

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 913

Short Title: Local Transit Revenue Options.

(Public)

---

Sponsors: Senators Gulley, Shaw of Cumberland; Ballance, Cooper, Dannelly, Horton, Hoyle, Jordan, Kinnaird, Ledbetter, Lucas, Miller, Odom, Phillips, Reeves, Rucho, Weinstein, Wellons, and Winner.

---

Referred to: Finance.

---

April 17, 1997

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

4 The General Assembly of North Carolina enacts:

5 Section 1. The title of Subchapter VIII of Chapter 105 of the General Statutes  
6 reads as rewritten:

7 "~~SUBCHAPTER VIII. LOCAL GOVERNMENT SALES AND USE TAX. TAXES.~~"

8 Section 2. Subchapter VIII of Chapter 105 of the General Statutes is amended  
9 by adding two new Articles to read:

10 **"ARTICLE 43.**

11 **"LOCAL GOVERNMENT SALES AND**  
12 **VEHICLE RENTAL TAXES FOR PUBLIC TRANSIT.**

13 **"§ 105-505. Short title; purpose.**

14 This Article shall be known as the Local Government Public Transit Tax Act. This  
15 Article gives Regional Public Transportation Authorities and the counties of this State an  
16 opportunity to obtain additional sources of revenue with which to meet their needs for  
17 financing local public transportation systems. It provides these local governments with

1 authority to levy one-half percent (1/2%) sales and use taxes and five percent (5%) gross  
2 receipts taxes on short-term vehicle rentals.

3 **"§ 105-506. Definitions.**

4 The definitions in G.S. 160A-601 and G.S. 105-164.3 and the following definitions  
5 apply to this Article:

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

7 (2) Motorcycle. – Defined in G.S. 20-4.01.

8 (3) Net proceeds. – Gross proceeds less the cost of administering and  
9 collecting the tax. In the case of a tax collected by a taxing unit, the  
10 cost of administering and collecting the tax shall be determined by the  
11 finance officer, but may not exceed seven percent (7%) of the gross  
12 proceeds.

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

14 (5) Public transportation system. – Any combination of real and personal  
15 property established for purposes of public transportation. The systems  
16 may include one or more of the following: structures, improvements,  
17 buildings, equipment, vehicle parking or passenger transfer facilities,  
18 railroads and railroad rights-of-way, rights-of-way, bus services, shared-  
19 ride services, high-occupancy vehicle facilities, car-pool and vanpool  
20 programs, voucher programs, telecommunications and information  
21 systems, integrated fare systems, bus lanes, and busways. The term  
22 does not include, however, streets, roads, or highways except to the  
23 extent they are dedicated to public transportation vehicles or to the  
24 extent they are necessary for access to vehicle parking or passenger  
25 transfer facilities.

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

28 (7) Taxing unit. – A Regional Public Transportation Authority or a county  
29 that levies a tax under this Article.

30 **"§ 105-507. Limitations.**

31 (a) Levy by County. – A county may not levy a tax under this Article unless the  
32 county or at least one unit of local government in the county operates a public  
33 transportation system.

34 (b) Levy by County Located in Authority. – A county may not levy a tax under  
35 this Article that has been levied by an Authority in which the county is located. A county  
36 may not levy a tax under this Article without giving an Authority in which it is located  
37 six months' written notice of its intent to levy. If a county located within an Authority  
38 has levied a tax under this Article, the Authority may levy the same tax, but the  
39 Authority's levy may not become effective before the end of six months after the  
40 adoption of a resolution levying the tax. The county's authority to levy the tax terminates  
41 upon the effective date of the levy of the same tax by the Authority in which the county is  
42 located.

1 (c) Levy by Authority. – An Authority may not levy or increase a tax under this  
2 Article unless the special tax board of the Authority and the board of county  
3 commissioners of each county organizing the Authority have first passed a resolution  
4 approving the levy or increase, except where the levy or increase in tax is necessary for  
5 debt service on bonds or notes that the special tax board and each of the boards of county  
6 commissioners had previously approved under G.S. 159-51.

7 **"§ 105-508. Local election on adoption of sales and use tax.**

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

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

18 **'[ ] FOR [ ] AGAINST**

19 One-half percent (1/2%) local sales and use taxes, in addition to the current two percent  
20 (2%) local sales and use taxes, to be used only for public transportation systems.'

21 **"§ 105-509. Levy and collection of sales and use tax.**

22 (a) Levy. – If the majority of those voting in a referendum held pursuant to this  
23 Article vote for the levy of the tax, the board of commissioners of the county or the board  
24 of trustees of the Authority may, by resolution, levy one-half percent (1/2%) local sales  
25 and use taxes in addition to any other State and local sales and use taxes levied pursuant  
26 to law. In addition, if no referendum has been held pursuant to this Article within five  
27 years at which the tax has been defeated, the board of commissioners of a county or the  
28 board of trustees of an Authority may, by resolution, after not less than 10 days' public  
29 notice and after a public hearing, levy one-half percent (1/2%) local sales and use taxes in  
30 addition to any other State and local sales and use taxes levied pursuant to law.

