

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1060

Short Title: City-County Taxation/Finance.

(Public)

Sponsors: Representative McComas.

Referred to: Finance.

May 11, 1995

A BILL TO BE ENTITLED

AN ACT AMENDING THE GENERAL STATUTES RELATING TO THE
CONSOLIDATION OF CITIES AND COUNTIES AND CONSOLIDATED CITY-
COUNTY TAXATION AND FINANCE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160B of the General Statutes is amended by adding a new
Article to read:

"ARTICLE 1A.

"CONSOLIDATED CITY-COUNTY POWERS AND GOVERNANCE.

"§ 160B-2.1. Powers of consolidated city-county.

(a) A consolidated city-county shall have and may exercise the powers, duties, functions, rights, privileges, and immunities granted to:

(1) A county by general law, throughout its jurisdiction; and

(2) A city by general law, within an urban service district.

(b) Outside the boundaries of an urban service district, the consolidated city-county shall have and may exercise the same powers, duties, functions, rights, privileges, and immunities granted to a city by general law that can be exercised outside of city boundaries.

"§ 160B-2.2. Organizational meeting; preparation of budget.

1 (2) Sixty days following publication of the statement of result of the latest
2 referendum relating to the consolidation or to the assumption of
3 obligations in connection with the consolidation; or

4 (3) Any effective date of the consolidation set by the General Assembly.

5 In addition, upon adoption of concurrent resolutions by the governing board of each unit
6 to be consolidated, or by the interim governing board of the consolidated city-county, the
7 effective date may be delayed further, but no later than July 1 of the next calendar year.

8 (c) Limitation of Local Acts. – No special, private, or local act, including any
9 enactment of a consolidation of a city with a county, enacted after July 1, 1995, may be
10 construed to modify, amend, or repeal any portion of this section unless it expressly so
11 provides by specific reference to this section.

12 **"§ 160B-17. Referendum on assumption of certain debt; right to issue certain**
13 **authorized but unissued debt.**

14 (a) In connection with a city-county consolidation, if there is at the effective date
15 of the consolidation (i) any outstanding debt secured by a pledge of faith and credit of a
16 consolidating city or (ii) any authorized but unissued debt of said city to be secured by a
17 pledge of faith and credit the right to issue which debt is proposed to be assumed by the
18 consolidated city-county, then there shall have been held a favorable referendum on the
19 question of the assumption of that faith and credit debt and, if applicable, there shall have
20 been held a referendum on the assumption of the right to issue that authorized but
21 unissued faith and credit debt.

22 (b) The referendum on the question of the assumption of faith and credit debt or, if
23 applicable, the assumption of the right to issue authorized but unissued faith and credit
24 debt may be included in the proposition submitted to the voters in a referendum called by
25 a consolidation study commission under G.S. 153A-405.

26 (c) If the General Assembly provided for a referendum on the question of
27 consolidation instead of a referendum called by a consolidation study commission under
28 G.S. 153A-405, the governing bodies of the units proposed to be consolidated, by
29 resolution, may add to the ballot proposition the assumption of faith and credit debt
30 question and, if applicable, the assumption of the right to issue authorized but unissued
31 faith and credit debt question. In either event, the proposition shall be substantially as
32 provided in G.S. 153A-405(b)(3).

33 (d) If the city-county consolidation is authorized by the General Assembly without
34 a referendum or if there otherwise has not been a referendum on the question of the
35 assumption of any faith and credit debt or, if applicable, the question of the assumption of
36 the right to issue any authorized but unissued faith and credit debt, the governing bodies
37 of the units proposed to be consolidated, by resolution, may provide for a referendum on
38 said questions. In addition, any interim governing board for the consolidated city-county,
39 by resolution, also may provide for such a referendum. The proposition submitted to the
40 voters shall be substantially in the following form (and may include part or all of the
41 bracketed language as appropriate and any other modifications as may be needed to
42 reflect the issued debt of any of the consolidating units or the portion of the authorized

1 but unissued debt of any of the consolidating units, the right to issue which is proposed to
2 be assumed by the consolidated city-county):

3 'Shall, in connection with the consolidation of the City of _____ with the County
4 of _____, the consolidated unit to assume their obligations, including general
5 obligation and any other debt secured by a pledge of faith and credit, [the
6 right to issue authorized but unissued general obligation and any other debt
7 to be secured by a pledge of faith and credit [(including any such debt as
8 may be authorized for said city or county on the date of this referendum)]
9 and any of said authorized but unissued debt as may be hereafter issued,]
10 and be authorized to levy taxes in an amount sufficient to pay the principal
11 of and the interest on said general obligation or other debt secured by a
12 pledge of faith and credit?

