

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 960

Short Title: Taxpayers' Rights Amendment.

(Public)

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Sponsors: Representatives Brawley; Barbee, J. Brown, Culp, Decker, Flaherty, Hall, Hayes, Morgan, Weatherly, C. Wilson, and Wood.

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Referred to: Constitutional Amendments and Referenda.

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April 15, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO  
2 REQUIRE VOTER APPROVAL BEFORE MOST TAXES MAY BE LEVIED OR  
3 INCREASED, EXCEPT IN THE CASE OF AN EMERGENCY DECLARED BY  
4 THE GOVERNOR.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Section 5 of Article III of the North Carolina Constitution is  
8 amended by adding a new subdivision to read:

9 "(11) Tax Emergency. The Governor may declare that a state of emergency exists  
10 necessitating the enactment of an emergency law levying a tax upon the people of the  
11 State without the prior approval of the people of the State, as provided in Section 2(1a)  
12 of Article V. Such a state of emergency may not exceed a period of two years."

13 Sec. 2. Section 2 of Article V of the North Carolina Constitution reads as  
14 rewritten:

15 "Sec. 2. State and local taxation.

16 (1) Power of taxation. — The power of taxation shall be exercised in a just and  
17 equitable manner, for public purposes only, and shall never be surrendered, suspended,  
18 or contracted away.

19 (1a) Voter approval required for State taxes. — Except as provided in this  
20 subdivision for emergency taxes, no law levying a tax upon the people of the State may  
21 become effective unless it is first approved by a majority of the qualified voters of the  
22 State who vote on the question, except that approval by the qualified voters of the State

1 is not required for a law that repeals a specific tax exemption or a law that authorizes  
2 one or more local taxing units to levy a tax.

3 If the Governor declares that a state of emergency exists necessitating the enactment  
4 of an emergency law levying a tax upon the people of the State, the General Assembly  
5 may enact such a law, which may become effective without first being approved by the  
6 people of the State. Such an emergency tax law may not remain in effect for more than  
7 two years unless it is approved by the people of the State during the two-year period  
8 after it becomes effective.

9 (2) Classification. — Only the General Assembly shall have the power to classify  
10 property for taxation, which power shall be exercised only on a State-wide basis and  
11 shall not be delegated. No class of property shall be taxed except by uniform rule, and  
12 every classification shall be made by general law uniformly applicable in every county,  
13 city and town, and other unit of local government.

14 (3) Exemptions. — Property belonging to the State, counties, and municipal  
15 corporations shall be exempt from taxation. The General Assembly may exempt  
16 cemeteries and property held for educational, scientific, literary, cultural, charitable, or  
17 religious purposes, and, to a value not exceeding \$300, any personal property. The  
18 General Assembly may exempt from taxation not exceeding \$1,000 in value of property  
19 held and used as the place of residence of the owner. Every exemption shall be on a  
20 State-wide basis and shall be made by general law uniformly applicable in every county,  
21 city and town, and other unit of local government. No taxing authority other than the  
22 General Assembly may grant exemptions, and the General Assembly shall not delegate  
23 the powers accorded to it by this subsection.

24 (4) Special tax areas. — Subject to the limitations imposed by Section 4, the  
25 General Assembly may enact general laws authorizing the governing body of any  
26 county, city, or town to define territorial areas and to levy taxes within those areas, in  
27 addition to those levied throughout the county, city, or town, in order to finance,  
28 provide, or maintain services, facilities, and functions in addition to or to a greater  
29 extent than those financed, provided, or maintained for the entire county, city, or town.  
30 A tax may not be levied pursuant to such a general law, however, unless it is first  
31 approved by a majority of the qualified voters of the area who vote on the question.

32 (5) ~~Purposes~~ Levy of property tax. — The General Assembly shall not authorize  
33 any county, city or town, special district, or other unit of local government to levy taxes  
34 on property, except for purposes authorized by general law uniformly applicable  
35 throughout the State, property unless the tax is approved by a majority of the qualified  
36 voters of the unit who vote thereon. on the question, except that approval by the  
37 qualified voters of the unit is not required in the following cases:

38 (a) The tax is necessary to pay the principal of and interest on all general  
39 obligation bonds and notes of the unit or to supply an unforeseen  
40 deficiency in the revenue of the unit, other than revenues of public  
41 enterprises.

