

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

D

SENATE DRS55310-LB-219B (3/6)

Short Title: Regional Transportation Authorities.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REORGANIZE THE STATUTES RELATING TO REGIONAL PUBLIC  
3 TRANSPORTATION AND TO AUTHORIZE UNITS OF LOCAL GOVERNMENT TO  
4 CREATE REGIONAL TRANSPORTATION FUNDING AGREEMENTS AND TO  
5 PROVIDE FOR FINANCING.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. The General Statutes are amended by adding a new Chapter to read:

8 "Chapter 136A.

9 "Regional Transportation Authorities.

10 "Article 1.

11 "Regional Transportation Funding Agreements.

12 "§ 136A-101. Joint agency.

13 (a) In accordance with Article 20 of Chapter 160A of the General Statutes, two or more  
14 eligible units of local government may constitute a joint agency for the financing, construction,  
15 and operation of regional transportation projects pursuant to a Regional Transportation Funding  
16 Agreement (RTFA). Such joint agency is not a body politic and corporate, and the separate  
17 existences and powers of the participating local governments are not affected by the agreement,  
18 but powers may be delegated among the members pursuant to the interlocal agreement.

19 (b) Local governments are eligible to enter into an RTFA provided each of the  
20 following conditions is satisfied as of the date of execution of the agreement:

21 (1) All local government that are parties to the RTFA must be located within the  
22 boundaries of a single EPA boundary designation under the Clean Air Act  
23 for the eight-hour ozone standard for North Carolina (an "ozone attainment  
24 area").

25 (2) Within the applicable ozone attainment area there is not more than one  
26 Metropolitan Planning Organization (MPO) under G.S. 136-200, et seq.,  
27 operating within that ozone attainment area. Multiple MPOs within the  
28 ozone attainment area disqualify all local governments within that ozone  
29 attainment area from being parties to an RTFA.

30 (3) The minimum number of parties to an RTFA are as follows: (i) all counties  
31 that are included within the boundaries of the ozone attainment area, plus (ii)  
32 all municipalities that are included within the boundaries of the ozone  
33 attainment area having a population of over 5,000 persons as of the most  
34 recent decennial federal census.





"Regional Transportation Funding Agreement Sales Tax.

**"§ 105-540.1. Short title.**

This Article shall be known as the Regional Transportation Funding Agreement Sales Tax Act.

**"§ 105-540.2. Applicability.**

This Article applies only to a county that is a party to a Regional Transportation Funding Agreement (hereinafter "RTFA") under Article 1 of Chapter 136A of the General Statutes.

**"§ 105-540.3. Purpose and intent.**

It is the purpose of this Article to afford the counties that are parties to a Regional Transportation Funding Agreement with the opportunity to obtain an added source of revenue with which to meet their transportation needs by providing those counties authority to levy a one-half percent (1/2%) sales and use tax as hereinafter provided.

**"§ 105-540.4. Levy of tax.**

(a) A county board of commissioners may after not less than 10 days' public notice and after a public hearing held pursuant thereto, by resolution, impose and levy the local sales and use tax, but the tax is not effective unless it is levied by all counties who are members of the RTFA, or it may be levied by none.

(b) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of the month of either January or July, as set by order of the joint agency administering an RTFA after receiving notices that all counties that are party to an RTFA have passed resolutions levying the tax. In no event may the tax be imposed earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The joint agency must give the Secretary at least 90 days' advance notice of a new tax levy. The applicability of a new tax to purchases from printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax.

(d) Upon adoption of a resolution levying the tax, the board of county commissioners shall immediately deliver a certified copy of the resolution to the Secretary of Revenue. Upon approval of resolutions levying the tax by all counties that are party to the RTFA, the joint agency shall deliver to the Secretary a certified copy of its order setting the effective date of the tax. Upon receipt of these documents, the Secretary shall collect and administer the tax as provided in this Article.

**"§ 105-540.5. Secretary to collect and administer local sales and use tax.**

(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county.

**"§ 105-540.6. Disposition and distribution of taxes collected.**

The Secretary shall, on a monthly basis, allocate to each taxing county for which the Secretary collects the tax the net proceeds of the tax collected in that county under this Article. The funds shall be expended only in accordance with the RTFA. The RTFA may require the funds to be paid over to the joint agency. For the purpose of this section, "net proceeds" means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. If the Secretary collects local sales or use taxes in a month, and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the monthly distribution. Amounts collected by electronic funds

1 transfer payments are included in the distribution for the month in which the return that applies  
 2 to the payment is received.

3 **"§ 105-540.7. Expiration or repeal of levy.**

4 (a) Any tax levied under such Article shall expire the next of the first day of January or  
 5 July that occurs no earlier than the first day of the third month after dissolution of the RTFA or  
 6 completion of the last project placed on any annual project list of the RTFA.

7 (b) In addition, all the counties that are parties to an RTFA may repeal the levy by  
 8 resolution, to be effective on the next of the first day of January or July that occurs no earlier  
 9 than the first day of the third month after the adoption of the final resolution or repeal. The  
 10 repeal is not effective unless all counties that are parties to an RTFA have adopted such  
 11 resolutions.

12 (c) The board of county commissioners, upon adoption of said resolution, shall cause a  
 13 certified copy of the resolution to be delivered immediately to the Secretary of Revenue.