13 YES

14 NO'

15 (e) To be approved the proposition must receive the votes of a majority of those
16 voting in the referendum. In connection with the proposed consolidation of one or more
17 cities with a county, if the assumption by the consolidated city-county of outstanding
18 faith and credit debt of the consolidating city and, if applicable, the right to issue
19 authorized but unissued faith and credit debt of the consolidating city was approved by
20 the votes of a majority of those voting in the referendum, the vote on that referendum
21 shall constitute the approval by a majority of the qualified voters who vote thereon as
22 required by Article V, Section 4(2) of the Constitution of North Carolina.

23 (f) Any such referendum on the question of consolidation or the assumption of
24 debt or the right to issue authorized but unissued debt may be held on the same day as
25 any other referendum or election in the county involved, but may not otherwise be held
26 during the period beginning 30 days before and ending 30 days after the day of any other
27 referendum or election to be conducted by the board of elections conducting the
28 referendum and already validly called or scheduled by law.

29 (g) A notice of a referendum on consolidation or on assumption of obligations
30 shall be published at least twice in a newspaper of general circulation in the county. The
31 first publication shall be not less than 14 days and the second publication not less than
32 seven days before the last day on which voters may register for the referendum. The
33 notice shall state the date of the referendum, a statement as to the last date for
34 registration for the referendum under the election laws then in effect, and substantially
35 the text of the proposition to be voted upon. The notice shall be published by the
36 governing bodies of the units proposed to be consolidated or, if applicable, the interim
37 governing board of the consolidated city-county by their respective clerks or by such
38 other person as shall be designated by each applicable governing body or board.

39 (h) The board of elections shall canvass any referendum on consolidation and any
40 referendum on assumption of obligations and shall certify the results to the governing
41 bodies of the units proposed to be consolidated or, if applicable, the interim governing
42 board of the consolidated city-county which shall then certify and declare the result of the

1 referendum and shall publish a statement of the result once in a newspaper of general
2 circulation in the county, with the following statement appended:

3 'Any action or proceeding challenging the regularity or validity of this
4 referendum must be begun within 30 days after the date of publication of
5 this statement of result.'

6 (i) Any action or proceeding in any court to set aside a referendum on
7 consolidation or a referendum on assumption of obligations in connection with
8 consolidation, or to obtain any other relief, upon the grounds that the referendum is
9 invalid or was irregularly conducted, must be begun within 30 days after the publication
10 of the statement of the result of the referendum. After the expiration of this period of
11 limitation, no right of action or defense based upon the invalidity of or any irregularity in
12 the referendum shall be asserted, nor shall the validity of the referendum be open to
13 question in any court upon any ground whatever, except in an action or proceeding begun
14 within the period of limitation prescribed in this section.

15 **"§ 160B-18. Local government commission review of assumption of obligations:**
16 **assumption of obligations and right to issue authorized but unissued faith**
17 **and credit debt upon consolidation.**

18 (a) Review by Local Government Commission. – At the date specified in the
19 following sentence if any consolidating city or county has outstanding any general
20 obligation or any other debt secured by a pledge of faith and credit or, if applicable, any
21 authorized but unissued general obligation or any other debt secured by a pledge of faith
22 and credit which is proposed to be assumed by the consolidated city-county or has
23 outstanding or pending approval any other obligations the issuance of which was or is
24 subject to approval by the local government commission, then the assumption of any such
25 obligations and, if applicable, the assumption of the right to issue such authorized but
26 unissued general obligation or other faith and credit debt, if any, shall be subject to
27 review by the local government commission. The finance officers of the units proposed
28 to be consolidated shall use their best efforts to notify the secretary of the local
29 government commission of the proposed consolidation and assumption of obligations at
30 least two months before the introduction in the General Assembly of legislation
31 proposing to enact the consolidation into law, provided that time allows. The local
32 government commission, to such extent it deems appropriate, may conduct a review of
33 the proposed consolidation and assumption of obligations and may report the results of its
34 review to the presiding officer of each house of the General Assembly to be provided to
35 the respective committees to which the legislation to enact the consolidation shall be
36 referred.

