

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1231

Short Title: Local Transit Revenue Options.

(Public)

Sponsors: Representatives Miner, McMahan, H. Hunter (Cosponsors); Black, Bowie, Cunningham, Earle, Easterling, Gulley, Hackney, Hardy, Hensley, Hurley, Insko, McComas, Michaux, Mosley, Rayfield, Russell, and Saunders.

Referred to: Finance.

May 19, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE SUPPLEMENTAL SOURCES OF REVENUE FOR
3 LOCAL GOVERNMENT TRANSIT FINANCING.

4 The General Assembly of North Carolina enacts:

5 Section 1. The title of Subchapter VIII of Chapter 105 of the General Statutes
6 reads as rewritten:

7 "~~SUBCHAPTER VIII. LOCAL GOVERNMENT SALES AND USE TAX. TAXES.~~"

8 Section 2. Subchapter VIII of Chapter 105 of the General Statutes is amended
9 by adding two new Articles to read:

10 "ARTICLE 43.
11 "LOCAL GOVERNMENT SALES AND USE TAXES FOR PUBLIC TRANSIT.
12 "§ 105-505. Short title; purpose.

13 This Article shall be known as the Local Government Public Transit Sales Tax Act.
14 This Article gives Regional Public Transportation Authorities and the counties of this
15 State an opportunity to obtain an additional source of revenue with which to meet their
16 needs for financing local public transportation systems. It provides these local
17 governments with authority to levy one-half percent (1/2%) sales and use taxes.

18 "§ 105-506. Definitions.

1 The definitions in G.S. 160A-601 and G.S. 105-164.3 and the following definitions
2 apply to this Article:

3 (1) Net proceeds. – Gross proceeds less the cost of administering and
4 collecting the tax.

5 (2) Public transportation system. – Any combination of real and personal
6 property established for purposes of public transportation. The systems
7 may include one or more of the following: structures, improvements,
8 buildings, equipment, vehicle parking or passenger transfer facilities,
9 railroads and railroad rights-of-way, rights-of-way, bus services, shared-
10 ride services, high-occupancy vehicle facilities, car-pool and vanpool
11 programs, voucher programs, telecommunications and information
12 systems, integrated fare systems, bus lanes, and busways. The term
13 does not include, however, streets, roads, or highways except to the
14 extent they are dedicated to public transportation vehicles or to the
15 extent they are necessary for access to vehicle parking or passenger
16 transfer facilities.

17 (3) Taxing unit. – A Regional Public Transportation Authority or a county
18 that levies a tax under this Article.

19 **"§ 105-507. Limitations.**

20 (a) Levy by County. – A county may not levy a tax under this Article unless the
21 county or at least one unit of local government in the county operates a public
22 transportation system.

23 (b) Levy by County Located in Authority. – A county may not levy a tax under
24 this Article that has been levied by an Authority in which the county is located. A county
25 may not levy a tax under this Article without giving an Authority in which it is located
26 six months' written notice of its intent to levy. If a county located within an Authority
27 has levied a tax under this Article, the Authority may levy the same tax, but the
28 Authority's levy may not become effective before the end of six months after the
29 adoption of a resolution levying the tax. The county's authority to levy the tax terminates
30 upon the effective date of the levy of the same tax by the Authority in which the county is
31 located.

32 (c) Levy by Authority. – An Authority may not levy or increase a tax under this
33 Article unless the special tax board of the Authority and the board of county
34 commissioners of each county organizing the Authority have first passed a resolution
35 approving the levy or increase, except where the levy or increase in tax is necessary for
36 debt service on bonds or notes that the special tax board and each of the boards of county
37 commissioners had previously approved under G.S. 159-51.

38 **"§ 105-508. Local election on adoption of sales and use tax.**

39 (a) Resolution. – The board of commissioners of a county or the board of trustees
40 of an Authority may direct the county board or boards of elections to conduct an advisory
41 referendum within the county or within the jurisdiction of the Authority on the question
42 of whether a local sales and use tax at the rate of one-half percent (1/2%) will be levied in
43 accordance with this Article. The election shall be held on a date jointly agreed upon by

1 the boards and shall be held in accordance with the procedures of G.S. 163-287. The
2 board of commissioners or board of trustees shall hold a public hearing on the question at
3 least 30 days before the date the election is to be held.

