

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 104

Short Title: Taxpayers' Rights Amendment.

(Public)

Sponsors: Representatives Brawley; J. Brown, Buchanan, Cummings, Decker, Hill, Justus, and K. Miller.

Referred to: Judiciary I.

February 2, 1995

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO REQUIRE
2 VOTER APPROVAL BEFORE MOST TAXES MAY BE LEVIED OR
3 INCREASED, EXCEPT IN THE CASE OF AN EMERGENCY DECLARED BY
4 THE GOVERNOR.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Section 5 of Article III of the North Carolina Constitution is
8 amended by adding a new subdivision to read:

9 "(11) Tax emergency. The Governor may declare that a state of emergency exists
10 necessitating the enactment of an emergency law levying a tax upon the people of the
11 State without the prior approval of the people of the State, as provided in Section 2(1a) of
12 Article V. Such a state of emergency may not exceed a period of two years."

13 Sec. 2. Section 2 of Article V of the North Carolina Constitution reads as
14 rewritten:

15 "Sec. 2. State and local taxation.

16 (1) **Power of taxation.** The power of taxation shall be exercised in a just and
17 equitable manner, for public purposes only, and shall never be surrendered, suspended, or
18 contracted away.

1 (1a) **Voter approval required for State taxes.** Except as provided in this
2 subdivision for emergency taxes, no law levying a tax upon the people of the State may
3 become effective unless it is first approved by a majority of the qualified voters of the
4 State who vote on the question, except that approval by the qualified voters of the State is
5 not required for a law that repeals or restricts a specific tax preference or a law that
6 authorizes one or more local taxing units to levy a tax.

7 If the Governor declares that a state of emergency exists necessitating the enactment
8 of an emergency law levying a tax upon the people of the State, the General Assembly
9 may enact such a law, which may become effective without first being approved by the
10 people of the State. Such an emergency tax law may not remain in effect for more than
11 two years unless it is approved by the people of the State during the two-year period after
12 it becomes effective.

13 (2) **Classification.** Only the General Assembly shall have the power to classify
14 property for taxation, which power shall be exercised only on a State-wide basis and shall
15 not be delegated. No class of property shall be taxed except by uniform rule, and every
16 classification shall be made by general law uniformly applicable in every county, city and
17 town, and other unit of local government.

18 (3) **Exemptions.** Property belonging to the State, counties, and municipal
19 corporations shall be exempt from taxation. The General Assembly may exempt
20 cemeteries and property held for educational, scientific, literary, cultural, charitable, or
21 religious purposes, and, to a value not exceeding \$300, any personal property. The
22 General Assembly may exempt from taxation not exceeding \$1,000 in value of property
23 held and used as the place of residence of the owner. Every exemption shall be on a
24 State-wide basis and shall be made by general law uniformly applicable in every county,
25 city and town, and other unit of local government. No taxing authority other than the
26 General Assembly may grant exemptions, and the General Assembly shall not delegate
27 the powers accorded to it by this subsection.

28 (4) **Special tax areas.** Subject to the limitations imposed by Section 4, the
29 General Assembly may enact general laws authorizing the governing body of any county,
30 city, or town to define territorial areas and to levy taxes within those areas, in addition to
31 those levied throughout the county, city, or town, in order to finance, provide, or maintain
32 services, facilities, and functions in addition to or to a greater extent than those financed,
33 provided, or maintained for the entire county, city, or town. A tax may not be levied
34 pursuant to such a general law, however, unless it is first approved by a majority of the
35 qualified voters of the area who vote on the question.

36 (5) ~~Purposes~~ **Levy of property tax.** The General Assembly shall not authorize
37 ~~any county, city or town, special district, or other unit of local government to levy taxes~~
38 ~~on property, except for purposes authorized by general law uniformly applicable~~
39 ~~throughout the State, property unless the tax is approved by a majority of the qualified~~
40 ~~voters of the unit who vote thereon on the question, except that approval by the qualified~~
41 ~~voters of the unit is not required in the following cases:~~

42 (a) The tax is necessary to pay the principal of and interest on general
43 obligation bonds and notes of the unit or to supply an unforeseen

1 Sec. 5. If a majority of votes cast on the question are in favor of the
2 amendments set out in Sections 1 through 3 of this act, the State Board of Elections shall
3 certify the amendments to the Secretary of State. The Secretary of State shall enroll the
4 amendments so certified among the permanent records of that office. Upon certification,
5 these amendments become effective January 1, 1996, and apply to legislation enacted on
6 or after that date and to ordinances, resolutions, and other legislative acts adopted by
7 local government units on or after that date. If a tax has been authorized by a vote of the
8 people of the taxing unit before the effective date of the amendments, an additional vote
9 is not required.

10 Sec. 6. G.S. 153A-149 reads as rewritten:

11 **"§ 153A-149. Property taxes; authorized purposes; rate limitation.**

12 (a) Pursuant to Article V, Sec. 2(5) of the Constitution of North Carolina, the
13 General Assembly confers upon each county in this State the power to levy, within the
14 limitations set out in this section, taxes on property having a situs within the county under
15 the rules and according to the procedures prescribed in the Machinery Act (Chapter 105,
16 Subchapter II).

