

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 1041
SENATE BILL 1645

AN ACT TO MODIFY THE FORMULA FOR REIMBURSING LOCAL GOVERNMENTS FOR REVENUE LOST DUE TO THE REPEAL OF PROPERTY TAXES ON INVENTORIES AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Effective January 1, 1989, G.S. 105-275.1, as enacted by Chapter 622 of the 1987 Session Laws and rewritten by Chapter 813 of the 1987 Session Laws, reads as rewritten:

"§ 105-275.1. Reimbursement for exclusion of manufacturers' inventories, inventories and poultry and livestock. – (a) Initial Distribution. On or before January 15, 1989, the governing body of each county and each city shall furnish to the Secretary a list of (i) all the inventories owned by manufacturers that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the county or city under this Subchapter, (ii) all livestock and poultry and feed used in the production of livestock and poultry that was required to be listed and assessed as of January 1, 1987, and was listed on or before September 1, 1987, in the county or city under this Subchapter; and (iii) all the crops and other agricultural or horticultural products held for sale, whether in process or ready for sale, owned by taxpayers regularly engaged in the growth, breeding, raising, or other production of new products for sale, that were not included under subdivision (ii) above and that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the county or city under this Subchapter. The list shall contain the value of the inventories and other items as well as the property tax rates in effect in the county or city for the eight years from 1980 through 1987. The list shall also contain the property tax rates in effect for those years in each special district for which the county or city collected taxes in 1987 but whose tax rates were not included in the rates listed for the county or city, and the value of the inventories owned by manufacturers and other items described in subdivisions (ii) and (iii) above that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in that district. The list shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary.

On or before March 20, 1989, the Secretary shall pay to each county and city that submitted a list under this subsection an amount equal to the county or city average rate, as provided below, multiplied by the value of the inventories owned by manufacturers that were required to be listed and assessed as of January 1, 1987, and were listed on or

before September 1, 1987, in the county or city, plus or minus the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

On or before March 20, 1989, the Secretary shall also pay to each county and city that submitted a list under this subsection an amount equal to the average rate, as provided below, for each special district for which the county or city collected taxes in 1987, but whose tax rates were not included in the county or city's rates, multiplied by the value of the inventories owned by manufacturers that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the district, plus or minus the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

The Secretary shall calculate an average rate for each county and city, and for each special district whose tax rates were not included in the tax rates of a county or city, as the arithmetic mean of the property tax rates in effect in the county, city, or district for the eight years from 1980 through 1987. If a county, city, or district did not have tax rates in effect for the entire eight-year period, the average rate shall be the arithmetic mean of the property rates in effect for the years during the eight-year period that it did have rates in effect.

Of the funds received by each county and city pursuant to this subsection, the portion that was received because the county or city was collecting taxes for a special district (either because the district's tax rate was included in the city or county's rate or because the Secretary paid the county or city the product of the district's average rate and the value of the inventories in the district) shall be distributed among the districts in the county or city ~~in accordance with regulations issued by the Local Government Commission. This distribution shall be made as soon as practicable after the city or county receives funds under this subsection. The county or city shall distribute to each special district in the county or city an amount equal to the average rate for the district multiplied by the value of the inventories owned by manufacturers that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the district, plus or minus the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce. The Local Government Commission may adopt rules for the resolution of disputes and correction of errors in the distribution among special districts provided in this paragraph. The Local Government Commission shall report to the 1990 General Assembly any errors it discovers in the information furnished by local governments to the Secretary as required in this subsection.~~

(b) Subsequent Distributions. ~~As soon as practicable after January 1, 1990, the Secretary shall pay to each county and city the amount it received under subsection (a)~~

in 1989 plus an amount equal to the county or city average rate multiplied by the value of the items described in subdivisions (ii) and (iii) of subsection (a) that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the county or city, plus or minus the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce. As soon as practicable after January 1, 1990, the Secretary shall also pay to each county and city an amount equal to the average rate for each special district for which the county or city collected taxes in 1987, but whose tax rates were not included in the county or city's rates, multiplied by the value of the items described in subdivisions (ii) and (iii) of subsection (a) that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the district, plus or minus the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce. Thereafter, except as provided in subsection (f), as soon as practicable after January 1 of each year, the Secretary shall distribute to each county and city the amount it received under this section the preceding year.

