

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 970

Short Title: Triangle Regional Sales & Deed Tax.

(Public)

Sponsors: Senator Wellons.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE TRIANGLE COUNTIES TO CREATE A REGIONAL
2 TAX DISTRICT AND LEVY A SALES TAX AND A CONVEYANCE TAX
3 WITHIN THE DISTRICT, TO GENERATE FUNDS FOR PUBLIC SCHOOL
4 CAPITAL NEEDS AND TRANSPORTATION CAPITAL NEEDS.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Subchapter IX of Chapter 105 of the General Statutes is amended
8 by adding a new Article to read:

9 **"ARTICLE 52.**

10 **"REGIONAL TAX DISTRICTS.**

11 **"PART 1. REGIONAL TAX DISTRICT SALES TAX.**

12 **"§ 105-570. Regional sales tax authorized.**

13 The governing body of a regional tax district created pursuant to this Article may, by
14 resolution, levy one percent (1%) local sales and use taxes within the district in addition
15 to any other sales taxes levied pursuant to law. The tax may be levied only after the
16 board of commissioners of every county in the district has adopted a resolution approving
17 the levy of the tax. Except as provided in this Part, the adoption, levy, collection,
18 administration, and repeal of these taxes shall be in accordance with Article 39 of this
19 Chapter as if the regional tax district were a county.

1 A tax levied under this Part does not apply to the sales price of food that is not
2 otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the
3 State sales and use tax pursuant to G.S. 105-164.13 if it were purchased under the Food
4 Stamp Program, 7 U.S.C. § 51.

5 **"§ 105-571. Distribution and use.**

6 (a) Allocation to Counties. – The Secretary must, on a quarterly basis, allocate the
7 net proceeds of the tax levied under this Part among the counties that make up the
8 regional tax district as provided in this subsection.

9 (1) The Secretary must first allocate to each district county an amount equal
10 to ninety percent (90%) of the net proceeds of the tax that can be
11 identified as having been collected in that county.

12 (2) The Secretary must then determine for each district county an amount
13 equal to its per capita share of the entire net proceeds of the tax
14 according to the most recent annual population estimates certified to the
15 Secretary by the State Planning Officer. The Secretary must determine
16 whether each district county's per capita share exceeds its allocation
17 under subdivision (1) of this subsection.

18 (3) The Secretary must allocate the remaining net proceeds not allocated
19 under subdivision (1) of this subsection among those district counties
20 whose per capita shares exceed their allocations under subdivision (1),
21 in proportion to the amount of each county's excess.

22 (4) If any taxes levied under this Part in a county of the district have not
23 been collected in that county for a full quarter, the Secretary must
24 distribute a pro rata share to that county for that quarter based on the
25 number of months the taxes were collected in that county during the
26 quarter.

27 (b) Distribution to Counties and Cities. – The amount allocated to each district
28 county must then be divided among the county and the municipalities located in the
29 county in accordance with the method by which the one percent (1%) sales and use taxes
30 levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967
31 Session Laws are distributed.

32 (c) Use. – The proceeds of a tax levied under this Part may be used only for one or
33 more of the following purposes:

34 (1) Public school capital outlay purposes as defined in G.S. 115C-426(f).

35 (2) Transportation capital outlay purposes, including public transportation
36 systems as defined in G.S. 105-551 and airports, off-street parking,
37 railroad corridor preservation, streets, and traffic control and on-street
38 parking, as defined in G.S. 160A-209.

39 (3) To retire any indebtedness incurred by the county or municipality for
40 these purposes after the date the regional tax district levied the tax
41 authorized under this Part.

42 **"§ 105-572. Expiration.**

1 A tax levied under this Part expires seven years after the effective date of its levy. A
2 regional tax district's authority to levy a tax under this Part expires seven years after the
3 effective date of its levy of a tax under this Part. The expiration of a tax pursuant to this
4 Part does not affect the rights or liabilities of the tax district, a county, a taxpayer, or
5 another person arising under the expired tax before the effective date of its expiration; nor
6 does it affect the right to any refund or credit of a tax that would otherwise have been
7 available under the expired tax before the effective date of its expiration.

8 If the Secretary receives a valid request for a refund of a tax levied under this Part
9 after the tax has expired and the net proceeds have been distributed, the Secretary must
10 draw the refund from the taxing county's share of the net proceeds of the tax it levies
11 under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, as
12 applicable.