37 (b) Assumption of Obligations by Consolidated City-County. – Subject to the
38 requirement of referendum approval of certain debt assumption for consolidation by the
39 General Assembly and effective upon the effective date of the consolidation provided in
40 G.S. 160B-16(a), upon enactment of the consolidation by the General Assembly and
41 effective upon the effective date of the consolidation provided in G.S. 160B-16(b), the
42 obligations of the consolidating city at the effective date of the consolidation, which
43 obligations include general obligation and any other debt secure by a pledge of faith and

1 credit (including formerly authorized but unissued debt as may have been issued at the
2 time) the assumption of which faith and credit debt by the consolidated city-county has
3 been approved by referendum, are assumed by, and become binding obligations of, the
4 consolidated city-county, and the faith and credit of the consolidated city-county is
5 pledged to secure any such assumed general obligation or other debt secured by pledge of
6 faith and credit. In addition, the obligations of the county at the effective date of the
7 consolidation, which obligations include general obligation and any other debt secured by
8 a pledge of faith and credit, shall be binding obligations of the consolidated city-county
9 and the faith and credit of the consolidated city-county is pledged to secure any such
10 general obligation or other debt secured by pledge of faith and credit.

11 (c) Right to Issue Authorized But Unissued Obligations. – Subject to the passage
12 of a referendum relating to the assumption by the consolidated city-county of the right to
13 issue any authorized but unissued general obligation or other debt of the consolidating
14 city to be secured by a pledge of faith and credit that is proposed to be assumed by the
15 consolidated city-county, upon enactment of the consolidation by the General Assembly
16 and effective upon the effective date of the consolidation as provided in G.S. 160B-16(b),
17 the right to issue the authorized but unissued obligations of the consolidating city at the
18 effective date of the consolidation, which obligations include such of the authorized but
19 unissued general obligation or other debt to be secured by a pledge of faith and credit the
20 assumption of the right to issue which faith and credit debt by the consolidated city-
21 county, has been approved by referendum, is assumed by, and upon issuance such
22 obligations become binding obligations of, the consolidated city-county, and, upon
23 issuance, the faith and credit of the consolidated city-county is pledged to secure any
24 such general obligation or other debt secured by pledge of faith and credit. In addition,
25 the right to issue the authorized but unissued obligations of the county at the effective
26 date of the consolidation, which obligations include general obligation and any other debt
27 to be secured by a pledge of faith and credit, shall be vested in the consolidated city-
28 county and, upon issuance, such obligations become binding obligations of the
29 consolidated city-county and, upon issuance, the faith and credit of the consolidated city-
30 county is pledged to secure any such general obligation or other debt secured by pledge
31 of faith and credit.

32 **"§ 160B-19. Notice of enactment of consolidation; limitation of actions.**

33 (a) Publication of Notice of Enactment. – Following ratification of an act of the
34 General Assembly authorizing consolidation, there shall be published once in a
35 newspaper of general circulation in the county a notice of said enactment and, if
36 applicable, the fact that in connection with said enactment there is an assumption by the
37 consolidated city-county of the obligations of the consolidating city, including general
38 obligation and any other debt secured by a pledge of faith and credit and, if applicable,
39 assumption of the right to issue authorized but unissued obligations of the consolidating
40 city, including authorized but unissued general obligation and any other debt to be
41 secured by a pledge of faith and credit, and that there is also binding on the consolidated
42 city-county the obligations of the county, including general obligation and any other debt
43 secured by a pledge of faith and credit and, if applicable, there is vested in the

1 consolidated city-county the right to issue authorized but unissued obligations of the
2 county, including authorized but unissued general obligation and any other debt to be
3 secured by a pledge of faith and credit, with the following statement appended:

4 'Any action or proceeding challenging the regularity or validity of this
5 referendum must be begun within 30 days after the date of publication of
6 this statement of result.'

7 The notice shall be published by the governing bodies of the units proposed to be
8 consolidated or, if applicable, the interim governing board of the consolidated city-county
9 by their respective clerks or by such other persons as shall be designated by each
10 applicable governing body or board.

11 (b) Limitation on Action Contesting Validity of Enactment of Consolidation. –
12 Any action or proceeding in any court to set aside enactment of a city-county
13 consolidation by the General Assembly, or to obtain any other relief, upon the grounds
14 that the enactment is invalid or was irregularly enacted, must be begun within 30 days
15 after the publication of the notice of the enactment. After the expiration of this period of
16 limitation, no right of action or defense based upon the invalidity of the enactment or any
17 irregularity in the enactment shall be asserted, nor shall the validity of the enactment be
18 open to question in any court upon any grounds whatever, except in an action or
19 proceeding begun within the period of limitation prescribed in this section."