Of the funds received by each county and city pursuant to this subsection in 1990, the portion that was received because the county or city was collecting taxes for a special district (either because the district's tax rate was included in the city or county's rate or because the Secretary paid the county or city the product of the district's average rate and the value of the inventories and other items in the district) shall be distributed among the districts in the county or city as soon as practicable after the city or county receives the funds. The county or city shall distribute to each special district in the county or city the amount it distributed to the district in 1989 plus an amount equal to the average rate for the district multiplied by the value of the items, other than inventory, described in subdivisions (ii) and (iii) of subsection (a) that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the district, plus or minus the percentage of this product that equals the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

As Each year thereafter, as soon as practicable after receiving funds under this subsection, every county and city shall distribute among the special districts for which the county or city collects tax an amount equal to the amount it distributed among such districts the previous year. The Local Government Commission may adopt rules for the resolution of disputes and correction of errors in the distribution among special districts provided in this subsection. In addition, the Local Government Commission may adopt rules for the reallocation of funds when a special district is dissolved, merged, or consolidated, or when a special district ceases to levy tax, either temporarily or permanently.

(c) Use. Funds received by a county, city, or special district under this section may be used for any lawful purpose.

(d) 'City' Defined. As used in this section, the term 'city' has the same meaning as in G.S. 153A-1(1).

(e) Source of Funds. To pay for the distribution required by this section and the cost to the Department of Revenue of making the distribution, the Secretary of Revenue shall charge the collections received by the Department under Division I of Article 4 of Chapter 105 with an amount equal to the amount distributed and the cost of making the distribution.

(f) Correction of Errors. If the Secretary discovers that the amount or value of any inventories or other items listed by a county or city pursuant to subsection (a) of this section was overstated or understated, the Secretary shall adjust the amount to be distributed under subsection (b) as follows. For the distribution to be made in the year following discovery of the overstatement or understatement, the Secretary shall distribute to the county or city the amount it would have received under subsection (b) in 1990 if it had not overstated or understated the amount or value of any inventories or other items, plus the total amount it failed to receive in 1989 and subsequent years due to understatement of the amount or value of the inventories or other items, or minus the total amount it received in 1989 and subsequent years due to overstatement of the amount or value of the inventories or other items. Thereafter, each year the Secretary shall distribute to the county or city the amount it would have received under subsection (b) in 1990 if it had not overstated or understated the amount or value of any inventories or other items."

Sec. 1.1. G.S. 105-275 is amended by adding at the end a new subdivision to read:

"(37) Poultry and livestock and feed used in the production of poultry and livestock."

Sec. 1.2. G.S. 105-320(a)(15) is repealed.

Sec. 1.3. G.S. 105-320(b) reads as rewritten:

"(b) Instead of being shown on the tax receipt, the information required in ~~subdivisions (15) and subdivision (16)~~ of subsection (a) may be shown on a separate sheet furnished to the affected taxpayers."

Sec. 2. Effective January 1, 1989, G.S. 105-277A, as rewritten by Chapters 622 and 813 of the 1987 Session Laws, reads as rewritten:

§ 105-277A. Reimbursement for exclusion of retailers' and wholesalers' inventories. – (a) Submission of Claims. On or before January 15, 1989, the governing body of each county and city shall furnish to the Secretary a list of all the inventories owned by retailers and wholesalers that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the county or city under this Subchapter. The list shall contain the value of the inventories as well as the property tax rates in effect in the county or city for the eight years from 1980 through 1987. The list shall also contain the property tax rates in effect for those years in each special district for which the county or city collected taxes in 1987 but whose tax rates were not included in the rates listed for the county or city, and the value of the

inventories owned by retailers and wholesalers that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in that district. The list shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary.

The Secretary shall calculate an average rate for each county and city, and for each special district whose tax rates were not included in the tax rates of a county or city, as the arithmetic mean of the property tax rates in effect in the county, city, or district for the eight years from 1980 through 1987. If a county, city, or district did not have tax rates in effect for the entire eight-year period, the average rate shall be the arithmetic mean of the property rates in effect for the years during the eight-year period that it did have rates in effect.