42 (b) The tax is for a purpose authorized by the General Assembly by  
43 general law uniformly applicable throughout the State and the tax to be  
44 levied is at a rate that, when combined with other property taxes levied

1 by the unit and not approved by the voters, does not exceed one dollar  
2 and fifty cents (\$1.50) on the one hundred dollars (\$100.00) appraised  
3 value of property subject to taxation in the unit.

4 (5a) Levy of other local taxes. – Except as provided in Section 2(5) of this Article,  
5 the General Assembly shall not authorize any unit of local government to levy taxes  
6 unless the tax is approved by a majority of the qualified voters of the unit who vote on  
7 the question.

8 (6) Income tax. – The rate of tax on incomes shall not in any case exceed ten  
9 percent, and there shall be allowed personal exemptions and deductions so that only net  
10 incomes are taxed.

11 (7) Contracts. – The General Assembly may enact laws whereby the State, any  
12 county, city or town, and any other public corporation may contract with and  
13 appropriate money to any person, association, or corporation for the accomplishment of  
14 public purposes only."

15 Sec. 3. Section 23 of Article II of the North Carolina Constitution reads as  
16 rewritten:

17 "**Sec. 23. Revenue bills.** No laws shall be enacted to raise money on the credit of  
18 the State, or to pledge the faith of the State directly or indirectly for the payment of any  
19 debt, or to impose any tax upon the people of the State, or to allow the counties, cities,  
20 or towns to do so, unless the bill for the purpose shall have been read three several times  
21 in each house of the General Assembly and passed three several readings, which  
22 readings shall have been on three different days, and shall have been agreed to by each  
23 house respectively, and unless the yeas and nays on the second and third readings of the  
24 bill shall be entered on the journal. No laws to impose any tax upon the people of the  
25 State shall become effective unless any applicable voter approval requirements of  
26 Section 2(1a) of Article V have been satisfied."

27 Sec. 4. G.S. 153A-149 reads as rewritten:

28 "**§ 153A-149. Property taxes; authorized purposes; rate limitation.**

29 (a) Pursuant to Article V, Sec. 2(5) of the Constitution of North Carolina, the  
30 General Assembly confers upon each county in this State the power to levy, within the  
31 limitations set out in this section, taxes on property having a situs within the county  
32 under the rules and according to the procedures prescribed in the Machinery Act  
33 (Chapter 105, Subchapter II).

34 (b) Each county may levy property taxes without restriction as to rate or amount  
35 for the following purposes:

36 (1) ~~Courts.—To provide adequate facilities for and the county's share of~~  
37 ~~the cost of operating the General Court of Justice in the county.~~

38 (2) Debt Service. – To pay the principal of and interest on all general  
39 obligation bonds and notes of the county.

40 (3) Deficits. – To supply an unforeseen deficiency in the revenue (other  
41 than revenues of public enterprises), when revenues actually collected  
42 or received fall below revenue estimates made in good faith and in  
43 accordance with the Local Government Budget and Fiscal Control Act.

- 1           (4) ~~Elections.— To provide for all federal, State, district and county~~  
2           ~~elections.~~
- 3           (5) ~~Jails.— To provide for the operation of a jail and other local~~  
4           ~~confinement facilities.~~
- 5           (6) ~~Joint Undertakings.— To cooperate with any other county, city, or~~  
6           ~~political subdivision in providing any of the functions, services, or~~  
7           ~~activities listed in this subsection.~~
- 8           (7) ~~Schools.— To provide for the county's share of the cost of~~  
9           ~~kindergarten, elementary, secondary, and post secondary public~~  
10           ~~education.~~
- 11           (8) ~~Social Services.— To provide for public assistance required by~~  
12           ~~Chapters 108A and 111 of the General Statutes.~~

13       (c) Each county may levy property taxes for one or more of the purposes listed in  
14 this subsection up to a combined rate of one dollar and fifty cents (\$1.50) on the one  
15 hundred dollars (\$100.00) appraised value of property subject to taxation. Authorized  
16 purposes subject to the rate limitation are:

