

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1363\*  
Second Edition Engrossed 6/4/90  
House Committee Substitute Favorable 7/11/90

Short Title: Property Tax Appeals/Technical Changes.

(Public)

Sponsors:

Referred to:

May 23, 1990

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE TIME ALLOWED FOR FILING CERTAIN PROPERTY TAX APPEALS, TO MAKE THE PENALTY FOR SUBMITTING A BAD CHECK IN PAYMENT OF PROPERTY TAXES THE SAME AS FOR SUBMITTING A BAD CHECK IN PAYMENT OF OTHER TAXES, AND TO MAKE TECHNICAL CORRECTIONS TO THE PROPERTY TAX STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-290(e) reads as rewritten:

"(e) Time Limits for Appeals. ~~A notice of appeal from an order of a board of equalization and review shall be filed with the Property Tax Commission within 30 days after the board of equalization and review has mailed a notice of its decision to the property owner. A notice of appeal from an order of a board of commissioners concerning the listing, appraisal, or assessment of property shall be filed with the Property Tax Commission within 30 days after the board of county commissioners enters the order.~~ A notice of appeal from an order of a board of county commissioners, other than an order adopting a uniform schedule of values, or from a board of equalization and review shall be filed with the Property Tax Commission within 30 days after the date the board mailed a notice of its decision to the property owner. A notice of appeal from an order adopting a schedule of values shall be filed within the time set in subsection (c)."

Sec. 2. G.S. 105-290(g) reads as rewritten:

1       "(g) ~~What Constitutes Filing. A notice of appeal is considered to be filed with the~~  
2 ~~Property Tax Commission when it is received in the office of the Commission. A notice~~  
3 ~~of appeal submitted to the Property Tax Commission by a means other than United~~  
4 ~~States mail is considered to be filed on the date it is received in the office of the~~  
5 ~~Commission. A notice of appeal submitted to the Property Tax Commission by United~~  
6 ~~States mail is considered to be filed on the date shown on the postmark stamped by the~~  
7 ~~United States Postal Service. If an appeal submitted by United States mail is not~~  
8 ~~postmarked or the postmark does not show the date of mailing, the appeal is considered~~  
9 ~~to be filed on the date it is received in the office of the Commission. A property owner~~  
10 ~~who files an appeal with the Commission has the burden of proving that the appeal is~~  
11 ~~timely."~~

12               Sec. 3. G.S. 153A-149(c) reads as rewritten:

13       "(c) Each county may levy property taxes for one or more of the purposes listed in  
14 this subsection up to ~~an effective a~~ combined rate of one dollar and fifty cents (\$1.50) on  
15 the one hundred dollars (\$100.00) appraised value of property subject to ~~taxation before~~  
16 ~~the application of any assessment ratio. taxation.~~ ~~To find the actual rate limit for a particular~~  
17 ~~county, divide the effective rate limit of one dollar and fifty cents (\$1.50) by the county~~  
18 ~~assessment ratio.~~ Authorized purposes subject to the rate limitation are:

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

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

- 1 (22) Mental Health. – To provide for the county's share of the cost of  
2 maintaining and administering services offered by or through the  
3 area mental health, developmental disabilities, and substance abuse  
4 authority.
- 5 (23) Open Space. – To acquire open space land and easements in  
6 accordance with Article 19, Part 4, Chapter 160A of the General  
7 Statutes.
- 8 (24) Parking. – To provide off-street lots and garages for the parking  
9 and storage of motor vehicles.
- 10 (25) Parks and Recreation. – To establish, support and maintain public  
11 parks and programs of supervised recreation.
- 12 (26) Planning. – To provide for a program of planning and regulation of  
13 development in accordance with Article 18 of this Chapter and  
14 Article 19, Parts 3A and 6, of Chapter 160A of the General  
15 Statutes.
- 16 (27) Ports and Harbors. – To participate in programs with the North  
17 Carolina Ports Authority and provide for harbor masters.
- 18 (27a) Railway Corridor Preservation. – To acquire property for railroad  
19 corridor preservation as authorized by G.S. 160A-498.
- 20 (28) Register of Deeds. – To provide for the operation of the office of  
21 the register of deeds of the county.
- 22 (29) Sewage. – To provide sewage collection and treatment services as  
23 defined in G.S. 153A-274(2).
- 24 (30) Social Services. – To provide for the public welfare through the  
25 maintenance and administration of public assistance programs not  
26 required by Chapters 108A and 111 of the General Statutes, and by  
27 establishing and maintaining a county home.
- 28 (31) Solid Waste. – To provide solid waste collection and disposal  
29 services, and to acquire and operate landfills.
- 30 (31a) Stormwater. – To provide structural and natural stormwater and  
31 drainage systems of all types.
- 32 (32) Surveyor. – To provide for a county surveyor.
- 33 (33) Veterans' Service Officer. – To provide for the county's share of the  
34 cost of services offered by or through the county veterans' service  
35 officer.
- 36 (34) Water. – To provide water supply and distribution systems.
- 37 (35) Watershed Improvement. – To undertake watershed improvement  
38 projects.
- 39 (36) Water Resources. – To participate in federal water resources  
40 development projects.
- 41 (37) Armories. – To supplement available State or federal funds to be  
42 used for the construction (including the acquisition of land),  
43 enlargement or repair of armory facilities for the North Carolina  
44 national guard.