(b) First Per Capita Distribution. As soon as practicable after January 1 of 1989, the Secretary shall distribute to each taxing unit the unit's per capita share of the sum of fifteen million seven hundred forty-five thousand dollars (\$15,745,000). Thereafter, as soon as practicable after January 1 of each year the Secretary shall distribute to each taxing unit the unit's per capita share of an amount equal to the sum distributed to all taxing units the previous year under this subsection plus or minus the product of the sum distributed the previous year and the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

To make the per capita distributions required by this subsection, the Secretary shall first allocate the sum to be distributed among the counties on a per capita basis. The Secretary shall then compute a per capita distributable amount for each county by dividing the amount allocated to a county by the total population of the county, plus the population of any incorporated towns and cities located in the county. Each taxing unit in a county, including the county itself, shall receive the product of the population of the taxing unit and the per capita distributable amount for that county.

A city or county that receives funds under this subsection and that collects taxes for another taxing unit shall distribute part of the taxes received by it to the taxing unit for which it collects tax. The distribution shall be made on the basis of the proportionate amount of ad valorem taxes levied, for the most recent fiscal year beginning July 1, by the city or county and by all the taxing units for which the city or county collects tax. This distribution shall be made as soon as practicable after a city or county receives funds from the State under this section.

(c) Claims-based Second Per Capita Distribution. On or before March 20, 1989, the Secretary shall allocate to each county ~~an amount equal to the greater of the following:~~

- (1) ~~The the county's per capita share of the sum of thirty-nine million dollars (\$39,000,000); or (\$39,000,000).~~
- (2) ~~The total of the county average rate multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section by the county, plus the city average rate for each city in the county multiplied by eighty percent (80%) of the~~

~~value of the inventories reported to the Secretary under subsection (a) of this section by the city, plus the average rate for each special district for which the county or a city in the county collected taxes in 1987, but whose tax rates were not included in the county or city's rates, multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section in behalf of the district, plus or minus the percentage of this sum that equals the percentage by which State personal income has increased or decreased during the most recent 12 month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce, minus three and four-tenths percent (3.4%) of the total distribution received by the county and the cities located in the county under G.S. 105-472, 105-486, 105-493, 105-501, and Chapter 1096 of the 1967 Session Laws between January 1, 1988, and December 31, 1988.~~

Each year thereafter, as soon as practicable after January 1, the Secretary of Revenue shall allocate to each county the amount it received the previous year under this subsection.

Amounts allocated to a county under this subsection shall in turn be divided and distributed between the county and the cities located in the county in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding the distribution. For the purposes of this section, the amount of the ad valorem taxes levied by a county or city shall include any ad valorem taxes collected by the county or city in behalf of a special district. For the purpose of computing the distribution for any year with respect to which the property valuation of a public service company is the subject of an appeal and the Department of Revenue is restrained by law from certifying the valuation to the appropriate counties and cities, the Department shall use the latest property valuation of that public service company that has been certified.

The governing body of each county and city shall report to the Secretary of Revenue such information as he may request in order to make the distribution under this subsection. If a county or city fails to make a requested report within the time prescribed, the Secretary may disregard that county or city and the other taxing units in the county or city in making the distribution.

~~Of the funds received by each county and city pursuant to this subsection, the portion that was received because the county or city was collecting taxes for a special district shall be distributed among the districts in the county or city in accordance with regulations issued by the Local Government Commission. This distribution shall be as soon as practicable after the city or county receives funds under this subsection.~~

(c1) Claims-based Distribution. On or before March 20, 1989, the Secretary shall distribute to each county and city an amount equal to the amount by which the county or city's inventory loss, as defined in subsection (d) of this section, exceeds the amount of the reimbursement received by the county or city under subsection (c) of this subsection.

Except as provided in subsection (g) of this section, each year thereafter, as soon as practicable after January 1, the Secretary shall distribute to each county and city the amount it received the previous year under this subsection.

(c2) Supplemental Distribution. On or before March 20, 1989, the Secretary shall determine, with respect to each county and city, whether the sum of (i) the amount the county or city received under subsection (c), plus (ii) the amount the county or city received under subsection (c1), plus (iii) three and four-tenths percent (3.4%) of the total distribution received by the county or city under G.S. 105-472, 105-486, 105-493, 105-501, and Chapter 1096 of the 1967 Session Laws between January 1, 1988, and December 31, 1988, is less than ninety percent (90%) of the amount of taxes the county or city actually levied on inventories owned by retailers and wholesalers for the 1987-88 tax year. If that sum is less than ninety percent (90%) of the amount of taxes the county or city actually levied on those inventories for the 1987-88 tax year, the Secretary shall distribute to that county or city a supplemental amount equal to the amount by which ninety percent (90%) of the taxes it actually levied on inventories owned by retailers and wholesalers for the 1987-88 tax year exceeds the total of subdivisions (i), (ii), and (iii).