- 17           (1) To provide for the general administration of the county through the  
18           board of county commissioners, the office of the county manager, the  
19           office of the county budget officer, the office of the county finance  
20           officer, the office of the county assessor, the office of the county tax  
21           collector, the county purchasing agent, and the county attorney, and for  
22           all other general administrative costs not allocated to a particular  
23           board, commission, office, agency, or activity of the county.
- 24           (2) Agricultural Extension. – To provide for the county's share of the cost  
25           of maintaining and administering programs and services offered to  
26           agriculture by or through the Agricultural Extension Service or other  
27           agencies.
- 28           (3) Air Pollution. – To maintain and administer air pollution control  
29           programs.
- 30           (4) Airports. – To establish and maintain airports and related aeronautical  
31           facilities.
- 32           (5) Ambulance Service. – To provide ambulance services, rescue squads,  
33           and other emergency medical services.
- 34           (6) Animal Protection and Control. – To provide animal protection and  
35           control programs.
- 36           (6a) Arts Programs and Museums. – To provide for arts programs and  
37           museums as authorized in G.S. 160A-488.
- 38           (6b) Auditoriums, coliseums, and convention and civic centers. – To  
39           provide public auditoriums, coliseums, and convention and civic  
40           centers.
- 41           (7) Beach Erosion and Natural Disasters. – To provide for shoreline  
42           protection, beach erosion control, and flood and hurricane protection.
- 43           (8) Cemeteries. – To provide for cemeteries.
- 44           (9) Civil Preparedness. – To provide for civil preparedness programs.

- 1           (9a) Courts. – To provide adequate facilities for and the county's share of  
2           the cost of operating the General Court of Justice in the county.
- 3           (10) Debts and Judgments. – To pay and discharge any valid debt of the  
4           county or any judgment lodged against it, other than debts and  
5           judgments evidenced by or based on bonds and notes.
- 6           (10a) Defense of Employees and Officers. – To provide for the defense of,  
7           and payment of civil judgments against, employees and officers or  
8           former employees and officers, as authorized by this Chapter.
- 9           (10b) Economic Development. – To provide for economic development as  
10          authorized by G.S. 158-12.
- 11          (10c) Elections. – To provide for all federal, State, district, and county  
12          elections.
- 13          (11) Fire Protection. – To provide fire protection services and fire  
14          prevention programs.
- 15          (12) Forest Protection. – To provide forest management and protection  
16          programs.
- 17          (13) Health. – To provide for the county's share of maintaining and  
18          administering services offered by or through the county or district  
19          health department.
- 20          (14) Historic Preservation. – To undertake historic preservation programs  
21          and projects.
- 22          (15) Hospitals. – To establish, support and maintain public hospitals and  
23          clinics, and other related health programs and facilities, or to aid any  
24          private, nonprofit hospital, clinic, related facility, or other health  
25          program or facility.
- 26          (15a) Housing Rehabilitation. – To provide for housing rehabilitation  
27          programs authorized by G.S. 153A-376, including personnel costs  
28          related to the planning and administration of these programs. This  
29          subdivision applies only to counties with a population of 400,000 or  
30          more, according to the most recent decennial federal census.
- 31          (16) Human Relations. – To undertake human relations programs.
- 32          (16a) Industrial Development. – To provide for industrial development as  
33          authorized by G.S. 158-7.1.
- 34          (16b) Jails. – To provide for the operation of a jail and other local  
35          confinement facilities.
- 36          (17) Joint Undertakings. – To cooperate with any other county, city, or  
37          political subdivision in providing any of the functions, services, or  
38          activities listed in this subsection.
- 39          (18) Law Enforcement. – To provide for the operation of the office of the  
40          sheriff of the county and for any other county law-enforcement agency  
41          not under the sheriff's jurisdiction.
- 42          (19) Libraries. – To establish and maintain public libraries.
- 43          (20) Mapping. – To provide for mapping the lands of the county.

