

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-417
HOUSE BILL 1231

AN ACT TO AUTHORIZE SUPPLEMENTAL SOURCES OF REVENUE FOR
LOCAL GOVERNMENT TRANSIT FINANCING.

PART I. M

The General Assembly of North Carolina enacts:
ECKLENBURG COUNTY SALES TAX

Section 1. (a) This section applies only to Mecklenburg County.

(b) Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 43.

"Local Government Sales and Use Taxes for Public Transportation.

"§ 105-505. Short title; purpose.

This Article is the Local Government Public Transportation Sales Tax Act and may be cited by that name. This Article gives the counties of this State an opportunity to obtain an additional source of revenue with which to meet their needs for financing local public transportation systems. It provides counties with authority to levy one-half percent (1/2%) sales and use taxes.

"§ 105-506. Definitions.

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

- (1) Net proceeds. – Gross proceeds less the cost of administering and collecting the tax.
- (2) Public transportation system. – Any combination of real and personal property established for purposes of public transportation. The systems may include one or more of the following: structures, improvements, buildings, equipment, vehicle parking or passenger transfer facilities, railroads and railroad rights-of-way, rights-of-way, bus services, shared-ride services, high-occupancy vehicle facilities, car-pool and vanpool programs, voucher programs, telecommunications and information systems, integrated fare systems, bus lanes, and busways. The term does not include, however, streets, roads, or highways except to the extent they are dedicated to public transportation vehicles or to the extent they are necessary for access to vehicle parking or passenger transfer facilities.

"§ 105-507. Limitations.

A county may not levy a tax under this Article unless the county or at least one unit of local government in the county operates a public transportation system. In addition, a county may not levy a tax under this Article unless it has developed a financial plan and distributed it to each unit of local government in the county that operates a local public transportation system. The financial plan must provide for equitable allocation of the net proceeds distributed to the county in consideration of the identified needs of local public transportation systems in the county, countywide human service transportation systems, and expansion of public transportation service to unserved areas in the county.

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

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied in accordance with this Article. The election shall be held on a date jointly agreed upon by the boards and shall be held in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

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

FOR AGAINST

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

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

If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean 'Article 43 of Chapter 105 of the General Statutes'.

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

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

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

The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita basis among the county and the units of local government in the county that

operate public transportation systems. No proceeds shall be distributed to a county that does not operate a public transportation system or to a unit of local government that does not operate a public transportation system.

(b) Use. – A county must allocate the net proceeds distributed to it in accordance with its financial plan adopted pursuant to G.S. 105-507 and use the net proceeds only for financing, constructing, operating, and maintaining local public transportation systems. Any other unit of local government may use the net proceeds distributed to it under this Article only for financing, constructing, operating, and maintaining local public transportation systems. Every unit of government shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems."

PART II. MUNICIPAL VEHICLE REGISTRATION TAX

Section 2. G.S. 20-97 reads as rewritten:

"§ 20-97. Taxes compensatory; no additional tax. credited to Highway Fund; municipal vehicle taxes.

(a) State Taxes to Highway Fund. – All taxes levied under the provisions of this Article are intended as compensatory taxes for the use and privileges of the public highways of this State, and shall be paid by the Commissioner to the State Treasurer, to State. The taxes collected shall be credited by him to the State Highway Fund; and no to the State Highway Fund. Except as provided in this section, no county or municipality shall levy any license or privilege tax upon any motor vehicle licensed by the State of North Carolina, except that cities State.

(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than five dollars (\$5.00) per year upon any vehicle resident therein. Provided, further, that cities and towns may levy, in addition to the amounts hereinabove provided for, a sum not to exceed in the city or town. The proceeds of the tax may be used for any lawful purpose.

(c) Municipal Vehicle Tax for Public Transportation. – A city or town that operates a public transportation system as defined in G.S. 105-550 may levy a tax of not more than five dollars (\$5.00) per year upon any vehicle resident in the city or town. The tax authorized by this subsection is in addition to the tax authorized by subsection (b) of this section. A city or town may not levy a tax under this section, however, to the extent the rate of tax, when added to the general motor vehicle taxes levied by the city or town under subsection (b) of this section and under any local legislation, would exceed thirty dollars (\$30.00) per year. The proceeds of the tax may be used only for financing, constructing, operating, and maintaining local public transportation systems. Cities and towns shall use the proceeds of the tax to supplement and not to supplant or replace existing funds or other resources for public transportation systems. This subsection does not apply to the City of Durham or to the cities and towns in Gaston County.