1 (38) Railway Corridor Preservation. – To acquire property for railroad  
2 corridor preservation as authorized by G.S. 160A-498."

3 Sec. 4. G.S. 153A-149(d) reads as rewritten:

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

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

20 The proposition submitted to the voters shall be substantially in one of the following  
21 forms:

22 (1) Shall ..... County be authorized to levy annually a property tax at ~~an~~  
23 ~~effective~~ a rate not in excess of ..... cents on the one hundred dollars (\$100.00) value of  
24 property subject to taxation for the purpose of .....?

25 (2) Shall ..... County be authorized to levy annually a property tax at a rate  
26 not in excess of that which will produce \$..... for the purpose of .....?

27 (3) Shall ..... County be authorized to levy annually a property tax  
28 without restriction as to rate or amount for the purpose of .....?

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

32 The board of elections shall canvass the referendum and certify the results to the  
33 board of commissioners. The board of commissioners shall then certify and declare the  
34 result of the referendum and shall publish a statement of the result once, with the  
35 following statement appended: 'Any action or proceeding challenging the regularity or  
36 validity of this tax referendum must be begun within 30 days after (date of publication).'  
37 The statement of results shall be filed in the clerk's office and inserted in the minutes of  
38 the board.

39 Any action or proceeding in any court challenging the regularity or validity of a tax  
40 referendum must be begun within 30 days after the publication of the results of the  
41 referendum. After the expiration of this period of limitation, no right of action or  
42 defense based upon the invalidity of or any irregularity in the referendum shall be  
43 asserted, nor shall the validity of the referendum be open to question in any court upon

1 any ground whatever, except in an action or proceeding begun within the period of  
2 limitation prescribed herein.

3 Except for supplemental school taxes and except for tax referendums on functions  
4 not included in subsection (c) of this section, any referendum held before July 1,  
5 1973, on the levy of property taxes is not valid for the purposes of this subsection.  
6 Counties in which such referendums have been held may support programs formerly  
7 supported by voted property taxes within the general rate limitation set out in subsection  
8 (c) at any appropriate level and are not subject to the former voted rate limitation."

9 Sec. 5. G.S. 153A-149(e) reads as rewritten:

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

16 The proposition submitted to the voters shall be substantially in the following form:  
17 'Shall the ~~effective~~ property tax rate limitation applicable to ..... County be increased  
18 from ..... on the one hundred dollars (\$100.00) value of property subject to taxation to  
19 ..... on the one hundred dollars (\$100.00) value of property subject to taxation?'

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

22 Sec. 6. G.S. 160A-209(e) reads as rewritten:

23 "(e) With an approving vote of the people, any city may levy property taxes for  
24 any purpose for which the city is authorized by its charter or general law to appropriate  
25 money. Any property tax levy approved by a vote of the people shall not be counted for  
26 purposes of the rate limitation imposed in subsection (d).

27 The city council may call a referendum on approval of a property tax levy. The  
28 referendum may be held at the same time as any other city referendum or city election,  
29 but may not be otherwise held (i) on the day of any federal, State, district, or county  
30 election already validly called or scheduled by law at the time the tax referendum is  
31 called, or (ii) within the period of time beginning 30 days before and ending 10 days  
32 after the day of any other city referendum or city election already validly called or  
33 scheduled by law at the time the tax referendum is called. The referendum shall be  
34 conducted by the same board of elections that conducts regular city elections. A notice  
35 of referendum shall be published in accordance with G.S. 163-287. The notice shall  
36 state the date of the referendum, the purpose for which it is being held, and a statement  
37 as to the last day for registration for the referendum under the election laws then in  
38 effect.

39 The proposition submitted to the voters shall be substantially in one of the following  
40 forms:

41 (1) Shall the City/Town of ..... be authorized to levy annually a property  
42 tax at ~~an effective~~ a rate not in excess of ..... cents on the one hundred dollars (\$100.00)  
43 value of property subject to taxation for the purpose of .....?

1 (2) Shall the City/Town of ..... be authorized to levy annually a property  
2 tax at a rate not in excess of that which will produce \$ ..... for the purpose of  
3 .....

4 (3) Shall the City/Town of ..... be authorized to levy annually a property  
5 tax without restriction as to rate or amount for the purpose of .....

6 If a majority of those participating in the referendum approve the proposition, the  
7 city council may proceed to levy annually a property tax within the limitations (if any)  
8 described in the proposition. ~~Unless otherwise provided in the proposition submitted to the~~  
9 ~~voters, a vote on a property tax levy not to exceed a specified rate per one hundred dollars~~  
10 ~~(\$100.00) value of property subject to taxation is a vote on an effective rate per one hundred~~  
11 ~~dollars (\$100.00) of appraised value of property before the application of any assessment ratio.~~

12 The board of elections shall canvass the referendum and certify the results to the city  
13 council. The council shall then certify and declare the result of the referendum and shall  
14 publish a statement of the result once, with the following statement appended: 'Any  
15 action or proceeding challenging the regularity or validity of this tax referendum must  
16 be begun within 30 days after (date of publication).' The statement of results shall be  
17 filed in the clerk's office and inserted in the minutes of the council.