- 1 (21) Medical Examiner. – To provide for the county medical examiner or  
2 coroner.
- 3 (22) Mental Health. – To provide for the county's share of the cost of  
4 maintaining and administering services offered by or through the area  
5 mental health, developmental disabilities, and substance abuse  
6 authority.
- 7 (23) Open Space. – To acquire open space land and easements in  
8 accordance with Article 19, Part 4, Chapter 160A of the General  
9 Statutes.
- 10 (24) Parking. – To provide off-street lots and garages for the parking and  
11 storage of motor vehicles.
- 12 (25) Parks and Recreation. – To establish, support and maintain public  
13 parks and programs of supervised recreation.
- 14 (26) Planning. – To provide for a program of planning and regulation of  
15 development in accordance with Article 18 of this Chapter and Article  
16 19, Parts 3A and 6, of Chapter 160A of the General Statutes.
- 17 (26a) Ports and Harbors. – To participate in programs with the North  
18 Carolina Ports Authority and provide for harbor masters.
- 19 (27) Public Transportation. – To provide public transportation by rail,  
20 motor vehicle, or another means of conveyance other than a ferry,  
21 including any facility or equipment needed to provide the public  
22 transportation. This subdivision does not authorize a county to provide  
23 public roads in the county in violation of G.S. 136-51.
- 24 (27a) Railway Corridor Preservation. – To acquire property for railroad  
25 corridor preservation as authorized by G.S. 160A-498.
- 26 (28) Register of Deeds. – To provide for the operation of the office of the  
27 register of deeds of the county.
- 28 (28a) Schools. – To provide for the county's share of the cost of  
29 kindergarten, elementary, secondary, and post-secondary public  
30 education.
- 31 (29) Sewage. – To provide sewage collection and treatment services as  
32 defined in G.S. 153A-274(2).
- 33 (30) Social Services. – To provide for the public welfare through the  
34 maintenance and administration of public assistance programs ~~not~~  
35 ~~required by Chapters 108A and 111 of the General Statutes,~~ and by  
36 establishing and maintaining a county home.
- 37 (31) Solid Waste. – To provide solid waste collection and disposal services,  
38 and to acquire and operate landfills.
- 39 (31a) Stormwater. – To provide structural and natural stormwater and  
40 drainage systems of all types.
- 41 (32) Surveyor. – To provide for a county surveyor.
- 42 (33) Veterans' Service Officer. – To provide for the county's share of the  
43 cost of services offered by or through the county veterans' service  
44 officer.

- 1 (34) Water. – To provide water supply and distribution systems.  
 2 (35) Watershed Improvement. – To undertake watershed improvement  
 3 projects.  
 4 (36) Water Resources. – To participate in federal water resources  
 5 development projects.  
 6 (37) Armories. – To supplement available State or federal funds to be used  
 7 for the construction (including the acquisition of land), enlargement or  
 8 repair of armory facilities for the North Carolina national guard.

9 (d) With an approving vote of the people, any county may levy property taxes for  
 10 any purpose for which the county is authorized by law to appropriate money. Any  
 11 property tax levy approved by a vote of the people shall not be counted for purposes of  
 12 the rate limitation imposed in subsection (c).

13 The county commissioners may call a referendum on approval of a property tax  
 14 levy. The referendum may be held at the same time as any other referendum or election,  
 15 but may not be otherwise held within the period of time beginning 30 days before and  
 16 ending 10 days after any other referendum or election to be held in the county and  
 17 already validly called or scheduled by law at the time the tax referendum is called. The  
 18 referendum shall be conducted by the county board of elections. The clerk to the board  
 19 of commissioners shall publish a notice of the referendum at least twice. The first  
 20 publication shall be not less than 14 days and the second publication not less than seven  
 21 days before the last day on which voters may register for the referendum. The notice  
 22 shall state the date of the referendum, the purpose for which it is being held, and a  
 23 statement as to the last day for registration for the referendum under the election laws  
 24 then in effect.

25 The proposition submitted to the voters shall be substantially in one of the following  
 26 forms:

- 27 (1) Shall ..... County be authorized to levy annually a property tax at a  
 28 rate not in excess of ..... cents on the one hundred dollars (\$100.00)  
 29 value of property subject to taxation for the purpose of .....?  
 30 (2) Shall ..... County be authorized to levy annually a property tax at a  
 31 rate not in excess of that which will produce \$..... for the purpose  
 32 of .....?  
 33 (3) Shall ..... County be authorized to levy annually a property tax  
 34 without restriction as to rate or amount for the purpose of .....?

35 If a majority of those participating in the referendum approve the proposition, the  
 36 board of commissioners may proceed to levy annually a property tax within the  
 37 limitations (if any) described in the proposition.

38 The board of elections shall canvass the referendum and certify the results to the  
 39 board of commissioners. The board of commissioners shall then certify and declare the  
 40 result of the referendum and shall publish a statement of the result once, with the  
 41 following statement appended: 'Any action or proceeding challenging the regularity or  
 42 validity of this tax referendum must be begun within 30 days after (date of publication).'