20 Sec. 4. G.S. 153A-405 reads as rewritten:

21 **"§ 153A-405. Referendum; General Assembly action.**

22 (a) If authorized to do so by the concurrent resolutions that established it, a
23 commission may call a referendum on its proposed plan of governmental consolidation.
24 If authorized or directed in the concurrent resolutions, the ballot question may include the
25 assumption of obligations language and may also include the assumption of the right to
26 issue authorized but unissued faith and credit debt language as provided in subsection (b)
27 of this section. The referendum may be held on the same day as any other referendum or
28 election in the county or counties involved, but may not otherwise be held during the
29 period beginning 30 days before and ending 30 days after the day of any other
30 referendum or election to be conducted by the board or boards of elections conducting the
31 referendum and already validly called or scheduled by law.

32 (b) The proposition submitted to the voters shall be substantially in one of the
33 following forms:

34 ~~(1) Shall the County ofand the County ofbe~~
35 ~~consolidated?~~

36 ~~(2) Shall the City ofand the City ofbe consolidated?~~

37 ~~(3) Shall the City ofbe consolidated with the County of~~
38 ~~..... ?~~

39 or more of the following forms and may include part or all of the bracketed language as
40 appropriate and other such modifications as may be needed to reflect the issued debt of
41 any of the consolidating units or the portion of the authorized but unissued debt of any of
42 the consolidating units the right to issue which is proposed to be assumed by the
43 consolidating city:

1 (1) 'Shall the County of and the County of , be consolidated [and the
2 consolidated unit to assume their obligations, including general
3 obligation and any other debt secured by a pledge of faith and credit,
4 [the right to issue authorized but unissued general obligation debt and
5 any other debt to be secured by a pledge of faith and credit [(including
6 any such debt as may be authorized for said city or county on the date of
7 this referendum)] and any of said authorized but unissued debt as may
8 be hereafter issued,] and be authorized to levy taxes in an amount
9 sufficient to pay the principal of and the interest on said general
10 obligation or other debt secured by a pledge of faith and credit?

11 YES

12 NO'

13 (2) 'Shall the City of and the City of , be consolidated [and the
14 consolidated unit assume their obligations, including general obligation
15 and any other debt secured by a pledge of faith and credit, [the right to
16 issue authorized but unissued general obligation and any other debt to
17 be secured by a pledge of faith and credit [(including any such debt as
18 may be authorized for said city or county on the date of this
19 referendum)] and any of said authorized but unissued debt as may be
20 hereafter issued,] and be authorized to levy taxes in an amount sufficient
21 to pay the principal of and the interest on said general obligation or
22 other debt secured by a pledge of faith and credit?

23 YES

24 NO'

25 (3) 'Shall the County of and the County of be consolidated [and the
26 consolidated unit assume their obligations, including general obligation
27 and any other debt secured by a pledge of faith and credit, [the right to
28 issue authorized but unissued general obligation and any other debt to
29 be secured by a pledge of faith and credit [(including any such debt as
30 may be authorized for said city or county on the date of this
31 referendum)] and any of said authorized but unissued debt as may be
32 hereafter issued,] and be authorized to levy taxes in an amount sufficient
33 to pay the principal of and the interest on said general obligation or
34 other debt secured by a pledge of faith and credit?

35 YES

36 NO'

37 (c) If the proposition is to consolidate two or more counties or to consolidate two
38 or more cities, to be approved it must receive the votes of a majority of those voting in
39 each of the counties or cities, as the case may be. If the proposition is to consolidate one
40 or more cities with a county, to be approved it must receive the votes of a majority of
41 those voting in the referendum. In addition, no governmental consolidation may become
42 effective until enacted into law by the General Assembly."

43 Sec. 5. G.S. 160A-20(h) reads as rewritten:

1 "(h) As used in this section, the term 'unit of local government' means any of the
2 following:

- 3 (1) A county.
4 (2) A city.
5 (3) A water and sewer authority created under Article 1 of Chapter 162A of
6 the General Statutes.
7 (4) An airport authority whose situs is entirely within a county that has (i) a
8 population of over 120,000 according to the most recent federal
9 decennial census and (ii) an area of less than 200 square miles.
10 (5) An airport authority in a county in which there are two incorporated
11 municipalities with a population of more than 65,000 according to the
12 most recent federal decennial census.
13 (6) A local school administrative unit (i) that is located in a county that has
14 a population of over 90,000 according to the most recent federal
15 decennial census and (ii) whose board of education is authorized to levy
16 a school tax.
17 (7) An area mental health, developmental disabilities, and substance abuse
18 authority, acting in accordance with G.S. 122C-147.
19 (8) A consolidated city-county, as defined by G.S. 160B-2(1).
20 (9) An urban facilities financing district created by the governing board of a
21 consolidated city-county, as defined by G.S. 160B-2(1)."