31 (b) Administration. – Except as provided in this Article, the adoption, levy,  
32 collection, administration, and repeal of these additional taxes shall be in accordance with  
33 Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this  
34 Article, references to 'this Article' mean 'Article 43 of Chapter 105 of the General  
35 Statutes'.

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

40 **"§ 105-510. Levy and collection of vehicle rental tax.**

41 (a) Levy. – The board of commissioners of a county or the board of trustees of an  
42 Authority may, by resolution, after not less than 10 days' public notice and after a public  
43 hearing, levy on a retailer who is engaged in the business of leasing or renting private

1 passenger vehicles or motorcycles a tax at a rate of up to five percent (5%) of the gross  
2 receipts derived by the retailer from the short-term lease or rental of these vehicles. A tax  
3 imposed under this section applies to short-term leases or rentals made by a retailer  
4 whose place of business or inventory is located within the jurisdiction of the taxing unit.  
5 This tax is in addition to all other taxes.

6 (b) Effective Date. – A tax imposed under this section becomes effective on the  
7 date set by the board of commissioners or the board of trustees in the resolution imposing  
8 the tax. The effective date must be the first day of a month and may not be earlier than  
9 the first day of the second month after the board adopts the resolution.

10 (c) Collection. – A tax imposed under this section shall be collected by the taxing  
11 unit but shall otherwise be administered in the same manner as the optional gross receipts  
12 tax imposed by G.S. 105-187.5. Like the optional gross receipts tax, a tax imposed under  
13 this section is to be added to the lease or rental price of a private passenger vehicle or  
14 motorcycle and thereby be paid by the person to whom it is leased or rented.

15 A tax imposed under this section applies regardless of whether the retailer who leases  
16 or rents the private passenger vehicle or motorcycle has elected to pay the optional gross  
17 receipts tax on the lease or rental receipts from the vehicle. A tax imposed under this  
18 section must be paid to the taxing unit by the date an optional gross receipts tax would be  
19 payable to the Secretary of Revenue under G.S. 105-187.5 if the retailer who leases or  
20 rents the private passenger vehicle or motorcycle had elected to pay the optional gross  
21 receipts tax.

22 (d) Penalties and Remedies. – The penalties and remedies that apply to local sales  
23 and use taxes imposed under this Subchapter apply to a tax imposed under this section.  
24 A taxing unit may exercise the same powers in collecting the tax imposed under this  
25 section that a county may exercise in collecting local sales and use taxes under this  
26 Subchapter.

27 (e) Exemptions and Refunds. – No exemptions are allowed from a tax imposed  
28 under this section. No refunds are allowed for a tax lawfully imposed under this section.

29 **"§ 105-511. Distribution and use of taxes.**

30 (a) Distribution of Sales and Use Taxes. – The Secretary shall, on a quarterly  
31 basis, allocate to each taxing unit the net proceeds of the tax levied under G.S. 105-509  
32 by that unit. If the Secretary collects taxes under this Article in a month and the taxes  
33 cannot be identified as being attributable to a particular taxing unit, the Secretary shall  
34 allocate these taxes among the taxing units in proportion to the amount of taxes collected  
35 in each unit under this Article in that month and shall include them in the quarterly  
36 distribution.

37 The Secretary shall distribute to each Authority the net proceeds of the tax levied by  
38 the Authority. The Secretary shall distribute the net proceeds of the tax levied by a  
39 county on a per capita basis among the county and the units of local government in the  
40 county that operate public transportation systems. No proceeds shall be distributed to a  
41 county that does not operate a public transportation system or to a unit of local  
42 government that does not operate a public transportation system.

1 (b) Distribution of Vehicle Rental Taxes. – An Authority that levies a tax under  
2 G.S. 105-510 shall retain the proceeds of the tax. A county that levies a tax under G.S.  
3 105-510 shall distribute the net proceeds of the tax quarterly on a per capita basis among  
4 the taxing county and the units of local government in the county that operate public  
5 transportation systems. No proceeds shall be distributed to a county that does not operate  
6 a public transportation system or to a unit of local government that does not operate a  
7 public transportation system.

8 (c) Use. – An Authority may use the proceeds of a tax levied under this Article to  
9 carry out its purposes provided in Article 26 of Chapter 160A of the General Statutes. A  
10 county or other unit of local government may use the net proceeds distributed to it under  
11 this Article only for financing, constructing, operating, and maintaining local public  
12 transportation systems.

#### 13 "ARTICLE 44.

#### 14 "LOCAL GOVERNMENT VEHICLE 15 REGISTRATION TAX FOR PUBLIC TRANSIT.

##### 16 "§ 105-514. Limitations.

17 This Article applies only to counties that are not located within the territorial  
18 jurisdiction of a Regional Public Transit Authority created pursuant to Article 26 of  
19 Chapter 160A of the General Statutes. A county may not levy a tax under this Article  
20 unless the county or at least one unit of local government in the county operates a public  
21 transportation system.