17 (b) Each county may levy property taxes without restriction as to rate or amount
18 for the following purposes:

19 (1) ~~Courts.—To provide adequate facilities for and the county's share of the~~
20 ~~cost of operating the General Court of Justice in the county.~~

21 (2) Debt Service. — To pay the principal of and interest on all general
22 obligation bonds and notes of the county.

23 (3) Deficits. — To supply an unforeseen deficiency in the revenue (other
24 than revenues of public enterprises), when revenues actually collected
25 or received fall below revenue estimates made in good faith and in
26 accordance with the Local Government Budget and Fiscal Control Act.

27 (4) ~~Elections.—To provide for all federal, State, district and county~~
28 ~~elections.~~

29 (5) ~~Jails.—To provide for the operation of a jail and other local~~
30 ~~confinement facilities.~~

31 (6) ~~Joint Undertakings.—To cooperate with any other county, city, or~~
32 ~~political subdivision in providing any of the functions, services, or~~
33 ~~activities listed in this subsection.~~

34 (7) ~~Schools.—To provide for the county's share of the cost of kindergarten,~~
35 ~~elementary, secondary, and post-secondary public education.~~

36 (8) ~~Social Services.—To provide for public assistance required by Chapters~~
37 ~~108A and 111 of the General Statutes.~~

38 (c) Each county may levy property taxes for one or more of the purposes listed in
39 this subsection ~~up to a combined rate of~~ at a combined effective rate that does not exceed
40 one dollar and fifty cents (\$1.50) on the one hundred dollars (\$100.00) appraised value of
41 any class of property subject to taxation. Authorized purposes subject to the rate
42 limitation are:

- 1 (1) To provide for the general administration of the county through the
2 board of county commissioners, the office of the county manager, the
3 office of the county budget officer, the office of the county finance
4 officer, the office of the county assessor, the office of the county tax
5 collector, the county purchasing agent, and the county attorney, and for
6 all other general administrative costs not allocated to a particular board,
7 commission, office, agency, or activity of the county.
- 8 (2) Agricultural Extension. – To provide for the county's share of the cost
9 of maintaining and administering programs and services offered to
10 agriculture by or through the Agricultural Extension Service or other
11 agencies.
- 12 (3) Air Pollution. – To maintain and administer air pollution control
13 programs.
- 14 (4) Airports. – To establish and maintain airports and related aeronautical
15 facilities.
- 16 (5) Ambulance Service. – To provide ambulance services, rescue squads,
17 and other emergency medical services.
- 18 (6) Animal Protection and Control. – To provide animal protection and
19 control programs.
- 20 (6a) Arts Programs and Museums. – To provide for arts programs and
21 museums as authorized in G.S. 160A-488.
- 22 (6b) Auditoriums, coliseums, and convention and civic centers. – To provide
23 public auditoriums, coliseums, and convention and civic centers.
- 24 (7) Beach Erosion and Natural Disasters. – To provide for shoreline
25 protection, beach erosion control, and flood and hurricane protection.
- 26 (8) Cemeteries. – To provide for cemeteries.
- 27 (9) Civil Preparedness. – To provide for civil preparedness programs.
- 28 (9a) Courts. – To provide adequate facilities for and the county's share of the
29 cost of operating the General Court of Justice in the county.
- 30 (10) Debts and Judgments. – To pay and discharge any valid debt of the
31 county or any judgment lodged against it, other than debts and
32 judgments evidenced by or based on bonds and notes.
- 33 (10a) Defense of Employees and Officers. – To provide for the defense of,
34 and payment of civil judgments against, employees and officers or
35 former employees and officers, as authorized by this Chapter.
- 36 (10b) Economic Development. – To provide for economic development as
37 authorized by G.S. 158-12.
- 38 (10c) Elections. – To provide for all federal, State, district, and county
39 elections.
- 40 (11) Fire Protection. – To provide fire protection services and fire prevention
41 programs.
- 42 (12) Forest Protection. – To provide forest management and protection
43 programs.