22 Sec. 6. G.S. 159-7(b)(15) reads as rewritten:

23 "(15) 'Unit,' 'unit of local government,' or 'local government' is a municipal
24 corporation that is not subject to the Executive Budget Act (Article 1 of
25 Chapter 143 of the General Statutes) and that has the power to levy
26 taxes, including a consolidated city-county, as defined by G.S. 160B-
27 2(1). and all boards, agencies, commissions, authorities, and institutions
28 thereof that are not municipal corporations."

29 Sec. 7. G.S. 159G-3(10) reads as rewritten:

30 "(10) 'Local government unit' means a county, city, town, incorporated
31 village, consolidated city-county, as defined by G.S. 160B-2(1),
32 including such a consolidated city-county acting with respect to an
33 urban service district defined by a consolidated city-county, or urban
34 facilities financing district created by such a consolidated city-county,
35 sanitary district, metropolitan sewerage district, metropolitan water
36 district, county water and sewer district, water and sewer authority or
37 joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of
38 the General Statutes."

39 Sec. 8. G.S. 105-113.82(f) reads as rewritten:

40 "(f) City Defined. – As used in this section, the term 'city' means a city as defined
41 in G.S. 153A-1(1) or an urban service district defined by the governing body of a
42 ~~consolidated city-county~~ city-county, as defined by G.S. 160B-2(1). The amount due an

1 urban service district shall be distributed to the governing body of the consolidated city-
2 county."

3 Sec. 9. G.S. 105-116(d), as effective July 1, 1995, reads as rewritten:

4 "(d) Distribution. – For the purpose of this subsection, the term 'distribution
5 amount' means three and nine hundredths percent (3.09%) of the taxable gross receipts
6 derived during a period by an electric power company and a natural gas company from
7 sales within a municipality of the commodities and services described in subsection (a) of
8 this section. The Secretary shall distribute to each municipality the distribution amount
9 for that municipality for the preceding calendar quarter less an amount equal to one-
10 fourth of the excess of the distribution amount for that municipality for the period April
11 1, 1994, to March 31, 1995, over the distribution amount for that municipality for the
12 period April 1, 1990, to March 31, 1991, as certified by the Secretary. The Secretary
13 shall distribute the revenue within 75 days after the end of each quarter. If a company's
14 report does not state the company's taxable gross receipts derived within a municipality,
15 the Secretary shall determine a practical method of allocating part of the company's
16 taxable gross receipts to the municipality.

17 As used in this subsection, the term 'municipality' includes an urban service district
18 defined by the governing board of a consolidated ~~city-county~~ city-county, as defined by
19 G.S. 160B-2(1). The amount due an urban service district shall be distributed to the
20 governing board of the consolidated city-county."

21 Sec. 10. G.S. 105-164.44C reads as rewritten:

22 "**§ 105-164.44C. Reimbursement for sales taxes on food stamp foods and**
23 **supplemental foods.**

24 (a) As soon as practicable after July 1 of each year, the Secretary shall make a
25 preliminary allocation to each county of the amount of local sales taxes that would have
26 been collected in the county during the 1989-90 fiscal year on foods purchased with food
27 stamp coupons or supplemental food instruments in the county, had these foods not been
28 exempt from tax under G.S. 105-164.13(38). The Secretary shall then distribute the
29 amounts allocated to each county between the county and the cities located in the county
30 in accordance with the method by which local sales and use taxes are distributed in that
31 county. In order to pay for the reimbursement under this section and the cost to the
32 Department of Revenue for administering the reimbursement, the Secretary shall draw
33 from collections received under Division I of Article 4 of this Chapter an amount equal to
34 the amount of the reimbursement and the cost of administration.

35 (b) As used in this section, the term 'city' includes an urban service district defined
36 by the governing board of a consolidated city-county, as defined by G.S. 160B-2(1). The
37 amount due an urban service district shall be distributed to the governing board of the
38 consolidated city-county."

39 Sec. 11. G.S. 105-273(11) reads as rewritten:

40 "(11) 'Municipal corporation' and 'municipality' mean city, town, incorporated
41 village, sanitary district, rural fire protection district, rural recreation
42 district, mosquito control district, hospital district, metropolitan
43 sewerage district, watershed improvement district, or other district or

1 unit of local government by or for which ad valorem taxes are levied.
2 The terms also include a consolidated city-county as defined by G.S.
3 160B-2(1)."

4 Sec. 12. G.S. 105-275.1(d) reads as rewritten:

5 "(d) 'City' Defined. – As used in this section, the term 'city' has the same meaning
6 as in G.S. 153A-1(1). The term also includes an urban service district defined by the
7 governing board of a consolidated city-county, as defined by G.S. 160B-2(1). The
8 amount due an urban service district shall be distributed to the governing board of the
9 consolidated city-county."