13 **"PART 2. REGIONAL TAX DISTRICT CONVEYANCE TAX.**

14 **"§ 105-575. Regional conveyance tax authorized.**

15 The governing body of a regional tax district created pursuant to this Article may, by
16 resolution, levy an excise tax on instruments conveying interests in real property located
17 in the district, at the rate of one dollar (\$1.00) for each one hundred dollars (\$100.00) of
18 the consideration or value, whichever is greater, of the interest conveyed, including the
19 value of any lien or encumbrance remaining on the property at the time of sale. The tax
20 may be levied only after the board of commissioners of every county in the district has
21 adopted a resolution approving the levy of the tax.

22 Upon adoption of the resolution, the governing body of the district must send a
23 certified copy to the register of deeds of each county in the district. The register of deeds
24 of each county in the district must collect the tax on behalf of the district. Collection of
25 the tax, and liability therefor, begin only on the first day of a calendar month set by the
26 governing body of the district in the resolution levying the tax, which may not be earlier
27 than the first day of the second succeeding calendar month after the date the resolution is
28 adopted.

29 **"§ 105-576. Scope and administration.**

30 A tax levied under this Part does not apply to transfers exempt pursuant to G.S. 105-
31 228.28 or G.S. 105-228.29 from the tax levied by Article 8E of this Chapter. This tax is
32 in addition to the tax levied by Article 8E of this Chapter. A tax levied under this Part
33 applies to transfers of interests in real property located within the district. If the property
34 is located partly within and partly outside the district, the district may tax the value of
35 only the portion of the property that lies in the district.

36 A tax levied under this Part is payable by the transferor of the interest. Except as
37 otherwise provided in this Part, the provisions of G.S. 105-228.31 through G.S. 105-
38 228.36 apply to a tax levied under this Article. The regional tax district must provide
39 metering or similar equipment for the collection of the tax in lieu of the use of tax stamps.

40 **"§ 105-577. Distribution and use.**

41 (a) **Transfer to District.** – The finance officer of each county must remit the net
42 proceeds of the tax levied in this Part to the governing body of the regional tax district on

1 a quarterly basis. Net proceeds means gross proceeds less two percent (2%) of the gross
2 proceeds, which the county may retain as compensation for collecting the tax.

3 (b) Distribution to Counties. – The governing body of the regional tax district
4 must, on a quarterly basis, distribute the net proceeds of the tax levied under this Part
5 among the counties that make up the district as provided in this subsection.

6 (1) The governing body must first allocate to each district county an amount
7 equal to ninety percent (90%) of the net proceeds of the tax that can be
8 identified has having been collected in that county.

9 (2) The governing body must then determine for each district county an
10 amount equal to its per capita share of the entire net proceeds of the tax
11 according to the most recent annual population estimates certified to the
12 Secretary by the State Planning Officer. The governing body must
13 determine whether each district county's per capita share exceeds its
14 allocation under subdivision (1) of this subsection.

15 (3) The governing body must allocate the remaining net proceeds not
16 allocated under subdivision (1) of this subsection among those district
17 counties whose per capita shares exceed their allocations under
18 subdivision (1), in proportion to the amount of each county's excess.

19 (4) If any taxes levied under this Part in a county of the district have not
20 been collected in that county for a full quarter, the governing body must
21 allocate a pro rata share to that county for that quarter based on the
22 number of months the taxes were collected in that county during the
23 quarter.

24 (5) The governing body must distribute to each district county the amount
25 allocated to it under this subsection.

26 (c) Use. – The proceeds of a tax levied under this Part may be used only for one or
27 more of the following purposes:

28 (1) Public school capital outlay purposes as defined in G.S. 115C-426(f).

29 (2) Public transportation system capital outlay purposes as defined in G.S.
30 105-551.

31 (3) To retire any indebtedness incurred by the county for these purposes
32 after the date the regional tax district levied the tax authorized under this
33 Part.

34 **"§ 105-578. Expiration.**

35 A tax levied under this Part expires seven years after the effective date of its levy. A
36 regional tax district's authority to levy a tax under this Part expires seven years after the
37 effective date of its levy of a tax under this Part. The expiration of a tax pursuant to this
38 Part does not affect the rights or liabilities of the tax district, a county, a taxpayer, or
39 another person arising under the expired tax before the effective date of its expiration; nor
40 does it affect the right to any refund or credit of a tax that would otherwise have been
41 available under the expired tax before the effective date of its expiration.

42 **"PART 3. TRIANGLE REGIONAL TAX DISTRICT.**

43 **"§ 105-580. Definitions.**

1 The following definitions apply in this Part:

2 (1) District. – The Triangle Regional Tax District created under this Part.