4 (b) Ballot Question. – The form of the question to be presented on a ballot for a
5 special election concerning the levy of a tax authorized by this Article shall be:

6 ‘[] FOR [] AGAINST

7 One-half percent (1/2%) local sales and use taxes, in addition to the current two percent
8 (2%) local sales and use taxes, to be used only for public transportation systems.’

9 **"§ 105-509. Levy and collection of sales and use tax.**

10 (a) Levy. – If the majority of those voting in a referendum held pursuant to this
11 Article vote for the levy of the tax, the board of commissioners of the county or the board
12 of trustees of the Authority may, by resolution, levy one-half percent (1/2%) local sales
13 and use taxes in addition to any other State and local sales and use taxes levied pursuant
14 to law. In addition, if no referendum has been held pursuant to this Article within five
15 years at which the tax has been defeated, the board of commissioners of a county or the
16 board of trustees of an Authority may, by resolution, after not less than 10 days' public
17 notice and after a public hearing, levy one-half percent (1/2%) local sales and use taxes in
18 addition to any other State and local sales and use taxes levied pursuant to law.

19 (b) Administration. – Except as provided in this Article, the adoption, levy,
20 collection, administration, and repeal of these additional taxes shall be in accordance with
21 Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this
22 Article, references to ‘this Article’ mean ‘Article 43 of Chapter 105 of the General
23 Statutes’.

24 (c) Food Exempt. – A tax levied under this Article does not apply to the sales price
25 of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be
26 exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased
27 with coupons issued under the Food Stamp Program, 7 U.S.C. § 51.

28 **"§ 105-510. Distribution and use of taxes.**

29 (a) Distribution. – The Secretary shall, on a quarterly basis, allocate to each taxing
30 unit the net proceeds of the tax levied under this Article by that unit. If the Secretary
31 collects taxes under this Article in a month and the taxes cannot be identified as being
32 attributable to a particular taxing unit, the Secretary shall allocate these taxes among the
33 taxing units in proportion to the amount of taxes collected in each unit under this Article
34 in that month and shall include them in the quarterly distribution.

35 The Secretary shall distribute to each Authority the net proceeds of the tax levied by
36 the Authority. The Secretary shall distribute the net proceeds of the tax levied by a
37 county on a per capita basis among the county and the units of local government in the
38 county that operate public transportation systems. No proceeds shall be distributed to a
39 county that does not operate a public transportation system or to a unit of local
40 government that does not operate a public transportation system.

41 (b) Use. – An Authority may use the proceeds of a tax levied under this Article to
42 carry out its purposes provided in Article 26 of Chapter 160A of the General Statutes. A
43 county or other unit of local government may use the net proceeds distributed to it under

1 this Article only for financing, constructing, operating, and maintaining local public
2 transportation systems.

3 "ARTICLE 44.

4 "LOCAL GOVERNMENT VEHICLE REGISTRATION TAX FOR PUBLIC
5 TRANSIT.

6 "§ 105-514. Limitations.

7 This Article applies only to counties that are not located within the territorial
8 jurisdiction of a Regional Public Transit Authority created pursuant to Article 26 of
9 Chapter 160A of the General Statutes. A county may not levy a tax under this Article
10 unless the county or at least one unit of local government in the county operates a public
11 transportation system. A county may not levy a tax under this Article at a rate that
12 would, when combined with the tax levied by any municipality in the county under G.S.
13 20-97, exceed thirty dollars (\$30.00) per vehicle.

14 "§ 105-515. Levy of vehicle registration tax.

15 The board of commissioners of a county may, by resolution, after not less than 10
16 days' public notice and a public hearing, levy an annual registration tax on motor vehicles
17 with a tax situs within the county. The tax must be a full dollar amount and may not
18 exceed five dollars (\$5.00). A tax levied under this section is in addition to any other
19 motor vehicle license or registration tax.