10 Sec. 13. G.S. 105-275.2 is amended by adding a new subsection to read:

11 "(b1) Any amount due, pursuant to this section, to a consolidated city-county, as
12 defined by G.S. 160B-2(1), shall be distributed to the governing board of the consolidated
13 city-county."

14 Sec. 14. G.S. 105-277A(d)(1) reads as rewritten:

15 "(1) 'City' has the same meaning as in G.S. 153A-1(1). The term also
16 includes an urban service district defined by the governing board of a
17 consolidated city-county, as defined by G.S. 160B-2(1). The amount
18 due an urban service district shall be distributed to the governing board
19 of the consolidated city-county."

20 Sec. 15. G.S. 105-277.1A is amended by adding a new subsection to read:

21 "(g) As used in this section, the term 'cities' includes an urban service district
22 defined by the governing board of a consolidated city-county, as defined by G.S. 160B-
23 2(1). The amount due an urban service district shall be distributed to the governing board
24 of the consolidated city-county."

25 Sec. 16. G.S. 105-464 reads as rewritten:

26 "**§ 105-464. Purpose and intent.**

27 It is the purpose of this Article to afford the counties and municipalities of this State
28 with opportunity to obtain an added source of revenue with which to meet their growing
29 financial needs by providing all counties of the State with authority to levy a one percent
30 (1%) sales and use tax as hereinafter provided. Wherever in this Article the words
31 'county' or 'counties' are used, those terms include a consolidated city-county as defined
32 by G.S. 160B-2(1)."

33 Sec. 17. G.S. 105-466 is amended by adding a new subsection to read:

34 "(b1) If the board of commissioners of a county has imposed the local sales and use
35 tax authorized by this Article and any or all of the taxes authorized by Articles 40 and 42
36 of this Chapter, with or without a special election, and the county subsequently becomes
37 part of a consolidated city-county, the taxes shall continue in effect unless and until
38 repealed by the governing board of the consolidated city-county."

39 Sec. 18. G.S. 105-472 reads as rewritten:

40 "**§ 105-472. Disposition and distribution of taxes collected.**

41 (a) County Allocation. – The Secretary shall, on a quarterly basis, allocate to each
42 taxing county for which the Secretary collects the tax the net proceeds of the tax collected
43 in that county under this Article. For the purpose of this section, 'net proceeds' means the

1 gross proceeds of the tax collected in each county under this Article less taxes refunded,
2 the cost to the State of collecting and administering the tax in the county as determined
3 by the Secretary, and other deductions that may be charged to the county. If the
4 Secretary collects local sales or use taxes in a month and the taxes cannot be identified as
5 being attributable to a particular taxing county, the Secretary shall allocate the taxes
6 among the taxing counties in proportion to the amount of taxes collected in each county
7 under this Article during that month and shall include them in the quarterly distribution.

8 (b) Distribution Between Counties and Cities. – The Secretary shall divide the
9 amount allocated to each taxing county among the county and its municipalities in
10 accordance with the method determined by the county. The board of county
11 commissioners shall, by resolution, choose one of the following methods of distribution:

12 (1) Per Capita Method. – The net proceeds of the tax collected in a taxing
13 county shall be distributed to that county and to the municipalities in the
14 county on a per capita basis according to the total population of the
15 taxing county, plus the total population of the municipalities in the
16 county. In the case of a municipality located in more than one county,
17 only that part of its population living in the taxing county is considered
18 its 'total population'. In order to make the distribution, the Secretary
19 shall determine a per capita figure by dividing the amount allocated to
20 each taxing county by the total population of that county plus the total
21 population of all municipalities in the county. The Secretary shall then
22 multiply this per capita figure by the population of the taxing county
23 and by the population of each municipality in the county; each
24 respective product shall be the amount to be distributed to the county
25 and to each municipality in the county. To determine the population of
26 each county and each municipality, the Secretary shall use the most
27 recent annual estimate of population certified by the State Planning
28 Officer.