3 (2) Triangle county. – Any of the following counties: Chatham, Durham,
4 Franklin, Johnston, Lee, Orange, Vance, and Wake.

5 **"§ 105-581. Creation of district.**

6 (a) Resolution to Create District. – Any five or more contiguous triangle counties
7 may create the Triangle Regional Tax District as provided in this section. In order to
8 create the district, the boards of commissioners of the counties creating the district must
9 first adopt substantially similar resolutions stating their intent to organize the district
10 pursuant to this Part. Each resolution must include articles of incorporation for the
11 district which must set forth the following:

12 (1) The name of the district, which is the "Triangle Regional Tax District".

13 (2) A statement that the district is organized under this Part.

14 (3) The names of the organizing counties known to the county adopting the
15 resolution.

16 (b) Public Hearing. – Each resolution may be adopted only after a public hearing
17 on the question, notice of which has been given by publication not less than 10 days
18 before the date set for the hearing, in a newspaper having a general circulation in the
19 county. The notice must contain a brief statement of the substance of the proposed
20 resolution, set forth the proposed articles of incorporation of the district, and state the
21 time and place of the public hearing to be held on the resolution. No other publication or
22 notice of the resolution is required.

23 (c) Incorporation of District. – Each county that adopts a resolution as provided in
24 this section must file a certified copy of the resolution with the Secretary of State together
25 with proof that notice of the hearing was published. Each resolution must contain the
26 county clerk's attestation that it was adopted by the board of commissioners. If the
27 Secretary of State finds that the resolutions, including the articles of incorporation,
28 conform to the provisions of this Part and that notices of the hearings were properly
29 published, the Secretary of State must file the resolutions and proofs of publication and
30 issue a certificate of incorporation for the district under the seal of the State. The
31 Secretary of State must record the certificate of incorporation in an appropriate book of
32 record in the Secretary of State's office.

33 (d) Effect of Incorporation. – The issuance of the certificate of incorporation by
34 the Secretary of State constitutes the Triangle Regional Tax District a public body and
35 body politic and corporate of the State. The certificate of incorporation is conclusive
36 evidence that the district has been duly created and established under this Part.

37 **"§ 105-582. Addition of counties.**

38 A triangle county that is contiguous to the district and has not joined the district may
39 join the district by adopting a resolution that complies with the requirements of G.S. 105-
40 581(a), after a public hearing in accordance with G.S. 105-582, and adopting a resolution
41 approving the levy of the taxes authorized in this Article. After adopting the resolutions,
42 the county must file certified copies of the resolutions with the district.

1 Within one month after receipt of a county's resolutions to join the district and
2 approving the tax levies, the board of trustees of the district must meet to consider adding
3 the county. At the meeting, the board must approve the addition of the county to the
4 district if it finds that the county is a triangle county that is contiguous to the district and
5 has adopted its resolutions in accordance with this section. After the board of trustees
6 votes to add a county to the district, it must adopt a resolution that states its intent to add
7 the county and includes amended articles of incorporation for the district setting forth the
8 name of the county to be added. The board of trustees must file certified copies of this
9 resolution with the Secretary of State and with the Secretary of Revenue.

10 If the Secretary of State finds that the resolution conforms to the requirements of this
11 Part, the Secretary of State must file the resolution, issue an amended certificate of
12 incorporation for the district, including the additional county, and record the amended
13 certificate of incorporation. The amended certificate of incorporation for the district
14 becomes effective on the first day of the second month after it is issued. Upon the
15 effective date of the amended certificate of incorporation for the district, the new county
16 becomes a fully participating member of the district. If the board of trustees has levied a
17 tax in the district pursuant to this Article, that tax applies within the new county
18 beginning on the date the amended certificate of incorporation becomes effective.

19 **"§ 105-583. Territorial jurisdiction.**

20 The territorial jurisdiction of the district is coterminous with the boundaries of the
21 counties in the district.

22 **"§ 105-584. Board of trustees.**

23 (a) Membership. – The governing body of the district is a board of trustees, which
24 is composed of two county commissioners of each county in the district. Each county in
25 the district must appoint two members of its board of commissioners to serve as members
26 of the board of trustees of the district. Service on the board of trustees may be in addition
27 to any other office a person is entitled to hold.

28 (b) Terms. – Each county board of commissioners must designate one of its initial
29 appointees to serve a one-year term and the other to serve a two-year term. Thereafter,
30 members of the board of trustees serve two-year terms. Members serve until their
31 successors are appointed and qualified, unless removed from office.