Except as provided in subsection (g) of this section, each year thereafter, as soon as practicable after January 1, the Secretary shall distribute to each county and city the amount it received the previous year under this subsection.

(c3) Distribution to Special Districts. Of the funds received by each county and city pursuant to subsections (c), (c1), and (c2) of this section, the portion that was received because the county or city was collecting taxes for a special district shall be distributed among the districts in the county or city in proportion to the amount of each special district's inventory levy, as defined in subsection (d) of this section, as soon as practicable after the city or county receives funds under this subsection. The Local Government Commission may adopt rules for the resolution of disputes and correction of errors in the distribution among special districts provided in this paragraph. In addition, the Local Government Commission may adopt rules for the reallocation of funds when a special district is dissolved, merged, or consolidated, or when a special district ceases to levy tax, either temporarily or permanently. The Local Government Commission shall report to the 1990 General Assembly any errors it discovers in the information furnished by local governments to the Secretary as required in subsection (a) of this section.

(d) Definitions. As used in this section, the term

- (1) 'City' has the same meaning as in G.S. 153A-1(1);
- (2) 'City's inventory loss' means the city's average rate multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section by the city, plus the average rate for each special district for which the city collected taxes in 1987, but whose tax rates were not included in the city's rates, multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section in behalf of the district, plus or minus the percentage of this amount that equals

the lesser of five percent (5%) or the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce, minus three and four-tenths percent (3.4%) of the total distribution received by the city under G.S. 105-472, 105-486, 105-493, 105-501, and Chapter 1096 of the 1967 Session Laws between January 1, 1988, and December 31, 1988;

(3) 'County's inventory loss' means the county's average rate multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section by the county, plus the average rate for each special district for which the county collected taxes in 1987, but whose tax rates were not included in the county's rates, multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section in behalf of the district, plus or minus the percentage of this amount that equals the lesser of five percent (5%) or the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce, minus three and four-tenths percent (3.4%) of the total distribution received by the county under G.S. 105-472, 105-486, 105-493, 105-501, and Chapter 1096 of the 1967 Session Laws between January 1, 1988, and December 31, 1988;

(4) 'Special district's inventory levy' means the special district's average rate multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section in behalf of the district;

(5) 'Taxing unit' means a unit that levied a property tax or for which another unit collected a property tax for the fiscal year beginning July 1 of the year preceding the date a distribution is made under this section. As used in this section, the term 'city' has the same meaning as in G.S. 153A-1(1).

(e) Population Estimates. In making the per capita calculations under this section, the Secretary shall use the most recent annual population estimates certified by the State Budget Officer.

(f) Source of Funds. The Secretary of Revenue shall pay for the distribution required by this section and the cost of making the distribution as follows:

(1) For the distribution made in 1989, the Secretary shall draw an amount equal to the amount distributed and the cost of making the distribution first from the Inventory Tax Reimbursement Fund created in Section 15.1 of the School Facilities Finance Act of 1987, until it is exhausted, and then the remainder of that amount from collections received by the Department under Division I of Article 4 of this Chapter.

(2) For distributions made in subsequent years, the Secretary shall charge the collections received by the Department under ~~Division I of Article 4~~Article 5 of this Chapter with an amount equal to the amount distributed and the cost of making the distribution.

(g) Correction of Errors. If the Secretary discovers that the amount or value of any inventories listed by a county or city pursuant to subsection (a) of this section was overstated or understated, the Secretary shall adjust the amount to be distributed under subsections (c1) and (c2) as follows. For the distribution to be made in the year following discovery of the overstatement or understatement, the Secretary shall distribute to the county or city the amount it would have received under subsections (c1) and (c2) in 1989 if it had not overstated or understated the amount or value of any inventories, plus the total amount it failed to receive in 1989 and subsequent years due to understatement of the amount or value of the inventories, or minus the total amount it received in 1989 and subsequent years due to overstatement of the amount or value of the inventories. Thereafter, each year the Secretary shall distribute to the county or city the amount it would have received under subsections (c1) and (c2) in 1989 if it had not overstated or understated the amount or value of any inventories."

Sec. 3. Sections 1.1, 1.2, and 1.3 of this act are effective for taxable years beginning on or after January 1, 1989. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of July, 1988.