

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1231  
Committee Substitute Favorable 6/23/97

Short Title: Local Transit Revenue Options.

(Public)

Sponsors:

Referred to:

May 19, 1997

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

The General Assembly of North Carolina enacts:

PART I. MECKLENBURG 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

1 accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of  
2 this Chapter to this Article, references to 'this Article' mean 'Article 43 of Chapter 105 of  
3 the General Statutes'.

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

8 **"§ 105-510. Distribution and use of taxes.**

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

15 The Secretary shall distribute the net proceeds of the tax levied by a county on a per  
16 capita basis among the county and the units of local government in the county that  
17 operate public transportation systems. No proceeds shall be distributed to a county that  
18 does not operate a public transportation system or to a unit of local government that does  
19 not operate a public transportation system.

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

28  
29 PART II. MUNICIPAL VEHICLE REGISTRATION TAX

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

31 **"§ 20-97. Taxes ~~compensatory; no additional tax.~~ credited to Highway Fund;**  
32 **municipal vehicle taxes.**

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

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

1 (c) Municipal Vehicle Tax for Public Transportation. – A city or town that  
2 operates a public transportation system as defined in G.S. 105-506 may levy a tax of not  
3 more than five dollars (\$5.00) per year upon any vehicle resident in the city or town. The  
4 tax authorized by this subsection is in addition to the tax authorized by subsection (b) of  
5 this section. A city or town may not levy a tax under this section, however, to the extent  
6 the rate of tax, when added to the general motor vehicle taxes levied by the city or town  
7 under subsection (b) of this section and under any local legislation, would exceed thirty  
8 dollars (\$30.00) per year. The proceeds of the tax may be used only for financing,  
9 constructing, operating, and maintaining local public transportation systems. Cities and  
10 towns shall use the proceeds of the tax to supplement and not to supplant or replace  
11 existing funds or other resources for public transportation systems.

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

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

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

23 (e) Repealed by Session Laws 1993, c. 321, s. 146."  
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### 25 PART III. REGIONAL TRANSIT AUTHORITY VEHICLE RENTAL TAX

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

#### 28 “SUBCHAPTER IX. MULTICOUNTY TAXES.

#### 29 “ARTICLE 50.

#### 30 “REGIONAL TRANSIT AUTHORITY VEHICLE RENTAL TAX.

#### 31 “§ 105-550. Definitions.

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

33 (1) Authority. – A regional public transportation authority or a regional  
34 transportation authority created pursuant to Article 26 or Article 27 of  
35 Chapter 160A of the General Statutes.

36 (2) Long-term lease or rental. – Defined in G.S. 105-187.1.

37 (3) Motorcycle. – Defined in G.S. 20-4.01.

38 (4) Private passenger vehicle. – Defined in G.S. 20-4.01.

39 (5) Public transportation system. – Any combination of real and personal  
40 property established for purposes of public transportation. The systems  
41 may include one or more of the following: structures, improvements,  
42 buildings, equipment, vehicle parking or passenger transfer facilities,  
43 railroads and railroad rights-of-way, rights-of-way, bus services, shared-

1 ride services, high-occupancy vehicle facilities, car-pool and vanpool  
2 programs, voucher programs, telecommunications and information  
3 systems, integrated fare systems, bus lanes, and busways. The term  
4 does not include, however, streets, roads, or highways except to the  
5 extent they are dedicated to public transportation vehicles or to the  
6 extent they are necessary for access to vehicle parking or passenger  
7 transfer facilities.

8 (6) Short-term lease or rental. – A lease or rental that is not a long-term  
9 lease or rental.

10 **"§ 105-551. Tax on gross receipts authorized.**

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

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

21 (1) The board of trustees has held a public hearing on the tax or the increase  
22 in the tax rate after giving at least 10 days' notice of the hearing.

23 (2) If the Authority has a special tax board, the special tax board has  
24 adopted a resolution approving the levy of the tax or the increase in the  
25 tax rate.

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

29 **"§ 105-552. Collection and administration of gross receipts tax.**

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

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

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

1 retailer who leases or rents the private passenger vehicle or motorcycle had elected to pay  
2 the optional gross receipts tax.

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

8 **"§ 105-553. Exemptions and refunds.**

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

11 **"§ 105-554. Use of tax proceeds.**

12 An Authority that levies a tax under this Article may use the proceeds of the tax for  
13 any purpose for which the Authority is authorized to use funds. An Authority shall use  
14 the tax proceeds to supplement and not to supplant or replace existing funds or other  
15 resources for public transportation systems. Authorized purposes for which an Authority  
16 may use funds include the following:

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

22 **"§ 105-555. Repeal of tax or decrease in tax rate.**

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

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

33  
34 **PART IV. REGIONAL TRANSPORTATION AUTHORITY REGISTRATION TAX**

35 **Section 4. (a)** This section becomes effective only if House Bill 993, 1997 General  
36 Assembly, AN ACT TO ALLOW CREATION OF ADDITIONAL REGIONAL  
37 TRANSPORTATION AUTHORITIES, becomes law.

