county to appropriate funds as follows and in the following order of priority:

1. For each fiscal year, the amount necessary to satisfy the debt service obligations existing as of March 12, 2019, for construction and improvements to real property owned by an eligible community college and to real property owned by the county if directly related to services and educational programs offered by the community college.

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2. An amount for deferred capital repairs and renovations on existing buildings as follows:
 - For 2019-2020: \$3,125,000
 - For 2020-2021 through 2026-2027: 105.54% of the amount for the preceding fiscal year.
3. Up to \$5 million annually for operating costs of the college.
4. A reserve of \$2 million for repairs and renovations resulting from an unexpected emergency occurrence.
5. The County must use the remainder only for new construction of or repair and improvements to real property owned by an eligible community college or to retire any indebtedness incurred by the county for these purposes.

EFFECTIVE DATE: This bill would be effective for the fiscal year beginning July 1, 2019, and would expire June 30, 2027. Funds in the reserve under G.S. 105-538.1(4), that are unexpended and unencumbered as of the expiration date of this act must be used for new construction of or repair and improvements to real property owned by the eligible community college or to retire any indebtedness incurred by the county for these purposes.