20 The tax applies to vehicles required to pay a tax under G.S. 20-88, except trailers, or
21 pay a tax under G.S. 20-87(1), (2), (4), (5), (6), or (7). The tax situs of a motor vehicle for
22 the purpose of this Article is its ad valorem tax situs. If the vehicle is not subject to ad
23 valorem tax, its tax situs for the purpose of this Article is the ad valorem tax situs it
24 would have if it were subject to ad valorem tax.

25 The effective date of a tax levied under this section must be the first day of a calendar
26 month set by the board of commissioners in the resolution levying the tax and shall be no
27 earlier than the first day of the third calendar month after the adoption of the resolution.

28 "§ 105-516. Administration.

29 The Division of Motor Vehicles of the Department of Transportation shall collect and
30 administer a tax levied under this section. Immediately after adopting a resolution
31 levying, modifying, or repealing a tax under this section, the board of county
32 commissioners shall deliver a certified copy of the resolution to the Division of Motor
33 Vehicles. A tax levied under this section is due at the same time and subject to the same
34 restrictions as the tax levied in G.S. 20-87 and G.S. 20-88. The tax shall be prorated in
35 accordance with G.S. 20-95. The Commissioner of Motor Vehicles may adopt rules
36 necessary to administer the tax.

37 "§ 105-517. Modification or repeal of tax.

38 The board of commissioners of a county may, by resolution, repeal the levy of the tax
39 under this section, or increase or decrease the rate of tax, under the same procedures as
40 provided in G.S. 105-515. The repeal, increase, or decrease of the tax shall become
41 effective on the first day of a month and may not become effective before the first day of
42 the third calendar month after the adoption of the resolution. The repeal or reduction of a
43 tax under this Article does not affect a liability for a tax that attached before the effective

1 date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued
2 before the effective date of the repeal or reduction.

3 **"§ 105-518. Distribution and use of tax proceeds.**

4 The Commissioner of Motor Vehicles shall credit the proceeds of each tax levied
5 under this Article to a special account and distribute the net proceeds on a quarterly basis.
6 Interest on the special account shall be credited quarterly to the Highway Fund to
7 reimburse the Division of Motor Vehicles for the cost of collecting and administering the
8 tax.

9 The Commissioner of Motor Vehicles shall allocate to each taxing county the net
10 proceeds of the tax levied by that county. The Commissioner shall distribute the tax
11 proceeds on a per capita basis among the taxing county and the units of local government
12 in the county that operate public transportation systems. No proceeds shall be distributed
13 to a county that does not operate a public transportation system or to a unit of local
14 government that does not operate a public transportation system.

15 A unit of local government may use the proceeds distributed to it under this Article
16 only for financing, constructing, operating, and maintaining local public transportation
17 systems. As used in this section, the term 'public transportation system' has the meaning
18 provided in G.S. 105-506."

19 Section 3. Chapter 105 of the General Statutes is amended by adding a new
20 Subchapter to read:

21 **"SUBCHAPTER IX. MULTICOUNTY TAXES.**

22 **"§ 105-550. Definitions.**

23 The definitions in G.S. 160A-601 and G.S. 105-164.3 and the following definitions
24 apply to this Article:

- 25 (1) Long-term lease or rental. – Defined in G.S. 105-187.1.
26 (2) Motorcycle. – Defined in G.S. 20-4.01.
27 (3) Private passenger vehicle. – Defined in G.S. 20-4.01.
28 (4) Short-term lease or rental. – A lease or rental that is not a long-term
29 lease or rental.

30 **"§ 105-551. Tax on gross receipts authorized.**

31 (a) Tax. – The Board of Trustees of an Authority may levy a privilege tax on a
32 retailer who is engaged in the business of leasing or renting private passenger vehicles or
33 motorcycles based on the gross receipts derived by the retailer from the short-term lease
34 or rental of these vehicles. The tax rate must be a percentage and may not exceed five
35 percent (5%). A tax levied under this section applies to short-term leases or rentals made
36 by a retailer whose place of business or inventory is located within the territorial
37 jurisdiction of the Authority. This tax is in addition to all other taxes.