18 Any action or proceeding in any court challenging the regularity or validity of a tax  
19 referendum must be begun within 30 days after the publication of the results of the  
20 referendum. After the expiration of this period of limitation, no right of action or  
21 defense based upon the invalidity of or any irregularity in the referendum shall be  
22 asserted, nor shall the validity of the referendum be open to question in any court upon  
23 any ground whatever, except in an action or proceeding begun within the period of  
24 limitation prescribed herein.

25 Except for tax referendums on functions not included in subsection (c) of this  
26 section, any referendum held before July 1, 1973, on the levy of property taxes is not  
27 valid for the purposes of this subsection. Cities in which such referendums have been  
28 held may support programs formerly supported by voted property taxes within the  
29 general rate limitations set out in subsection (d) at any appropriate level and are not  
30 subject to the former voted rate limitation."

31 Sec. 7. G.S. 160A-209(f) reads as rewritten:

32 "(f) With an approving vote of the people, any city may increase the property tax rate  
33 limitation imposed in subsection (c) and may call a referendum for that purpose. The  
34 referendum may be held at the same time as any other city referendum or election, but  
35 may not be otherwise held (i) on the day of any federal, State, district, or county  
36 election, or (ii) within the period of time beginning 30 days before and ending 30 days  
37 after the day of any other city referendum or city election. The election shall be  
38 conducted by the same board of elections that conducts regular city elections.

39 The proposition submitted to the voters shall be substantially in the following form:  
40 'Shall the ~~effective~~ property tax rate limitation applicable to the City/Town of .....  
41 be increased from ..... on the one hundred dollars (\$100.00) value of property subject  
42 to taxation to ..... on the one hundred dollars (\$100.00) value of property subject to  
43 taxation?'

1 If a majority of those participating in the referendum approve the proposition, the  
2 rate limitation imposed in subsection (c) shall be increased for the city."

3 Sec. 8. G.S. 105-357(b)(2) reads as rewritten:

4 "(2) Penalty. – In addition to interest for nonpayment of taxes provided by  
5 G.S. 105-360 and in addition to any criminal penalties provided by law  
6 for the giving of worthless checks, the penalty for giving in payment of  
7 taxes a check that is returned because of insufficient funds or  
8 nonexistence of an account of the drawer ~~shall be~~ is ten percent (10%)  
9 of the amount of the ~~check~~ check, subject to a minimum of one dollar  
10 (\$1.00) and a maximum of one thousand dollars (\$1,000). This  
11 penalty does not apply if the tax collector finds that, when the check  
12 was presented for payment, the drawer of the check had sufficient  
13 funds in an account at a financial institution in this State to pay the  
14 check and, by inadvertance, the drawer of the check failed to draw the  
15 check on the account that had sufficient funds. This penalty shall be  
16 added to and collected in the same manner as the taxes for which the  
17 check was given."

18 Sec. 9. G.S. 105-236(1) reads as rewritten:

19 "(1) Penalty for Bad Checks. – When the bank upon which any uncertified  
20 check tendered to the Department of Revenue in payment of any  
21 obligation due to the Department, ~~shall refuse payment upon such check on~~  
22 ~~account of insufficient funds of the drawer in such bank, and such check~~  
23 ~~shall be returned to the Department of Revenue, Department returns the~~  
24 ~~check because of insufficient funds or the nonexistence of an account~~  
25 ~~of the drawer, an additional tax shall be imposed, which additional tax~~  
26 ~~shall be equal to ten percent (10%) of the obligation for the payment of~~  
27 ~~whcih such check was tendered: Provided, however, that in no case shall the~~  
28 ~~additional tax so imposed be less than one dollar (\$1.00) nor more than two~~  
29 ~~hundred dollars (\$200.00). Provided, further, no additional tax shall be~~  
30 ~~imposed if the Secretary of Revenue shall find that the drawer of such check,~~  
31 ~~at the time it was presented to the drawee, had funds deposited to his credit~~  
32 ~~in any bank of this State suffieient to pay such check, and, by inadvertence,~~  
33 ~~failed to draw the check upon the bank in which he had such funds on~~  
34 ~~deposit. check shall be imposed, subject to a minimum of one dollar~~  
35 ~~(\$1.00) and a maximum of one thousand dollars (\$1,000). This~~  
36 ~~penalty does not apply if the Secretary of Revenue finds that, when the~~  
37 ~~check was presented for payment, the drawer of the check had~~  
38 ~~sufficient funds in an account at a financial institution in this State to~~  
39 ~~pay the check and, by inadvertance, the drawer of the check failed to~~  
40 ~~draw the check on the account that had sufficient funds. The~~  
41 ~~additional tax hereby imposed shall~~ may not be waived or diminished  
42 by the Secretary of Revenue. ~~This section shall apply~~ subsection  
43 applies to all taxes levied or assessed by the State."

44 Sec. 10. This act is effective upon ratification.