##### 22 "§ 105-515. Levy of vehicle registration tax.

23 The board of commissioners of a county may, by resolution, after not less than 10  
24 days' public notice and a public hearing, levy an annual registration tax on motor vehicles  
25 with a tax situs within the county. The tax must be a full dollar amount and may not  
26 exceed five dollars (\$5.00). A tax levied under this section is in addition to any other  
27 motor vehicle license or registration tax.

28 The tax applies to vehicles required to pay a tax under G.S. 20-88, except trailers, or  
29 pay a tax under G.S. 20-87(1), (2), (4), (5), (6), or (7). The tax situs of a motor vehicle for  
30 the purpose of this Article is its ad valorem tax situs. If the vehicle is not subject to ad  
31 valorem tax, its tax situs for the purpose of this Article is the ad valorem tax situs it  
32 would have if it were subject to ad valorem tax.

33 The effective date of a tax levied under this section must be the first day of a calendar  
34 month set by the board of commissioners in the resolution levying the tax and shall be no  
35 earlier than the first day of the third calendar month after the adoption of the resolution.

##### 36 "§ 105-516. Administration.

37 The Division of Motor Vehicles of the Department of Transportation shall collect and  
38 administer a tax levied under this section. Immediately after adopting a resolution  
39 levying, modifying, or repealing a tax under this section, the Commission shall deliver a  
40 certified copy of the resolution to the Division of Motor Vehicles. A tax levied under this  
41 section is due at the same time and subject to the same restrictions as the tax levied in  
42 G.S. 20-87 and G.S. 20-88. The tax shall be prorated in accordance with G.S. 20-95. The  
43 Commissioner of Motor Vehicles may adopt rules necessary to administer the tax.

1 **"§ 105-517. Modification or repeal of tax.**

2 The board of commissioners of a county may, by resolution, repeal the levy of the tax  
3 under this section, or increase or decrease the rate of tax, under the same procedures as  
4 provided in G.S. 105-515. The repeal, increase, or decrease of the tax shall become  
5 effective on the first day of a month and may not become effective before the first day of  
6 the third calendar month after the adoption of the resolution. The repeal or reduction of a  
7 tax under this Article does not affect a liability for a tax that attached before the effective  
8 date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued  
9 before the effective date of the repeal or reduction.

10 **"§ 105-518. Distribution and use of tax proceeds.**

11 The Commissioner of Motor Vehicles shall credit the proceeds of each tax levied  
12 under this Article to a special account and distribute the net proceeds on a quarterly basis.  
13 Interest on the special account shall be credited quarterly to the Highway Fund to  
14 reimburse the Division of Motor Vehicles for the cost of collecting and administering the  
15 tax.

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

22 A unit of local government may use the proceeds distributed to it under this Article  
23 only for financing, constructing, operating, and maintaining local public transportation  
24 systems. As used in this section, the term 'public transportation system' has the meaning  
25 provided in G.S. 105-506."

26 Section 3. Article 9 of Chapter 160A of the General Statutes is amended by  
27 adding a new section to read:

28 **"§ 160A-211.2. Privilege license tax on nonresidential parking spaces.**

29 (a) Authorization. – A city may levy an annual privilege license tax on every  
30 person who owns parking spaces and provides them to others, at the rate of up to five  
31 dollars (\$5.00) per parking space. The tax applies whether the spaces are provided to  
32 others free of charge, pursuant to a lease, or for a fee. The tax applies to parking spaces  
33 owned as of January 1. If the owner disposes of a parking space during the year, the tax  
34 on that space for the year shall be reduced in proportion to the number of months during  
35 the year it was not owned by the taxpayer.

36 (b) Exemptions. – A tax levied under this section does not apply to:

37 (1) A person who owns 10 or fewer parking spaces.

38 (2) A federal, State, or local government agency.

39 (3) Parking spaces provided exclusively for residential parking.

40 (4) Parking spaces owned by a nonprofit religious organization and  
41 provided to others free of charge.

42 (c) Collection. – A tax levied under this section shall be billed with the taxpayer's  
43 property taxes, is payable in the same manner as property taxes, and, in the case of

1 nonpayment, may be collected in any manner by which delinquent personal or real  
2 property taxes can be collected. Delinquent taxes are a lien on the real property that  
3 includes the parking spaces on which the taxes are levied."

4           Section 4. This act is effective when it becomes law.

5           Section 5. A tax levied under Article 43 of Chapter 105 of the General  
6 Statutes, as enacted by this act, does not apply to construction materials purchased to  
7 fulfill a lump sum or unit price contract entered into or awarded before the effective date  
8 of the levy or entered into or awarded pursuant to a bid made before the effective date of  
9 the levy when the construction materials would otherwise be subject to the tax levied  
10 under Article 43 of Chapter 105 of the General Statutes.