38 (b) Restrictions. – The Board of Trustees of an Authority may not levy a tax under
39 this section or increase the tax rate of a tax levied under this section until all of the
40 following requirements have been met:

- 41 (1) The Board of Trustees has held a public hearing on the tax or the
42 increase in the tax rate after giving at least 10 days' notice of the
43 hearing.

1 (2) The special tax board of the Authority has adopted a resolution
2 approving the levy of the tax or the increase in the tax rate.

3 (3) The board of commissioners of each county included in the territorial
4 jurisdiction of the Authority has adopted a resolution approving the levy
5 of the tax or the increase in the tax rate.

6 **"§ 105-552. Collection and administration of gross receipts tax.**

7 (a) Effective Date. – A tax or a tax increase levied under this Subchapter becomes
8 effective on the date set by the Board of Trustees in the resolution levying the tax or the
9 tax increase. The effective date must be the first day of a month and may not be earlier
10 than the first day of the second month after the Board of Trustees adopts the resolution.

11 (b) Collection. – A tax levied by an Authority under this Subchapter shall be
12 collected by the Authority but shall otherwise be administered in the same manner as the
13 optional gross receipts tax levied by G.S. 105-187.5. Like the optional gross receipts tax,
14 a tax levied under this Subchapter is to be added to the lease or rental price of a private
15 passenger vehicle or motorcycle and thereby be paid by the person to whom it is leased or
16 rented.

17 A tax levied under this Subchapter applies regardless of whether the retailer who
18 leases or rents the private passenger vehicle or motorcycle has elected to pay the optional
19 gross receipts tax on the lease or rental receipts from the vehicle. A tax levied under this
20 Subchapter must be paid to the Authority that levied the tax by the date an optional gross
21 receipts tax would be payable to the Secretary of Revenue under G.S. 105-187.5 if the
22 retailer who leases or rents the private passenger vehicle or motorcycle had elected to pay
23 the optional gross receipts tax.

24 (c) Penalties and Remedies. – The penalties and remedies that apply to local sales
25 and use taxes levied under Subchapter VIII of this Chapter apply to a tax levied under
26 this Subchapter. The Board of Trustees of an Authority may exercise any power the
27 Secretary of Revenue or a board of county commissioners may exercise in collecting
28 local sales and use taxes.

29 **"§ 105-553. Exemptions and refunds.**

30 No exemptions are allowed from a tax levied under this Subchapter. No refunds are
31 allowed for a tax lawfully levied under this Subchapter.

32 **"§ 105-554. Use of tax proceeds.**

33 An Authority that levies a tax under this Subchapter may use the proceeds of the tax
34 for any purpose for which the Authority is authorized to use funds. Authorized purposes
35 for which an Authority may use funds include the following:

36 (1) Pledging funds in connection with the financing of a public
37 transportation system or any part of a public transportation system.

38 (2) Paying a note, bond, or other obligation entered into by the Authority
39 pursuant to Article 26 of Chapter 160A.

40 **"§ 105-555. Repeal of tax or decrease in tax rate.**

41 The Board of Trustees of an Authority may repeal a tax levied under this Subchapter
42 or decrease the tax rate of a tax levied under this Subchapter. The same restrictions that

1 apply to the levy of a tax or an increase in a tax rate under this Subchapter apply to the
2 repeal of the tax or a decrease in the tax rate.

3 A tax repeal or a tax decrease becomes effective on the date set by the Board of
4 Trustees in the resolution repealing or decreasing the tax. The effective date must be on
5 the first day of a month and may not be earlier than the first day of the second month
6 after the Board of Trustees adopts the resolution. Repeal or decrease of a tax levied
7 under this Subchapter does not affect the rights or liabilities of an Authority, a taxpayer,
8 or another person arising before the repeal or decrease."

9 Section 4. This act is effective when it becomes law.

10 Section 5. A tax levied under Article 43 of Chapter 105 of the General
11 Statutes, as enacted by this act, does not apply to construction materials purchased to
12 fulfill a lump sum or unit price contract entered into or awarded before the effective date
13 of the levy or entered into or awarded pursuant to a bid made before the effective date of
14 the levy when the construction materials would otherwise be subject to the tax levied
15 under Article 43 of Chapter 105 of the General Statutes.