(d) Municipal Taxi Tax. – Cities and towns may levy a tax of not more than fifteen dollars (\$15.00) per year upon each vehicle operated in such the city or town as a taxicab. The proceeds of the tax may be used for any lawful purpose.

~~(a1) to (a5). Repealed by Session Laws 1983, c. 188, s. 2.~~

~~(b) (e) No Additional Local Tax. – No additional franchise tax, license tax, or other fee shall be imposed by the State against any franchise motor vehicle carrier taxed under this Article nor shall any county, city or town may impose a franchise tax, license tax, or other fee upon them, except that cities and towns may levy a license tax not in excess of fifteen dollars (\$15.00) per year on each vehicle operated in such city as a taxicab as provided in subsection (a) hereof. – a motor carrier unless the tax is authorized by this section.~~

~~(e) Repealed by Session Laws 1993, c. 321, s. 146."~~

PART III. REGIONAL TRANSIT AUTHORITY VEHICLE RENTAL TAX

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

"SUBCHAPTER IX. MULTICOUNTY TAXES.

"ARTICLE 50.

"Regional Transit Authority Vehicle Rental Tax.

"§ 105-550. Definitions.

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

- (1) Authority. – A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of Chapter 160A of the General Statutes.
- (2) Long-term lease or rental. – Defined in G.S. 105-187.1.
- (3) Motorcycle. – Defined in G.S. 20-4.01.
- (4) Private passenger vehicle. – Defined in G.S. 20-4.01.
- (5) Public transportation system. – Any combination of real and personal property established for purposes of public transportation. The systems may include one or more of the following: structures, improvements, buildings, equipment, vehicle parking or passenger transfer facilities, railroads and railroad rights-of-way, rights-of-way, bus services, shared-ride services, high-occupancy vehicle facilities, car-pool and vanpool programs, voucher programs, telecommunications and information systems, integrated fare systems, bus lanes, and busways. The term does not include, however, streets, roads, or highways except to the extent they are dedicated to public transportation vehicles or to the extent they are necessary for access to vehicle parking or passenger transfer facilities.
- (6) Short-term lease or rental. – A lease or rental that is not a long-term lease or rental.

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

(a) Tax. – The board of trustees of an Authority may levy a privilege tax on a retailer who is engaged in the business of leasing or renting private passenger vehicles or motorcycles based on the gross receipts derived by the retailer from the short-term lease or rental of these vehicles. The tax rate must be a percentage and may not exceed

five percent (5%). A tax levied under this section applies to short-term leases or rentals made by a retailer whose place of business or inventory is located within the territorial jurisdiction of the Authority. This tax is in addition to all other taxes.

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

- (1) The board of trustees has held a public hearing on the tax or the increase in the tax rate after giving at least 10 days' notice of the hearing.
- (2) If the Authority has a special tax board, the special tax board has adopted a resolution approving the levy of the tax or the increase in the tax rate.
- (3) The board of commissioners of each county included in the territorial jurisdiction of the Authority has adopted a resolution approving the levy of the tax or the increase in the tax rate.

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

(a) Effective Date. – A tax or a tax increase levied under this Article becomes effective on the date set by the board of trustees in the resolution levying the tax or the tax increase. The effective date must be the first day of a month and may not be earlier than the first day of the second month after the board of trustees adopts the resolution.

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

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

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

"§ 105-553. Exemptions and refunds.

No exemptions are allowed from a tax levied under this Article. No refunds are allowed for a tax lawfully levied under this Article.

"§ 105-554. Use of tax proceeds.

An Authority that levies a tax under this Article may use the proceeds of the tax for any purpose for which the Authority is authorized to use funds. An Authority shall use

the tax proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems. Authorized purposes for which an Authority may use funds include the following:

- (1) Pledging funds in connection with the financing of a public transportation system or any part of a public transportation system.
- (2) Paying a note, bond, or other obligation entered into by the Authority pursuant to Article 26 or Article 27 of Chapter 160A of the General Statutes.

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

The board of trustees of an Authority may repeal a tax levied under this Article or decrease the tax rate of a tax levied under this Article. The same restrictions that apply to the levy of a tax or an increase in a tax rate under this Article apply to the repeal of the tax or a decrease in the tax rate.

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

PART IV. REGIONAL TRANSPORTATION AUTHORITY REGISTRATION TAX

Section 4. Subchapter IX of Chapter 105 of the General Statutes, as enacted by this act, is amended by adding a new Article to read:

"ARTICLE 51.

