

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40552-MCx-164 (04/05)

Short Title: Safe Infrastructure & Low Property Tax Act. (Public)

Sponsors: Representatives Ross and Saine (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAINTAIN NORTH CAROLINA'S LOW PROPERTY TAXES BY PROVIDING MUNICIPALITIES WITH LOCALLY CONTROLLED OPTIONS TO PRODUCE REVENUE THAT CAN BE INVESTED IN INFRASTRUCTURE AND ECONOMIC DEVELOPMENT PROJECTS.

Whereas, North Carolina cities and towns must continually invest in infrastructure in order for local economies to thrive and businesses to grow; and

Whereas, North Carolina cities and towns are the primary local providers of such core services as police, fire, and transportation that benefit citizens and businesses and require infrastructure investments in order to remain responsive to taxpayer needs; and

Whereas, North Carolina cities and towns are also primary providers of amenities, including parks, recreation facilities, museums, and other facilities that enhance North Carolinians quality of life and make the State an attractive place for business and residents; and

Whereas, North Carolina cities and towns continually expend resources to work cooperatively with public- and private-sector partners to recruit businesses, provide business incubators, and enhance job training; and

Whereas, 80% of all jobs within the State are found within municipal boundaries; and

Whereas, 79% of all taxable property in the State lies within municipalities; and

Whereas, 75% of all retail sales in North Carolina occur within municipal boundaries; and

Whereas, many North Carolina cities and towns suffered property tax base losses as textile mills and other manufacturing plants closed over the last half century; and

Whereas, many North Carolina cities and towns are experiencing further property tax base losses due to consolidation within the health care industry and as non-for-profit hospitals acquire private medical practices whose property tax values are then taken off the books; and

Whereas, property taxes are the only tax revenue source over which municipalities have complete control and are the biggest source of revenue for a majority of municipalities; and

Whereas, while three-quarters of retail sales occur within municipalities, just 36% of local sales tax revenue is returned to those municipalities; and

Whereas, a local tax structure that relies too heavily on one form of taxation can place an unfair burden on some residents, creating an inequitable tax system; Now, therefore, The General Assembly of North Carolina enacts:



* D R H 4 0 5 5 2 - M C X - 1 6 4 *

1 (4) Prepared food and beverages served by a retailer subject to the local
2 occupancy tax if the charge for the prepared food and beverages is included
3 in a single, nonitemized sales price together with the charge for rental of a
4 room, lodging, or accommodation furnished by the retailer.

5 (5) Prepared food and beverages furnished without charge by an employer to an
6 employee.

7 (6) Retail sales by grocers or by grocery sections of supermarkets or other
8 diversified retail establishments, other than sales of prepared food and
9 beverages in the delicatessen or similar department of the grocer or grocery
10 section.

11 (7) Prepared food and beverages served on a federal military reservation.

12 (d) Collection. – Every retailer subject to the tax levied under this section shall, on and
13 after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part
14 of the charge for furnishing prepared food and beverages. The tax shall be stated separately on
15 the sales document and shall be paid by the purchaser to the retailer as trustee for and on
16 account of the municipality. The tax shall be added to the sales price and shall be passed on to
17 the purchaser instead of being borne by the retailer. The entity collecting the tax shall design,
18 print, and furnish to all appropriate businesses and persons in the town the necessary forms for
19 filing returns and instructions to ensure the full collection of the tax.

20 (e) Administration. – The municipality may enter into an agreement with the county for
21 the administration and collection of the tax levied under this section. In the absence of an
22 agreement, the municipality shall administer the tax levied under this section. A tax levied
23 under this section is due and payable to the local administering authority as agent for the taxing
24 entity in monthly installments on or before the twentieth day of the month following the month
25 in which the tax accrues. Every retailer liable for the tax shall, on or before the twentieth day of
26 each month, prepare and render a return on a form prescribed by the municipality or, at the
27 municipality's direction, the entity administering and collecting the tax. The return shall show
28 the total gross receipts derived in the preceding month from sales to which the tax applies.

29 A return filed under this section is not a public record and may not be disclosed except in
30 accordance with G.S. 160A-208.1.

31 The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to
32 this section to the extent they are not inconsistent with the provisions of this section. The
33 uniform meals tax penalty provisions of G.S. 160A-214.1 apply to a tax levied under this
34 section.

