

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2014-39
SENATE BILL 790**

AN ACT TO PHASE IN THE SALES TAX RATE ON ELECTRICITY SOLD BY CAPE HATTERAS ELECTRICAL MEMBERSHIP CORPORATION AND THE SALES TAX RATE ON PIPED NATURAL GAS SOLD BY GAS CITIES, TO MODIFY THE PROPERTY TAX DEFERRAL PROGRAM FOR SITE INFRASTRUCTURE LAND, AND TO DELAY THE CHANGE IN THE HIGHWAY USE TAX BASE TO INCLUDE DEALER ADMINISTRATIVE FEES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 105-164.4(a) is amended by adding two new subdivisions to read:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(14) Notwithstanding subdivision (9) of this subsection, the rate of three and one-half percent (3.5%) applies to the gross receipts derived from sales of piped natural gas (i) received by a gas city for consumption by that city and (ii) delivered by a gas city to a sales customer or transportation customer of the gas city. For purposes of this subdivision, the following definitions apply:

- a. Gas city. – A city in this State that operated a piped natural gas distribution system as of July 1, 1998. These cities are Bessemer City, Greenville, Kings Mountain, Lexington, Monroe, Rocky Mount, Shelby, and Wilson.
- b. Sales customer. – An end user who does not have direct access to an interstate gas pipeline and whose piped natural gas is delivered by the seller of the gas.
- c. Transportation customer. – An end user who does not have direct access to an interstate gas pipeline and whose piped natural gas is delivered by a person who is not the seller of the gas.

(14a) Notwithstanding subdivision (9) of this subsection, the rate of three and one-half percent (3.5%) applies to the gross receipts derived from sales of electricity by Cape Hatteras Electric Membership Corporation."

SECTION 1.(b) G.S. 105-164.44L(b) reads as rewritten:

"(b) Excise Tax Share. – The quarterly excise tax share of a city ~~that is not a gas city~~ is the amount of piped natural gas excise tax distributed to the city under repealed G.S. 105-187.44 for the same related quarter that was the last quarter in which taxes were imposed on piped natural gas under repealed Article 5E of this Chapter. ~~The Secretary must determine the excise tax share of a gas city and divide that amount by four to calculate the quarterly distribution amount for a gas city. The excise tax share of a gas city is the amount the gas city would have received under repealed G.S. 105-187.44 for the last year in which taxes were imposed under repealed Article 5E of this Chapter if piped natural gas consumed by the city or delivered by the city to a customer had not been exempt from tax under repealed G.S. 105-187.41(c)(1) and (c)(2). A gas city must report the information required by the Secretary to make the distribution under this section in the form, manner, and time required by the Secretary. For purposes of this subsection, the term "gas city" has the same meaning as~~



~~defined in repealed G.S. 105-187.40.~~ The determination made by the Department with respect to a city's excise tax share is final and is not subject to administrative or judicial review.

The excise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-187.44 is adjusted as follows:

- (1) If a city dissolves and is no longer incorporated, the excise tax share of the city is added to the amount distributed under subsection (c) of this section.
- (2) If two or more cities merge or otherwise consolidate, their excise tax shares are combined.
- (3) If a city divides into two or more cities, the excise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city."

SECTION 1.(c) G.S. 105-164.44L(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to cities twenty percent (20%) of the net proceeds of the tax collected under G.S. 105-164.4 on piped natural gas, less the cost to the Department of administering the distribution. Each city's share of the amount to be distributed is its excise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. A gas city will also receive an amount calculated under subsection (b1) of this section as part of its excise tax share. If the net proceeds of the tax allocated under this section are not sufficient to distribute the excise tax share of each city under subsection (b) of this section, section and the gas city share under subsection (b1) of this section, the proceeds shall be distributed to each city on a pro rata basis. The Secretary must make the distribution within 75 days after the end of each quarter."

SECTION 1.(d) G.S. 105-164.44L is amended by adding a new subsection to read:

"(b1) Gas Cities. – In addition to the excise tax share calculated under subsection (b) of this section, a gas city shall receive as part of its excise tax share a distribution calculated under this subsection. The Secretary must determine the amount the gas city would have received under repealed G.S. 105-187.44 for the last year in which taxes were imposed under repealed Article 5E of this Chapter if piped natural gas consumed by the city or delivered by the city to a customer had not been exempt from tax under repealed G.S. 105-187.41(c)(1) and G.S. 105-187.41(c)(2), excluding any amount received under subsection (b) of this section, and divide that amount by four to calculate the quarterly distribution amount for a gas city under this subsection. A gas city must report the information required by the Secretary to make the distribution under this section in the form, manner, and time required by the Secretary. The determination made by the Department with respect to a gas city's share under this subsection is final and is not subject to administrative or judicial review. For purposes of this section, the term "gas city" is a city in this State that operated a piped natural gas distribution system as of July 1, 1998. These cities are Bessemer City, Greenville, Kings Mountain, Lexington, Monroe, Rocky Mount, Shelby, and Wilson."

SECTION 1.(e) Subsection (a) of this section becomes effective July 1, 2014, and expires July 1, 2015, and applies to the gross receipts of piped natural gas or electricity billed on or after July 1, 2014, and before July 1, 2015. Subsection (b) of this section is effective for quarters beginning on or after July 1, 2014. Subsection (c) and subsection (d) of this section are effective for quarters beginning on or after July 1, 2015. The remainder of this section is effective when it becomes law.

SECTION 2.(a) G.S. 105-277.15A reads as rewritten:

"§ 105-277.15A. Taxation of site infrastructure land.

...
(b) Requirements. – Land qualifies as site infrastructure land if it meets the following size and use requirements:

- (1) Size. – The land must consist of at least 100 contiguous acres.
- (2) Use. – The land must meet all of the following requirements:
 - a. It must be zoned for industrial use, office use, or both.
 - b. A building permit for a primary building or structure must not have been issued for the land, and there is no primary building or structure on the land.
 - c. ~~It must be classified under G.S. 105-277.3 or have been classified under G.S. 105-277.3 within the previous six months.~~

(c) Deferred Taxes. – An owner may defer a portion of tax imposed on site infrastructure land that represents the sum of the following: (i) the increase in value of the property attributable solely to improvements made to the site infrastructure land, if any, and (ii) the difference between the true value of the site infrastructure land as it is currently zoned and the value of the site infrastructure land as if it were classified under G.S. 105-277.3 as agricultural land. The as if it were zoned the same as it was in the calendar year prior to the time the application for property tax relief under this section was filed.

The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section is a lien on the site infrastructure land as provided in G.S. 105-355(a). The difference in taxes must be carried forward in the records of each taxing unit as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the site infrastructure land loses its eligibility for deferral because of the occurrence of a disqualifying event as follows:

.....
SECTION 2.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2015.

SECTION 3. Section 34.29 of S.L. 2013-360, as amended by Section 8.1 of S.L. 2013-363, is repealed.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of June, 2014.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:20 p.m. this 30th day of June, 2014