"Regional Transit Authority Registration Tax.

"§ 105-560. Definitions.

- (1) Authority. – Any of the following:
 - a. A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes that includes two or more counties.
 - b. A regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes.
 - c. A regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.
- (2) Board of trustees. – The governing body of an Authority.
- (3) Public transportation system. – Defined in G.S. 105-550.

"§ 105-561. Authority registration tax authorized.

(a) Tax Authorized. – The board of trustees of an Authority may, by resolution, levy an annual license tax in accordance with this Article upon any motor vehicle with a tax situs within its territorial jurisdiction. The purpose of the tax levied under this Article is to raise revenue for capital and operating expenses of an Authority in providing public transportation systems. The rate of tax levied under this Article must be a full dollar amount, but may not exceed five dollars (\$5.00) a year.

(b) Restrictions. – The board of trustees of an Authority may not levy a tax under this Article or increase the tax rate until all of the following requirements have been met:

- (1) The board of trustees has held a public hearing on the tax or the increase in the tax rate after giving at least 10 days' notice of the hearing.
- (2) If the Authority has a special tax board, the special tax board has adopted a resolution approving the levy of the tax or the increase in the tax rate.
- (3) Except where the levy or increase in tax is necessary for debt service on bonds or notes that each of the boards of county commissioners had previously approved under G.S. 159-51, the board of commissioners of each county included in the territorial jurisdiction of the Authority has adopted a resolution approving the levy of the tax or the increase in the tax rate.

(c) Resolutions. – The board of trustees and the board of county commissioners, upon adoption of a resolution pursuant to this section, shall cause a certified copy of the resolution to be delivered immediately to the Authority and to the Division of Motor Vehicles.

"§ 105-562. Collection and scope.

(a) Collection. – A tax or a tax increase levied under this Article becomes effective on the date set by the board of trustees in the resolution levying the tax or the tax increase. The effective date must be the first day of a month and may not be earlier than the first day of the third calendar month after the board of trustees adopts the resolution. To the extent the tax applies to vehicles whose tax situs is in a county the entire area of which is within the jurisdiction of the Authority, the Division of Motor Vehicles shall collect and administer the tax. To the extent the tax applies to vehicles whose tax situs is in a county that is only partially within the jurisdiction of the county, the Authority shall collect and administer the tax. The Authority may contract with one or more local governments in its jurisdiction to collect the tax on its behalf.

Upon receipt of the resolutions under G.S. 105-561, the Division of Motor Vehicles shall proceed to collect and administer the tax as provided in this Article. The tax is due at the same time and subject to the same restrictions as in G.S. 20-87(1), (2), (4), (5), (6), and (7) and G.S. 20-88. The Division of Motor Vehicles may adopt rules to carry out its responsibilities under this Article.

(b) Scope. – Only vehicles required to pay a tax under G.S. 20-87(1), (2), (4), (5), (6), and (7) and G.S. 20-88 shall be subject to the tax provided by this Article. Taxes shall be prorated in accordance with G.S. 20-95.

(c) Tax Situs. – The tax situs of a motor vehicle for the purpose of this Article is its ad valorem tax situs. If the vehicle is exempt from ad valorem tax, its tax situs for the purpose of this Article is the ad valorem tax situs it would have if it were not exempt from ad valorem tax.

"§ 105-563. Modification or repeal of tax.

The Board of Trustees may, by resolution, repeal the levy of the tax under this Article or decrease the amount of the tax, under the same procedures and subject to the same limitations as provided in G.S. 105-561. A tax repeal or a tax decrease becomes effective on the date set by the board of trustees in the resolution repealing or decreasing the tax. The effective date must be on the first day of a month and may not be earlier than the first day of the third calendar month after the board of trustees adopts the resolution. Repeal or decrease of a tax levied under this Article does not affect the rights or liabilities of an Authority, a taxpayer, or another person arising before the repeal or decrease.

"§ 105-564. Distribution and use of proceeds.

The Authority shall retain the net proceeds of taxes it collects under this Article. Taxes collected by the Division of Motor Vehicles under this Article shall be credited to a special fund and the net proceeds disbursed quarterly to the appropriate Authority. Interest credited to the fund shall be disbursed quarterly to the Highway Fund to reimburse the Division of Motor Vehicles for the cost of collecting and administering the tax.

An Authority that levies a tax under this Article may use the proceeds of the tax for any purpose for which the Authority is authorized to use funds. An Authority shall use the tax proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems."