43 The statement of results shall be filed in the clerk's office and inserted in the minutes of  
 44 the board.

1 Any action or proceeding in any court challenging the regularity or validity of a tax  
2 referendum must be begun within 30 days after the publication of the results of the  
3 referendum. After the expiration of this period of limitation, no right of action or  
4 defense based upon the invalidity of or any irregularity in the referendum shall be  
5 asserted, nor shall the validity of the referendum be open to question in any court upon  
6 any ground whatever, except in an action or proceeding begun within the period of  
7 limitation prescribed herein.

8 Except for supplemental school taxes and except for tax referendums on functions  
9 not included in subsection (c) of this section, any referendum held before July 1,  
10 1973, on the levy of property taxes is not valid for the purposes of this subsection.  
11 Counties in which such referendums have been held may support programs formerly  
12 supported by voted property taxes within the general rate limitation set out in subsection  
13 (c) at any appropriate level and are not subject to the former voted rate limitation.

14 (e) With an approving vote of the people, any county may increase the property  
15 tax rate limitation imposed in subsection (c) and may call a referendum for that purpose.  
16 The referendum may be held at the same time as any other referendum or election, but  
17 may not be otherwise held within the period of time beginning 30 days before and  
18 ending 30 days after any other referendum or election. The referendum shall be  
19 conducted by the county board of elections.

20 The proposition submitted to the voters shall be substantially in the following form:  
21 'Shall the property tax rate limitation applicable to ..... County be increased from .....  
22 on the one hundred dollars (\$100.00) value of property subject to taxation to ..... on  
23 the one hundred dollars (\$100.00) value of property subject to taxation?'

24 If a majority of those participating in the referendum approve the proposition, the  
25 rate limitation imposed in subsection (c) shall be increased for the county.

26 (f) With respect to any of the categories listed in subsections (b) and (c) of this  
27 section, the county may provide the necessary personnel, land, buildings, equipment,  
28 supplies, and financial support from property tax revenues for the program, function, or  
29 service.

30 (g) This section does not authorize any county to undertake any program,  
31 function, joint undertaking, or service not otherwise authorized by law. It is intended  
32 only to authorize the levy of property taxes within the limitations set out herein to  
33 finance programs, functions, or services authorized by other portions of the General  
34 Statutes or by local acts."

35 Sec. 5. The amendments set out in Sections 1 through 4 of this act shall be  
36 submitted to the qualified voters of the State on Tuesday after the first Monday of  
37 November 1993, or at the next statewide election, whichever is earlier. The election  
38 shall be conducted under the laws then governing elections in the State. At that  
39 election, each qualified voter desiring to vote shall be provided a ballot on which shall  
40 be printed the following:

41 "[ ] FOR constitutional amendments requiring that most new taxes and tax  
42 increases must be approved by the voters, except in the case of an  
43 emergency declared by the Governor.



1           [ ]     AGAINST constitutional amendments requiring that most new taxes  
2                     and tax increases must be approved by the voters, except in the case of  
3                     an emergency declared by the Governor."

4           Those qualified voters favoring the amendments set out in Sections 1  
5 through 3 of this act shall vote by making an X or a check mark in the square beside the  
6 statement beginning "FOR", and those qualified voters opposed to those amendments  
7 shall vote by making an X or check mark in the square beside the statement beginning  
8 "AGAINST".

9           Notwithstanding the foregoing provisions of this section, voting machines  
10 may be used in accordance with rules and regulations prescribed by the State Board of  
11 Elections.

12           Sec. 6. If a majority of votes cast on the question are in favor of the  
13 amendments set out in Sections 1 through 4 of this act, the State Board of Elections  
14 shall certify the amendments to the Secretary of State, who shall enroll the amendments  
15 so certified among the permanent records of his office, and the amendments become  
16 effective upon such certification. If approved, the amendments set out in Sections 1  
17 through 4 of this act shall become effective January 1, 1994, and shall apply to taxes  
18 authorized or levied on or after that date. If a tax has been authorized by a vote of the  
19 people of the taxing unit before the effective date of this act, an additional vote is not  
20 required.

21           Sec. 7. This act is effective upon ratification.