32 (c) Vacancies. – A member of the board of trustees may be removed with or
33 without cause by the appointing county. Appointments to fill vacancies must be made for
34 the remainder of the unexpired term by the appointing county.

35 (d) Officers. – The board of trustees must annually elect from its membership a
36 chairperson and a vice-chairperson, and annually elect a secretary and a treasurer. After
37 the board of trustees has been duly organized and its officers elected as provided in this
38 section, the secretary of the board of trustees must certify to the Secretary of State the
39 names and addresses of the officers.

40 (e) Compensation. – The members of the board of trustees may receive no
41 compensation other than travel, subsistence, and reasonable per diem expenses
42 determined by the board of trustees for attendance at board meetings and other official
43 district functions.

1 (f) Voting. – A majority of the members of the board of trustees constitutes a
2 quorum for the transaction of business. Each member of the board has one vote. The
3 board may transact business only by majority vote of the members present and voting.

4 **"§ 105-585. Powers.**

5 (a) The district's powers include the following:

6 (1) The powers of a corporate body, including the power to sue and be sued
7 and to adopt and use a common seal.

8 (2) To adopt bylaws and resolutions in accordance with this Part for its
9 organization and internal management.

10 (3) With the approval of the county's chief administrative official, to use
11 officers, employees, agents, and facilities of a county for purposes and
12 upon terms agreed upon with the county.

13 (4) To make contracts, deeds, leases with or without option to purchase,
14 conveyances, and other instruments, including contracts with the United
15 States, the State of North Carolina, and units of local government.

16 (5) To acquire, lease as lessee with or without option to purchase, hold,
17 own, and use any franchise or property or any interest in a franchise or
18 property, within the limit of available funds.

19 (6) To transfer, lease as lessor with or without option to purchase,
20 exchange, or otherwise dispose of any franchise or property or any
21 interest in a franchise or property, within the limit of available funds.

22 (7) To surrender to the State of North Carolina any property no longer
23 required by the district.

24 (8) To levy taxes authorized by this Article.

25 (b) The district is a public authority subject to the provisions of Chapter 159 of the
26 General Statutes. The establishment and operation of the district are governmental
27 functions and constitute a public purpose. The State of North Carolina and any unit of
28 local government may provide funds to support the establishment and operation of the
29 district. The State of North Carolina and any unit of local government may also dedicate,
30 sell, convey, donate, or lease any of their interests in property to the district. The district
31 may apply for grants from the State of North Carolina, the United States, or any
32 department, agency, or instrumentality of the State or the United States. Any department
33 of State government may allocate to the district any funds the use of which is not
34 restricted by law.

35 **"§ 105-586. Withdrawal; termination.**

36 (a) Withdrawal. – A county that is part of the district may, by resolution, withdraw
37 from the district. A resolution withdrawing from the district may not become effective
38 before the end of the fiscal year in which it is adopted. Upon adoption of a resolution
39 withdrawing from the district, the board of commissioners of the county must provide a
40 copy of the resolution to the Secretary of State, the board of trustees of the district, the
41 Secretary of Revenue, and every other county that is part of the district.

42 (b) Termination. – The board of trustees may dissolve the district and terminate its
43 existence at any time. In addition, the board of trustees must dissolve the district when

1 the district no longer has the authority to levy taxes under this Article. When the district
2 is dissolved and terminated, the board of trustees must liquidate any assets of the district
3 and distribute the assets to the counties of the district on an equitable basis as determined
4 by the board.

5 Notes and other instruments representing the right to repayment shall, upon
6 dissolution of the district, be held and collected by the State Treasurer, who must disburse
7 the collections to the counties as provided in this subsection.

8 The board of trustees must distribute those assets that it is unable to liquidate among
9 the district counties insofar as practical on an equitable basis, as determined by the board.
10 Upon termination, the State of North Carolina succeeds to any remaining rights,
11 obligations, and liabilities of the district not assigned to the district counties."

12 Section 2. A tax levied under Part 1 of Article 52 of Chapter 105 of the
13 General Statutes, as enacted by this act, does not apply to construction materials
14 purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the
15 effective date of the levy or entered into or awarded pursuant to a bid made before the
16 effective date of the levy when the construction materials would otherwise be subject to
17 the tax levied under Part 2 of Article 52 of Chapter 105 of the General Statutes.

18 Section 3. This act is effective when it becomes law.