Section 5. G.S. 160A-623 reads as rewritten:

"§ 160A-623. Regional Transportation Authority registration tax.

~~(a) Tax Authorized.—In accordance with this section, Article 51 of Chapter 105 of the General Statutes, an Authority organized under this Article may levy an annual license tax upon any motor vehicle with a tax situs within its territorial jurisdiction as defined by G.S. 160A-602. A tax levied under this section before the enactment of Article 51 of Chapter 105 of the General Statutes is considered a tax levied under Article 51 of Chapter 105 of the General Statutes.~~

~~(b) Purpose.—The purpose of the tax levied under this section is to raise revenue for capital and operating expenses of an Authority in providing a public transportation system.~~

~~(c) Amount of Tax.—The annual levy under this section must be a full dollar amount, but may not exceed five dollars (\$5.00) per year.~~

~~(d) Procedure for Levy.—The Board of Trustees of an Authority may levy the tax provided by this section by passage of a resolution, after not less than 10 days' public notice and after a public hearing. Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the Board of Trustees in the resolution levying the tax, which shall in no case be earlier than the first day of the third calendar month after the adoption of the resolution. The Board of Trustees, upon adoption of the resolution, shall cause a certified copy of the resolution to be delivered immediately to the Division of Motor Vehicles.~~

~~(e) Collection of Tax.—Upon receipt of the resolutions under subsections (d) and (j), the Division of Motor Vehicles shall proceed to collect and administer the tax. The tax is due at the same time and subject to the same restrictions as in G.S. 20-87 (1), (2),~~

~~(4), (5), (6), and (7) and G.S. 20-88. The Commissioner of Motor Vehicles may adopt such rules as are necessary and proper to implement this section.~~

~~(f) Modification or Repeal of Tax. The Board of Trustees may, by resolution, terminate the levy of the tax under this section, or increase or decrease the amount of the tax, under the same procedures as provided in subsection (d) of this section, and subject to the limitations provided in subsections (e) and (j) of this section. Collection of the increased or decreased tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the Board of Trustees in the resolution increasing or reducing the tax, which shall in no case be earlier than the first day of the third calendar month after the adoption of the resolution. The effective date of the termination of the tax shall be only on and after the first day of a calendar month set by the Board of Trustees in the resolution terminating the tax, which shall in no case be earlier than the first day of the third calendar month after the adoption of the resolution. No liability for any tax levied under this section which shall have attached prior to the effective date on which a levy is terminated or reduced shall be discharged as a result of such termination or reduction, and no right to a refund of tax or otherwise, which shall have accrued prior to the effective date on which a levy is terminated or reduced shall be denied as a result of such termination.~~

~~(g) Vehicles Subject to Tax. Only vehicles required to pay a tax under G.S. 20-87(1), (2), (4), (5), (6), and (7) and G.S. 20-88 shall be subject to the tax provided by this section. Taxes shall be prorated in accordance with G.S. 20-95.~~

~~(h) Tax Situs. The tax situs of a motor vehicle for the purpose of this section is its ad valorem tax situs. If the vehicle is exempt from ad valorem tax, its tax situs for the purpose of this section is the ad valorem tax situs it would have if it were not exempt from ad valorem tax.~~

~~(i) Distribution of Proceeds. Taxes paid under this section shall be credited to a special fund, and the net proceeds disbursed quarterly to the appropriate Authority. Interest credited to the fund shall be disbursed quarterly to the Highway Fund to reimburse the Division of Motor Vehicles for the cost of collecting and administering the tax.~~

~~(i1) Repealed by Session Laws 1993, c. 382, s. 1.~~

~~(j) When Special Tax Board and Board of County Commissioners Authorization Necessary. No Authority may adopt a resolution to levy any tax under this section, or to increase the amount of the levy, unless the special tax board of that Authority and the board of county commissioners of each county organizing the Authority have first passed a resolution approving the levy or increase, except where the levy or increase in tax is necessary for debt service on bonds or notes that special tax board and each of the boards of county commissioners had previously approved under G.S. 159-51. The Special Tax Board and Board of County Commissioners, upon adoption of the resolution, shall cause a certified copy of the resolution to be delivered immediately to the Authority and to the Division of Motor Vehicles."~~

PART V. EFFECTIVE DATES

Section 6. This act is effective when it becomes law.

Section 7. A tax levied under Article 43 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump sum or unit price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 43 of Chapter 105 of the General Statutes.

In the General Assembly read three times and ratified this the 18th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:28 p.m. this 21st day of August, 1997