29 (2) Ad Valorem Method. – The net proceeds of the tax collected in a taxing
30 county shall be distributed to that county and the municipalities in the
31 county in proportion to the total amount of ad valorem taxes levied by
32 each on property having a tax situs in the taxing county during the fiscal
33 year next preceding the distribution. For purposes of this section, the
34 amount of the ad valorem taxes levied by a county or municipality
35 includes ad valorem taxes levied by the county or municipality in behalf
36 of a taxing district and collected by the county or municipality. In
37 addition, the amount of taxes levied by a county includes ad valorem
38 taxes levied by a merged school administrative unit described in G.S.
39 115C-513 in the part of the unit located in the county. In computing the
40 amount of tax proceeds to be distributed to each county and
41 municipality, the amount of any ad valorem taxes levied but not
42 substantially collected shall be ignored. Each county and municipality
43 receiving a distribution of the proceeds of the tax levied under this

1 Article shall in turn immediately share the proceeds with each district in
2 behalf of which the county or municipality levied ad valorem taxes in
3 the proportion that the district levy bears to the total levy of the county
4 or municipality. Any county or municipality that fails to provide the
5 Department of Revenue with information concerning ad valorem taxes
6 levied by it adequate to permit a timely determination of its appropriate
7 share of tax proceeds collected under this Article may be excluded by
8 the Secretary from each quarterly distribution with respect to which the
9 information was not provided in a timely manner, and those tax
10 proceeds shall then be distributed only to the remaining counties or
11 municipalities, as appropriate. For the purpose of computing the
12 distribution of the tax under this subsection to any county and the
13 municipalities located in the county for any quarter with respect to
14 which the property valuation of a public service company is the subject
15 of an appeal and the Department of Revenue is restrained by law from
16 certifying the valuation to the county and the municipalities in the
17 county, the Department shall use the last property valuation of the
18 public service company that has been certified.

19 The board of county commissioners in each taxing county shall, by resolution adopted
20 during the month of April of each year, determine which of the two foregoing methods of
21 distribution shall be in effect in the county during the next succeeding fiscal year. In
22 order for the resolution to be effective, a certified copy of it must be delivered to the
23 Secretary in Raleigh within 15 calendar days after its adoption. If the board fails to adopt
24 a resolution choosing a method of distribution not then in effect in the county, or if a
25 certified copy of the resolution is not timely delivered to the Secretary, the method of
26 distribution then in effect in the county shall continue in effect for the following fiscal
27 year. The method of distribution in effect on the first of July of each fiscal year shall
28 apply to every distribution made during that fiscal year.

29 (c) Municipality Defined. – As used in this Article, the term 'municipality' means
30 'city' as defined in ~~G.S. 153A-1~~ G.S. 153A-1, and also includes an urban service district
31 defined by the governing board of a consolidated city-county.

32 (d) The amount due an urban service district shall be distributed to the governing
33 board of the consolidated city-county."

34 Sec. 19. G.S. 105-473(e) reads as rewritten:

35 "(e) ~~If the Secretary of Revenue collects and administers the tax in a taxing county, the~~
36 The board of county commissioners, upon adoption of said resolution, shall cause a
37 certified copy of the resolution to be delivered immediately to the Secretary of Revenue,
38 accompanied by a certified statement from the county board of elections, if applicable,
39 setting forth the results of any special election approving the repeal of the tax in the
40 county."

41 Sec. 20. G.S. 105-482 reads as rewritten:

42 "**§ 105-482. Limitations.**

1 "(a) This Article applies only to counties that levy one percent (1%) sales and use
2 taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws.

3 (b) For the purposes of this Article, the term 'county' includes a consolidated city-
4 county, as defined by G.S. 160B-2(1)."

5 Sec. 21. G.S. 105-486(c) reads as rewritten:

6 "(c) Distribution Between Counties and Cities. – The amount allocated to each
7 taxing county shall then be divided among the county and its municipalities in
8 accordance with the method by which the one percent (1%) sales and use taxes levied in
9 that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session
10 Laws are distributed. If any taxes levied under this Article by a county have not been
11 collected in that county for a full quarter because of the levy or repeal of the taxes, the
12 Secretary shall distribute a pro rata share to that county for that quarter based on the
13 number of months the taxes were collected in that county during the quarter. The amount
14 due an urban service district defined by the governing board of a consolidated city-county
15 shall be distributed to the governing board of the consolidated city-county."

16 Sec. 22. G.S. 105-487 reads as rewritten:

17 **"§ 105-487. Use of additional tax revenue by counties and municipalities.**

18 (a) Except as provided in subsection (c), forty percent (40%) of the revenue
19 received by a county from additional one-half percent (1/2%) sales and use taxes levied
20 under this Article during the first five fiscal years in which the additional taxes are in
21 effect in the county and thirty percent (30%) of the revenue received by a county from
22 these taxes in the next 10 fiscal years in which the taxes are in effect in the county may
23 be used by the county only for public school capital outlay purposes or to retire any
24 indebtedness incurred by the county for these purposes.