14 (d) No liability for any tax levied under this Article, which shall have attached prior to  
 15 the effective date on which a levy is terminated, shall be discharged as a result of such  
 16 termination, and no right to a refund of tax or otherwise, which shall have accrued prior to the  
 17 effective date on which a levy is terminated shall be denied as a result of such termination.

18 **"§ 105-540.8. Administration of taxes; exemption of food.**

19 (a) Except as provided in this Article, the adoption, levy, collection, administration, and  
 20 repeal of these additional taxes must be in accordance with Article 39 of this Chapter.  
 21 G.S. 105-468.1 is an administrative provision that applies to this Article.

22 (b) A tax levied under this Article does not apply to the sales price of food that is  
 23 exempt from tax pursuant to G.S. 105-164.13B.

24 **"§ 105-540.9. Limitation on administrative expenses.**

25 No part of tax proceeds under this Article may be used to fund costs of administration of  
 26 the RTFA; all such costs are to be funded by members from other revenues available to them."

27 **SECTION 3.(a)** Article 25 of Chapter 160A of the General Statutes, entitled  
 28 "Public Transportation Authorities," is recodified as Article 2 of Chapter 136A of the General  
 29 Statutes.

30 **SECTION 3.(b)** The following sections of Article 25 of Chapter 160A of the  
 31 General Statutes recodified by subsection (a) of this section shall have the designations under  
 32 Article 2 of Chapter 136A of the General Statutes as follows, and the Revisor of Statutes shall  
 33 change any cross references to those sections, or to Article 25, accordingly:

CURRENT	RECODIFIED
160A-575	136A-201
160A-576	136A-202
160A-577	136A-203
160A-578	136A-204
160A-579	136A-205
160A-580	136A-206
160A-581	136A-207
160A-582	136A-208
160A-583	136A-209
160A-584	136A-210
160A-585	136A-211
160A-586	136A-212
160A-587	136A-213
160A-588	136A-214

34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49 **SECTION 4.(a)** Article 26 of Chapter 160A of the General Statutes, entitled  
 50 "Regional Public Transportation Authority," is recodified as Article 3 of Chapter 136A of the  
 51 General Statutes.

1           **SECTION 4.(b)** The following sections of Article 26 of Chapter 160A of the  
2 General Statutes recodified by subsection (a) of this section shall have the designations under  
3 Article 3 of Chapter 136A of the General Statutes as follows, and the Revisor of Statutes shall  
4 change any cross references to those sections, or to Article 26, accordingly:

5	CURRENT	RECODIFIED
---	---------	------------

6	160A-600	136A-301
---	----------	----------

7	160A-601	136A-302
---	----------	----------

8	160A-602	136A-303
---	----------	----------

9	160A-603	136A-304
---	----------	----------

10	160A-604	136A-305
----	----------	----------

11	160A-605	136A-306
----	----------	----------

12	160A-606	136A-307
----	----------	----------

13	160A-607	136A-308
----	----------	----------

14	160A-607.1	136A-309
----	------------	----------

15	160A-608	136A-310
----	----------	----------

16	160A-609	136A-311
----	----------	----------

17	160A-610	136A-312
----	----------	----------

18	160A-611	136A-313
----	----------	----------

19	160A-612	136A-314
----	----------	----------

20	160A-613	136A-315
----	----------	----------

21	160A-613.1	136A-316
----	------------	----------

22	160A-614	136A-317
----	----------	----------

23	160A-615	136A-318
----	----------	----------

24	160A-616	136A-319
----	----------	----------

25	160A-617	136A-320
----	----------	----------

26	160A-618	136A-321
----	----------	----------

27	160A-619	136A-322
----	----------	----------

28	160A-620	136A-323
----	----------	----------

29	160A-621	136A-324
----	----------	----------

30	160A-622	136A-325
----	----------	----------

31	160A-624	136A-326
----	----------	----------

32	160A-625	136A-327
----	----------	----------

33	160A-626	136A-328
----	----------	----------

34	160A-627	136A-329
----	----------	----------

35           **SECTION 5.(a)** Article 27 of Chapter 160A of the General Statutes, entitled  
36 "Regional Transportation Authority," is recodified as Article 4 of Chapter 136A of the General  
37 Statutes.

38           **SECTION 5.(b)** The following sections of Article 27 of Chapter 160A of the  
39 General Statutes recodified by subsection (a) of this section shall have the designations under  
40 Article 4 of Chapter 136A of the General Statutes as follows, and the Revisor of Statutes shall  
41 change any cross references to those sections, or to Article 27, accordingly:

42	160A-630	136A-401
----	----------	----------

43	160A-631	136A-402
----	----------	----------

44	160A-632	136A-403
----	----------	----------

45	160A-633	136A-404
----	----------	----------

46	160A-634	136A-405
----	----------	----------

47	160A-635	136A-406
----	----------	----------

48	160A-636	136A-407
----	----------	----------

49	160A-637	136A-408
----	----------	----------

50	160A-638	136A-409
----	----------	----------

51	160A-639	136A-410
----	----------	----------

1	160A-640	136A-411
2	160A-641	136A-412
3	160A-642	136A-413
4	160A-643	136A-414
5	160A-644	136A-415
6	160A-645	136A-416
7	160A-646	136A-417
8	160A-647	136A-418
9	160A-648	136A-419
10	160A-649	136A-420
11	160A-650	136A-421
12	160A-651	136A-422
13	<b>SECTION 6.</b> This act is effective when it becomes law.	