38 (b) Article 27 of Chapter 160A of the General Statutes is amended by adding a  
39 new section to read:

40 **"§ 160A-652. Regional Transportation Authority registration tax.**

41 (a) Tax Authorized. – In accordance with this section, an Authority organized  
42 under this Article may levy an annual license tax upon any motor vehicle with a tax situs  
43 within its territorial jurisdiction as defined by G.S. 160A-634.

1       (b) Purpose. – The purpose of the tax levied under this section is to raise revenue  
2 for capital and operating expenses of an Authority in providing transportation systems.

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

5       (d) Procedure for Levy. – The Board of Trustees of an Authority may levy the tax  
6 provided by this section by passage of a resolution, after not less than 10 days' public  
7 notice and after a public hearing. Collection of the tax, and liability therefor, shall begin  
8 and continue only on and after the first day of a calendar month set by the Board of  
9 Trustees in the resolution levying the tax, which shall in no case be earlier than the first  
10 day of the third calendar month after the adoption of the resolution. The Board of  
11 Trustees, upon adoption of the resolution, shall cause a certified copy of the resolution to  
12 be delivered immediately to the Division of Motor Vehicles, along with a list of those  
13 counties the entire area of which is within the jurisdiction of the Authority.

14       (e) Collection of Tax. – To the extent the tax applies to vehicles whose tax situs is  
15 in a county the entire area of which is within the jurisdiction of the Authority, the  
16 Division of Motor Vehicles shall collect and administer the tax. To the extent the tax  
17 applies to vehicles whose tax situs is in a county that is only partially within the  
18 jurisdiction of the county, the Authority shall collect and administer the tax. The  
19 Authority may contract with one or more local governments in its jurisdiction to collect  
20 the tax on its behalf.

21       Upon receipt of the resolutions under subsections (d)       and (j), the Division of  
22 Motor Vehicles shall proceed to collect and administer the tax to the extent provided in  
23 this subsection. The tax is due at the same time and subject to the same restrictions as in  
24 G.S. 20-87(1), (2), (4), (5), (6), and (7) and G.S. 20-88. The Commissioner of Motor  
25 Vehicles may adopt rules to implement this section.

26       (f) Modification or Repeal of Tax. – The Board of Trustees may, by resolution,  
27 repeal the levy of the tax under this section, or increase or decrease the amount of the tax,  
28 under the same procedures as provided in subsection (d) of this section, and subject to the  
29 limitations provided in subsections (c) and (j) of this section. Collection of the increased  
30 or decreased tax, and liability therefor, shall begin and continue only on and after the first  
31 day of a calendar month set by the Board of Trustees in the resolution increasing or  
32 reducing the tax, which shall in no case be earlier than the first day of the third calendar  
33 month after the adoption of the resolution. The effective date of the repeal of the tax shall  
34 be only on and after the first day of a calendar month set by the Board of Trustees in the  
35 resolution repealing the tax, which shall in no case be earlier than the first day of the third  
36 calendar month after the adoption of the resolution. No liability for any tax levied under  
37 this section that attached before the effective date on which a levy is repealed or reduced  
38 shall be discharged as a result of the repeal or reduction, and no right to a refund of tax or  
39 otherwise, that accrued before the effective date on which a levy is repealed or reduced  
40 shall be denied as a result of the repeal or reduction.

41       (g) Vehicles Subject to Tax. – Only vehicles required to pay a tax under G.S. 20-  
42 87(1), (2), (4), (5), (6), and (7) and G.S. 20-88 shall be subject to the tax provided by this  
43 section. Taxes shall be prorated in accordance with G.S. 20-95.

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

5       (i) Distribution and Use of Proceeds. – The Authority shall retain the net  
6 proceeds of taxes it collects under this section. Taxes collected by the Division of Motor  
7 Vehicles under this section shall be credited to a special fund and the net proceeds  
8 disbursed quarterly to the appropriate Authority. Interest credited to the fund shall be  
9 disbursed quarterly to the Highway Fund to reimburse the Division of Motor Vehicles for  
10 the cost of collecting and administering the tax.

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

15       (j) County Authorization Necessary. – No Authority may adopt a resolution to  
16 levy a tax under this section, or to increase the amount of the levy, unless the board of  
17 county commissioners of each county that is partially or entirely located within the  
18 jurisdiction of the Authority has first passed a resolution approving the levy or increase,  
19 except where the levy or increase in tax is necessary for debt service on bonds or notes  
20 that each of the boards of county commissioners had previously approved under G.S.  
21 159-51. The board of county commissioners, upon adoption of the resolution, shall cause  
22 a certified copy of the resolution to be delivered immediately to the Authority and to the  
23 Division of Motor Vehicles."

#### 24 25 PART V. EFFECTIVE DATES

26       Section 5. This act is effective when it becomes law.

27       Section 6. A tax levied under Article 43 of Chapter 105 of the General  
28 Statutes, as enacted by this act, does not apply to construction materials purchased to  
29 fulfill a lump sum or unit price contract entered into or awarded before the effective date  
30 of the levy or entered into or awarded pursuant to a bid made before the effective date of  
31 the levy when the construction materials would otherwise be subject to the tax levied  
32 under Article 43 of Chapter 105 of the General Statutes.