

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

1

SENATE BILL 910

Short Title: Regional Transportation Authorities. (Public)

Sponsors: Senator Clodfelter.

Referred to: Commerce.

March 26, 2009

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.

35 (4) No local government whose territory is included within the boundaries of an  
36 authority created under Article 25, Article 26, or Article 27 of Chapter 160A  
37 of the General Statutes may participate in an RTFA.



1 (c) As used in this Article, "attainment area" has the same meaning as in 40 C.F.R. §  
2 81.334 or other appropriate federal statute or regulation or State Implementation Plan under the  
3 Clean Air Act, 42 U.S.C § 7410.

4 (d) The qualification or disqualification tests provided in subdivisions (b)(1), (b)(2) and  
5 (b)(3) of this section apply only at the time the RTFA is entered into.

6 (e) A copy of each agreement shall be filed with the Secretary of State and with the  
7 Secretary of Revenue, as well as any amendment to such agreement.

8 **"§ 136A-102. Governance.**

9 Decision making with respect to the joint agency and the RTFA is to be allocated among  
10 the participating members in the manner set out in the RTFA. The RTFA shall include  
11 provisions for the collection, administration, disbursement, and accounting for all funds that are  
12 handled pursuant to the RTFA, all consistent with the Local Government Finance Act.

13 **"§ 136A-103. Annual list of eligible transportation projects.**

14 Among other provisions, the RTFA must provide for the preparation and for annual  
15 updating of a list of transportation projects eligible for funding under the RTFA. Projects shall  
16 have the following characteristics: (i) must be consistent with MPO plans; (ii) if a roadway  
17 project, must show a demonstrated ability to improve regional air quality and increase  
18 likelihood of attainment of the eight-hour ozone standard; (iii) if a roadway project, must  
19 substantially increase connectivity among different parts of the region; and (iv) if a public  
20 transportation or mass transit project, must show a demonstrated ability to reduce roadway  
21 congestion and improve regional air quality. All projects on the list must be capable of  
22 construction, completion, and opening not later than seven years from date placed on the list.  
23 Based on total project cost, no less than thirty-five percent (35%) of projects shall be public  
24 transportation or mass transit projects. The list must include at least one project located wholly  
25 or partly in each county that is a member of the RTFA.

26 **"§ 136A-104. Revenues.**

27 (a) In addition to any other funds that may be contributed by the participating units of  
28 local government under the RTFA, and in addition to all other federal, State, and local funds  
29 that may be available for such projects, counties that are participants in the RTFA may levy the  
30 following additional taxes, for the sole and exclusive purpose of financing the planning, design,  
31 right-of-way acquisition for, and construction of projects that are included on the RTFA project  
32 list:

33 (1) As provided in Article 47 of Chapter 105 of the General Statutes, a sales and  
34 use tax of one-half percent (1/2%).

35 (2) A tax of five cents (5¢) per gallon tax on retail sale of gasoline and diesel  
36 fuel.

37 (b) The levy of any tax under this section is subject to the following additional  
38 conditions and restrictions:

39 (1) The tax must be levied by all counties who are members of the RTFA, or it  
40 may be levied by none.

41 (2) No part of tax proceeds may be used to fund costs of administration of the  
42 RTFA; all such costs are to be funded by members from other revenues  
43 available to them.

44 (3) Any tax shall expire upon the later of dissolution of the RTFA or completion  
45 of the last project placed on any annual project list of the RTFA."

46 **SECTION 2.** Chapter 105 of the General Statutes is amended by adding a new  
47 Article to read:

48 "Article 47.

49 "Regional Transportation Funding Agreement Sales Tax.

50 **"§ 105-540.1. Short title.**

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

3 **"§ 105-540.2. Applicability.**

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

6 **"§ 105-540.3. Purpose and intent.**

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

11 **"§ 105-540.4. Levy of tax.**

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

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

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

31 **"§ 105-540.5. Secretary to collect and administer local sales and use tax.**

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

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

38 **"§ 105-540.6. Disposition and distribution of taxes collected.**

39 The Secretary shall, on a monthly basis, allocate to each taxing county for which the  
40 Secretary collects the tax the net proceeds of the tax collected in that county under this Article.  
41 The funds shall be expended only in accordance with the RTFA. The RTFA may require the  
42 funds to be paid over to the joint agency. For the purpose of this section, "net proceeds" means  
43 the gross proceeds of the tax collected in each county under this Article less taxes refunded, the  
44 cost to the State of collecting and administering the tax in the county as determined by the  
45 Secretary, and other deductions that may be charged to the county. If the Secretary collects  
46 local sales or use taxes in a month, and the taxes cannot be identified as being attributable to a  
47 particular taxing county, the Secretary shall allocate the taxes among the taxing counties in  
48 proportion to the amount of taxes collected in each county under this Article during that month  
49 and shall include them in the monthly distribution. Amounts collected by electronic funds  
50 transfer payments are included in the distribution for the month in which the return that applies  
51 to the payment is received.

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

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

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

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

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

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

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

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

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

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

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

**SECTION 3.(b)** The following sections of Article 25 of Chapter 160A of the General Statutes recodified by subsection (a) of this section shall have the designations under Article 2 of Chapter 136A of the General Statutes as follows, and the Revisor of Statutes shall 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

**SECTION 4.(a)** Article 26 of Chapter 160A of the General Statutes, entitled "Regional Public Transportation Authority," is recodified as Article 3 of Chapter 136A of the General Statutes.

**SECTION 4.(b)** The following sections of Article 26 of Chapter 160A of the General Statutes recodified by subsection (a) of this section shall have the designations under

1 Article 3 of Chapter 136A of the General Statutes as follows, and the Revisor of Statutes shall  
2 change any cross references to those sections, or to Article 26, accordingly:

3	CURRENT	RECODIFIED
4	160A-600	136A-301
5	160A-601	136A-302
6	160A-602	136A-303
7	160A-603	136A-304
8	160A-604	136A-305
9	160A-605	136A-306
10	160A-606	136A-307
11	160A-607	136A-308
12	160A-607.1	136A-309
13	160A-608	136A-310
14	160A-609	136A-311
15	160A-610	136A-312
16	160A-611	136A-313
17	160A-612	136A-314
18	160A-613	136A-315
19	160A-613.1	136A-316
20	160A-614	136A-317
21	160A-615	136A-318
22	160A-616	136A-319
23	160A-617	136A-320
24	160A-618	136A-321
25	160A-619	136A-322
26	160A-620	136A-323
27	160A-621	136A-324
28	160A-622	136A-325
29	160A-624	136A-326
30	160A-625	136A-327
31	160A-626	136A-328
32	160A-627	136A-329

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

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

40	160A-630	136A-401
41	160A-631	136A-402
42	160A-632	136A-403
43	160A-633	136A-404
44	160A-634	136A-405
45	160A-635	136A-406
46	160A-636	136A-407
47	160A-637	136A-408
48	160A-638	136A-409
49	160A-639	136A-410
50	160A-640	136A-411
51	160A-641	136A-412

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