25 (b) Except as provided in subsection (c), forty percent (40%) of the revenue
26 received by a ~~municipality~~ municipality, and forty percent (40%) of the revenue received
27 by a consolidated city-county because it is due a defined urban service district, from
28 additional one-half percent (1/2%) sales and use taxes levied under this Article during the
29 first five fiscal years in which the additional taxes are in effect in the municipality or
30 urban service district and thirty percent (30%) of the revenue received by a ~~municipality~~
31 municipality, and thirty (30%) of the revenue received by a consolidated city-county
32 because it is due to a defined urban service district, from these taxes in the second five
33 fiscal years in which the taxes are in effect in the municipality may be used by the
34 municipality or consolidated city-county only for water and sewage capital outlay
35 purposes or to retire any indebtedness incurred by the ~~municipality~~ municipality or the
36 consolidated city-county or its urban service districts or predecessor municipalities, for
37 these purposes.

38 (c) The Local Government Commission may, upon petition by a county or
39 municipality, authorize a county or municipality to use part or all its tax revenue,
40 otherwise required by subsection (a) or (b) to be used for public schools or water and
41 sewage capital needs, for any lawful purpose. The petition shall be in the form of a
42 resolution adopted by the ~~City Council or Board of County Commissioners~~ city council,
43 governing board of a consolidated city-county, or board of county commissioners and

1 transmitted to the Local Government Commission. The petition shall demonstrate that
2 the county or municipality can provide for its public school or water and sewage capital
3 needs without restricting the use of part or all of the designated amount of the additional
4 one-half percent (1/2%) sales and use tax revenue for these purposes.

5 In making its decision, the Local Government Commission shall consider information
6 contained in the petition concerning not only the public school or water and sewage
7 capital needs, but also the other capital needs of the petitioning county or municipality.
8 The Commission may also consider information from sources other than the petition.
9 The Commission shall issue a written decision on each petition stating the findings of the
10 Commission concerning the public school or water and sewage capital needs of the
11 petitioning county or municipality and the percentage of revenue otherwise restricted by
12 subsection (a) or (b) that may be used by the petitioning county or municipality for
13 any lawful purpose.

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

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

25 (e) A county or municipality may expend part or all of the revenue restricted for
26 public school or water and sewage capital needs pursuant to subsections (a) and (b) in the
27 fiscal year in which the revenue is received, or the county or municipality may place part
28 or all of this revenue in a capital reserve fund and shall specifically identify this revenue
29 in accordance with Chapter 159 of the General Statutes."

30 Sec. 23. G.S. 105-497 reads as rewritten:

31 "**§ 105-497. Limitations.**

32 (a) This Article applies only to counties and consolidated city-county units that
33 levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under
34 Chapter 1096 of the 1967 Session Laws and also levy one-half percent (1/2%) local sales
35 and use taxes under Article 40 of this Chapter.

36 (b) For the purposes of this Article, the terms 'county' or 'counties' includes a
37 consolidated city-county as defined by G.S. 160B-2(1)."

38 Sec. 24. G.S. 105-501 reads as rewritten:

39 "**§ 105-501. Distribution of additional taxes.**

40 The Secretary shall, on a quarterly basis, allocate the net proceeds of the additional
41 one-half percent (1/2%) sales and use taxes levied under this Article to the taxing
42 counties on a per capita basis according to the most recent annual population estimates
43 certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the

1 amount allocated to each county as provided in G.S. 105-486(b). The amount allocated
2 to each taxing county shall then be divided among the county and the municipalities
3 located in the county in accordance with the method by which the one percent (1%) sales
4 and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096
5 of the 1967 Session Laws are distributed.

6 If any taxes levied under this Article by a county have not been collected in that
7 county for a full quarter because of the levy or repeal of the taxes, the Secretary shall
8 distribute a pro rata share to that county for that quarter based on the number of months
9 the taxes were collected in that county during the quarter. The amount due an urban
10 service district shall be distributed to the governing board of the consolidated city-
11 county."

12 Sec. 25. G.S. 105-504 is amended by adding a new subsection to read:

13 "(f) The provisions of this section shall also apply to revenues from these taxes
14 received by a consolidated city-county, as defined by G.S. 160B-2(1), because the taxes
15 were due a defined urban service district."

16 Sec. 26. G.S. 136-41.1(b) reads as rewritten:

17 "(b) For purposes of this section and of G.S. 136-41.2 and 136-41.3, urban service
18 districts defined by the governing board of a consolidated city-county in which street
19 services are provided by the consolidated ~~city-county~~ city-county, as defined by G.S.
20 160B-2(1), shall be considered eligible municipalities, and the allocations to be made
21 thereby shall be made to the government of the consolidated city-county."

22 Sec. 27. This act becomes effective July 1, 1995.