

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 906  
HOUSE BILL 1542

AN ACT TO AUTHORIZE COUNTIES TO LEVY ADDITIONAL ONE-HALF  
PERCENT LOCAL SALES AND USE TAXES.

The General Assembly of North Carolina enacts:

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

"Article 42.

"Additional Supplemental Local Government  
Sales and Use Taxes.

"§ 105-495. **Short title.** – This Article shall be known as the Additional Supplemental Local Government Sales and Use Tax Act.

"§ 105-496. **Purpose and intent.** – It is the purpose of this Article to afford the counties and cities of this State an opportunity to obtain an added source of revenue with which to meet their growing financial needs, and to reduce their reliance on other revenues, such as the property tax and federal revenue sharing, by providing all counties of the State that are subject to this Article with authority to levy one-half percent (1/2%) sales and use taxes.

"§ 105-497. **Limitations.** – This Article applies only to counties that levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws and also levy one-half percent (1/2%) local sales and use taxes under Article 40 of this Chapter.

"§ 105-498. **Levy and collection of additional taxes.** – Any county subject to this Article may 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, distribution, 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 42 of Chapter 105. All taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.

"§ 105-499. **Form of ballot.** – (a) The form of the question to be presented on a ballot for a special election concerning the additional taxes authorized by this Article shall be: 'FOR one-half percent (1/2%) local sales and use taxes in addition to the current one and one-half percent (1 1/2%) local sales and use taxes' or 'AGAINST one-half percent

(1/2%) local sales and use taxes in addition to the current one and one-half percent (1 1/2%) local sales and use taxes'.

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any additional taxes levied pursuant to this Article shall be: 'FOR repeal of the additional one-half percent (1/2%) local sales and use taxes, thus reducing local sales and use taxes to one and one-half percent (1 1/2%)' or 'AGAINST repeal of the additional one-half percent (1/2%) local sales and use taxes, thus reducing local sales and use taxes to one and one-half percent (1 1/2%).'

**"§ 105-500. Retail collection bracket.** – The following bracket applies to collections by retailers in a county that levies additional sales and use taxes under this Article:

- (1) No amount on sales of less than 9c;
- (2) 1c on sales of 9c to 23c;
- (3) 2c on sales of 24c to 48c;
- (4) 3c on sales of 49c to 67c;
- (5) 4c on sales of 68c to 85c;
- (6) 5c on sales of 86c to \$1.09; and
- (7) Sales of over \$1.09 - straight five percent (5%) with major fractions governing.

**"§ 105-501. Distribution of additional taxes.** – The Secretary shall, on a quarterly basis, distribute the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The amount distributed to a taxing county shall then be divided among the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter.

**"§ 105-502. Use of additional tax revenue by counties.** – (a) Except as provided by subsection (b) of this section, revenue received by a county under this Article shall be subject to the following restrictions:

- (1) sixty percent (60%) of the revenues received by the county during the first two fiscal years in which the tax is in effect;
- (2) fifty percent (50%) of the revenues received by the county during the next two fiscal years;
- (3) forty percent (40%) of the revenues received by the county during the next four fiscal years;
- (4) thirty percent (30%) of the revenues received by the county during the next two fiscal years; and
- (5) twenty percent (20%) of the revenues received by the county during the next fiscal year may be used by the county only for public school capital outlay purposes or to retire any indebtedness incurred by the

county for these purposes during the period beginning five years prior to the date the taxes took effect.

(b) The Local Government Commission may, upon petition by a county, authorize a county to use part or all of its tax revenue, otherwise required by subsection (a) to be used for public school capital outlay purposes, for any lawful purpose. The petition shall be in the form prescribed by the Local Government Commission and shall demonstrate that the county can provide for its public school capital needs without restricting the use of part or all of the designated amount of the additional one-half percent (1/2%) sales and use tax revenue for these purposes.

In making its decision, the Local Government Commission may consider information from sources other than the petition. The Commission shall issue a written decision on each petition stating the findings of the Commission concerning the public school capital needs of the petitioning county and the percentage of revenue otherwise restricted by subsection (a) that may be used by the petitioning county for any lawful purpose.