35 (f) Refunds. – The entity administering the tax shall refund to a nonprofit or
36 governmental entity the prepared food and beverages tax paid by the entity on eligible
37 purchases of prepared food and beverages. A nonprofit or governmental entity's purchase of
38 prepared food and beverages is eligible for a refund under this subsection if the entity is entitled
39 to a refund under G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase or if
40 the sale is exempt under G.S. 105-164.13. The time limitations, application requirements,
41 penalties, and restrictions provided in G.S. 105-164.14(b), (d), and (d1) apply to refunds to
42 nonprofit entities; the time, limitations, application requirements, penalties, and restrictions
43 provided in G.S. 105-164.14(c), (d), and (d1) apply to refunds to governmental entities. When
44 an entity applies for a refund of the prepared food and beverages tax paid by it on purchases, it
45 shall attach to its application a copy of the application submitted to the Department of Revenue
46 under G.S. 105-164.14 for a refund of the sales and use tax on the same purchases or a written
47 statement that the purchases were exempt from the tax. An applicant for a refund under this
48 subsection shall provide any information required by the entity administering the tax to
49 substantiate the claim.

50 (g) Use. – The proceeds of a tax levied under this section shall be used as provided in
51 this subsection. The entity administering and collecting the tax may deduct from the gross

1 proceeds of the taxes collected under this section an amount not to exceed three percent (3%) of
2 the gross proceeds to pay for the direct cost of administering and collecting the taxes. The
3 remaining proceeds shall be used to construct and improve public infrastructure and facilities or
4 for economic development or for both.

5 (h) Effective Date of Levy. – A tax levied under this section shall become effective on
6 the date specified in the resolution levying the tax. The date shall be the first day of a calendar
7 month and may not be before the first day of the fourth month after the date the resolution is
8 adopted.

9 (i) Repeal. – Repeal or reduction of a tax levied under this section does not affect a
10 liability for a tax that attached before the effective date of the repeal or reduction nor does it
11 affect a right to a refund of a tax that accrued before the effective date of the repeal or
12 reduction. Any repeal or reduction shall become effective on the first day of a month but may
13 not become effective until the end of the fiscal year in which the repeal resolution is adopted.

14 (j) Effect of local acts. – This section supplements but does not supplant the authority
15 of a municipality to levy a meals tax pursuant to a local act.

16 (k) Limitation. – A tax levied under this Part may not be in effect in a municipality at
17 the same time as a tax levied under Part 2 or 3 of this Article.

18 "Part 2. Municipal Occupancy Tax.

19 **"§ 105-606. Local option occupancy tax.**

20 (a) Limitations. – This section supplements but does not supplant the authority of a
21 county or a city to levy an occupancy tax pursuant to a local act. If a local act authorizes a
22 county to levy an occupancy tax, the maximum rate the county could otherwise levy under this
23 section is reduced by the maximum rate the county is authorized to levy under all local acts,
24 and the maximum rate any city in the county could otherwise levy under this section may not
25 exceed a total of six percent (6%) when added to the maximum rate the county is authorized to
26 levy under all local acts. If a local act authorizes a city to levy an occupancy tax, the maximum
27 rate the city could otherwise levy under this section is reduced by the maximum rate the city is
28 authorized to levy under all local acts, and the maximum rate the county in which the city is
29 located could otherwise levy under this section may not exceed a total of six percent (6%) when
30 added to the maximum rate the city is authorized to levy under all local acts.

31 (b) Examples of Limitations. – The following examples illustrate the limitations
32 provided in subsection (a) of this section:

33 (1) If a local act authorizes a city to levy an occupancy tax of up to one percent
34 (1%), the maximum rate the city can levy under this section is two percent
35 (2%) and the maximum rate the county can levy under this section is five
36 percent (5%), whether or not the city levies the tax authorized by local act.

37 (2) If a local act authorizes a county to levy an occupancy tax of up to six
38 percent (6%), neither the county nor any city in the county may levy an
39 occupancy tax under this section, whether or not the county levies the tax
40 authorized by local act.

41 (c) Levy. – The following provisions govern the levy of a tax under this section:

42 (1) Vote. – A municipality may levy the tax authorized in this section the
43 majority of those voting in a referendum vote for the levy of the tax and the
44 governing body of the municipality, by resolution, levies the tax. The
45 governing body shall direct the county board of elections to conduct an
46 advisory referendum in the municipality on the question of whether to levy
47 an occupancy tax in the municipality as provided in this act. The election
48 shall be held in accordance with the procedures of G.S. 163-287. If the
49 majority of those voting in an election held pursuant to this section vote for
50 the levy of the tax within a taxing district, the governing body of the taxing

1 district may, by resolution, levy a local occupancy tax of up to the maximum
2 rate provided in this section.

3 The form of the question to be presented on a ballot for a special election
4 concerning the levy of the tax authorized by this act shall be:

5 "[] FOR [] AGAINST

6 [X] percent (X%) local occupancy tax in addition to the current local sales and use taxes, to
7 be used only for construction and improvement of public infrastructure and facilities or for
8 economic development."

9 (2) Maximum Rate. – Subject to the limitations provided in G.S. 105-627, the
10 maximum rate of tax that a county may levy under this section is a total of
11 six percent (6%) when added to the rate of any occupancy tax levied by a
12 city within the county. Subject to the limitations provided in G.S. 105-627,
13 the maximum rate of tax that a city may levy under this section is three
14 percent (3%).

15 (3) Scope. – The tax applies to the gross receipts derived from the rental of any
16 room, lodging, or accommodation furnished by a hotel, motel, inn, tourist
17 camp, or similar place within the taxing unit that is subject to sales tax
18 imposed by the State under G.S. 105-164.4(a)(3). The tax is in addition to
19 any State or local sales tax.

20 (d) Administration. – A tax levied under this section shall be levied, administered,
21 collected, and repealed as provided in G.S. 160A-215. The penalties provided in
22 G.S. 153A-155 and G.S. 160A-215 apply to a tax levied under this section.

23 (e) Use. – A municipality may use the proceeds of a tax levied under this section to
24 construct and improve public infrastructure and facilities or for economic development or both.

25 (f) Limitation. – A tax levied under this Part may not be in effect in a municipality at
26 the same time as a tax levied under Part 1 or 3 of this Article.

27 "Part 3. Municipal Sales Tax.

28 **"§ 105-607. Local option sales tax.**

29 (a) Tax. – If the majority of those voting in a referendum held pursuant to this section
30 vote for the levy of the tax, the governing body of a municipality may, by resolution and after
31 10 days' public notice, levy a local sales and use tax at a rate of one-quarter percent (1/4%).

32 (b) Vote. – The governing body of a municipality may direct the county board of
33 elections to conduct an advisory referendum on the question of whether to levy a local sales
34 and use tax in the county as provided in this section. The election shall be held in accordance
35 with the procedures of G.S. 163-287.

36 (c) Ballot Question. – The form of the question to be presented on a ballot for a special
37 election concerning the levy of the tax authorized by this section shall be:

38 "[] FOR [] AGAINST

39 Local sales and use tax at the rate of one-quarter percent (1/4%) in addition to the current
40 local sales and use taxes to be used only for construction and improvement public infrastructure
41 and facilities or for economic development."

42 (d) Administration. – Except as provided in this section, the adoption, levy, collection,
43 administration, and repeal of the additional taxes authorized by this section shall be in
44 accordance with Article 39 of this Chapter. References to "county," "counties," or "board of
45 county commissioners" within Article 39 of this Chapter shall be interpreted as referring to
46 "municipality," "municipalities," or "governing body of the municipality," respectively, for
47 purposes of the tax authorized by this Article. G.S. 105-468.1 is an administrative provision
48 that applies to this section. A tax levied under this section does not apply to the sales price of
49 food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled
50 transaction taxable pursuant to G.S. 105-467(a)(5a).

1 (e) Distribution. – The Secretary shall, on a monthly basis, distribute to each taxing
2 municipality for which the Secretary collects the tax the net proceeds of the tax collected in that
3 municipality under this section. If the Secretary collects local sales or use taxes in a month and
4 the taxes cannot be identified as being attributable to a particular taxing municipality, the
5 Secretary shall allocate the taxes among the taxing municipalities in proportion to the amount
6 of taxes collected in each municipality under this section during that month and shall include
7 them in the monthly distribution. Amounts collected by electronic funds transfer payments are
8 included in the distribution for the month in which the return that applies to the payment is
9 received.

10 (f) Use. – A municipality may use the net proceeds of a tax levied under this section to
11 construct and improve public infrastructure and facilities or for economic development or both.

12 (g) Limitation. – A tax levied under this Part may not be in effect in a municipality at
13 the same time as a tax levied under Part 1 or 2 of this Article."

14 **SECTION 4.** This act becomes effective October 1, 2017.