Decisions of the Commission allowing counties to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) for any lawful purpose are final and shall continue in effect until the restrictions imposed by those subsections expire. A county whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(c) A county may expend part or all of the revenue restricted for public school capital needs pursuant to subsection (a) in the fiscal year in which the revenue is received, or the county may place part or all of this revenue in a capital reserve fund and shall specifically identify this revenue in accordance with Chapter 159 of the General Statutes.

(d) For purposes of this section in determining the number of fiscal years in which one-half percent (1/2%) sales and use taxes levied under this Article have been in effect in a county, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect.

**"§ 105-503. Report on county spending on public school capital outlay.** – (a) It is the purpose of this Article for counties to appropriate funds generated under this Article to increase the level of county spending for public elementary and secondary school capital outlay (including retirement of indebtedness incurred by the county for this purpose) above and beyond the level of spending prior to the levy of the additional tax authorized under this Article.

(b) On or before February 15 of each year the Local Government Commission shall furnish to the General Assembly a report of the level of each county's appropriations for public school capital outlay (including retirement of indebtedness incurred and monies reserved for this purpose). The report shall include the amount each county has provided for public school capital outlay for a period including at a minimum the most recent five fiscal years, estimates of public school facility needs, the proportion of revenue from taxes collected under Article 40 of this Chapter that has

been provided for public school capital outlay purposes (including retirement of indebtedness incurred and monies reserved for these purposes), the proportion of revenue collected under this Article that has been expended for a public school capital outlay purposes (including retirement of indebtedness incurred and monies reserved for these purposes), and any other factors it deems relevant to carrying out the intent stated in subsection (a) of this section.

(c) Any local board of education may petition the Local Government Commission to make a finding that the funds provided by a county for public school capital outlay purposes are, within the financial resources available and consistent with the fiscal policies of the Board of County Commissioners, inadequate to meet the public school capital outlay needs within that county and that the Board of County Commissioners has not complied with the requirements or intent of this Article. The petition shall be in the form prescribed by the Commission. In making its finding, the Commission shall consider the facts it is required to report under G.S. 105-503, as well as any other information it deems necessary. The Commission shall report its findings on such petition, together with any recommendations it deems appropriate, to the Joint Legislative Commission on Governmental Operations.

**"§ 105-504. Use of additional tax revenue by municipalities.** – (a) Except as provided in subsection (b) or (e), forty percent (40%) of the revenue received by a municipality from additional one-half percent (1/2%) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the municipality and thirty percent (30%) of the revenue received by a municipality from these taxes in the second five fiscal years in which the taxes are in effect in the municipality may be used by the municipality only for water and sewage capital outlay purposes or to retire any indebtedness incurred by the municipality for these purposes.

(b) The Local Government Commission may, upon petition by a municipality, authorize a municipality to use part or all its tax revenue, otherwise required by subsection (a) to be used for water and sewage capital needs, for any lawful purpose. The petition shall be in the form prescribed by the Local Government Commission and shall demonstrate that the municipality can provide for its water and sewage capital needs without restricting the use of part or all of the designated amount of the additional one-half percent (1/2%) sales and use tax revenue for these purposes.

In making its decision, the Local Government Commission may consider information from sources other than the petition. The Commission shall issue a written decision on each petition stating the findings of the Commission concerning the water and sewage capital needs of the petitioning municipality and the percentage of revenue otherwise restricted by subsection (a) that may be used by the petitioning municipality for any lawful purpose.

Decisions of the Commission allowing municipalities to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) for any lawful purpose are final and shall continue in effect until the restriction imposed by that subsection expires. A municipality whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(c) For purposes of determining the number of fiscal years in which one-half percent (1/2%) sales and use taxes levied under this Article have been in effect in a municipality, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect.

(d) A municipality may expend part of all of the revenue restricted for water and sewage capital needs pursuant to subsection (a) in the fiscal year in which the revenue is received, or the municipality may place part or all of this revenue in a capital reserve fund and shall specifically identify this revenue in accordance with Chapter 159 of the General Statutes.

(e) An authorization received by a municipality under G.S. 105-487(c) to use all or part of its tax revenue for any lawful purpose, which is still in effect during any period during which revenues are received under this Article shall, to the extent and duration of its applicability, also apply to the use of revenues received under this Article."

Sec. 2. G.S. 105-486 and 105-493 are each amended by deleting the words "and use" from their catch lines.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.