- 1 (13) Health. – To provide for the county's share of maintaining and
2 administering services offered by or through the county or district health
3 department.
- 4 (14) Historic Preservation. – To undertake historic preservation programs
5 and projects.
- 6 (15) Hospitals. – To establish, support and maintain public hospitals and
7 clinics, and other related health programs and facilities, or to aid any
8 private, nonprofit hospital, clinic, related facility, or other health
9 program or facility.
- 10 (15a) Housing Rehabilitation. – To provide for housing rehabilitation
11 programs authorized by G.S. 153A-376, including personnel costs
12 related to the planning and administration of these programs. This
13 subdivision applies only to counties with a population of 400,000 or
14 more, according to the most recent decennial federal census.
- 15 (16) Human Relations. – To undertake human relations programs.
- 16 (16a) Industrial Development. – To provide for industrial development as
17 authorized by G.S. 158-7.1.
- 18 (16b) Jails. – To provide for the operation of a jail and other local
19 confinement facilities.
- 20 (17) Joint Undertakings. – To cooperate with any other county, city, or
21 political subdivision in providing any of the functions, services, or
22 activities listed in this subsection.
- 23 (18) Law Enforcement. – To provide for the operation of the office of the
24 sheriff of the county and for any other county law-enforcement agency
25 not under the sheriff's jurisdiction.
- 26 (19) Libraries. – To establish and maintain public libraries.
- 27 (20) Mapping. – To provide for mapping the lands of the county.
- 28 (21) Medical Examiner. – To provide for the county medical examiner or
29 coroner.
- 30 (22) Mental Health. – To provide for the county's share of the cost of
31 maintaining and administering services offered by or through the area
32 mental health, developmental disabilities, and substance abuse
33 authority.
- 34 (23) Open Space. – To acquire open space land and easements in accordance
35 with Article 19, Part 4, Chapter 160A of the General Statutes.
- 36 (24) Parking. – To provide off-street lots and garages for the parking and
37 storage of motor vehicles.
- 38 (25) Parks and Recreation. – To establish, support and maintain public parks
39 and programs of supervised recreation.
- 40 (26) Planning. – To provide for a program of planning and regulation of
41 development in accordance with Article 18 of this Chapter and Article
42 19, Parts 3A and 6, of Chapter 160A of the General Statutes.

- 1 (26a) Ports and Harbors. – To participate in programs with the North Carolina
2 Ports Authority and provide for harbor masters.
- 3 (27) Public Transportation. – To provide public transportation by rail, motor
4 vehicle, or another means of conveyance other than a ferry, including
5 any facility or equipment needed to provide the public transportation.
6 This subdivision does not authorize a county to provide public roads in
7 the county in violation of G.S. 136-51.
- 8 (27a) Railway Corridor Preservation. – To acquire property for railroad
9 corridor preservation as authorized by G.S. 160A-498.
- 10 (28) Register of Deeds. – To provide for the operation of the office of the
11 register of deeds of the county.
- 12 (28a) Roads. – To provide for the maintenance of county roads as authorized
13 by G.S. 153A-301(d).
- 14 (28b) Schools. – To provide for the county's share of the cost of kindergarten,
15 elementary, secondary, and postsecondary public education.
- 16 (29) Sewage. – To provide sewage collection and treatment services as
17 defined in G.S. 153A-274(2).
- 18 (30) Social Services. – To provide for the public welfare through the
19 maintenance and administration of public assistance programs ~~not~~
20 ~~required by Chapters 108A and 111 of the General Statutes,~~ and by
21 establishing and maintaining a county home.
- 22 (31) Solid Waste. – To provide solid waste collection and disposal services,
23 and to acquire and operate landfills.
- 24 (31a) Stormwater. – To provide structural and natural stormwater and
25 drainage systems of all types.
- 26 (32) Surveyor. – To provide for a county surveyor.
- 27 (33) Veterans' Service Officer. – To provide for the county's share of the
28 cost of services offered by or through the county veterans' service
29 officer.
- 30 (34) Water. – To provide water supply and distribution systems.
- 31 (35) Watershed Improvement. – To undertake watershed improvement
32 projects.
- 33 (36) Water Resources. – To participate in federal water resources
34 development projects.
- 35 (37) Armories. – To supplement available State or federal funds to be used
36 for the construction (including the acquisition of land), enlargement or
37 repair of armory facilities for the North Carolina national guard.

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

42 The county commissioners may call a referendum on approval of a property tax levy.
43 The referendum may be held at the same time as any other referendum or election, but

1 may not be otherwise held within the period of time beginning 30 days before and ending
2 10 days after any other referendum or election to be held in the county and already
3 validly called or scheduled by law at the time the tax referendum is called. The
4 referendum shall be conducted by the county board of elections. The clerk to the board of
5 commissioners shall publish a notice of the referendum at least twice. The first
6 publication shall be not less than 14 days and the second publication not less than seven
7 days before the last day on which voters may register for the referendum. The notice shall
8 state the date of the referendum, the purpose for which it is being held, and a statement as
9 to the last day for registration for the referendum under the election laws then in effect.

10 The proposition submitted to the voters shall be substantially in one of the following
11 forms:

- 12 (1) Shall County be authorized to levy annually a property tax at a
13 rate not in excess of cents on the one hundred dollars (\$100.00)
14 value of property subject to taxation for the purpose of?
15 (2) Shall County be authorized to levy annually a property tax at a
16 rate not in excess of that which will produce \$..... for the purpose of
17?
18 (3) Shall County be authorized to levy annually a property tax
19 without restriction as to rate or amount for the purpose of?

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

23 The board of elections shall canvass the referendum and certify the results to the
24 board of commissioners. The board of commissioners shall then certify and declare the
25 result of the referendum and shall publish a statement of the result once, with the
26 following statement appended: 'Any action or proceeding challenging the regularity or
27 validity of this tax referendum must be begun within 30 days after (date of publication).'

28 The statement of results shall be filed in the clerk's office and inserted in the minutes of
29 the board.

30 Any action or proceeding in any court challenging the regularity or validity of a tax
31 referendum must be begun within 30 days after the publication of the results of the
32 referendum. After the expiration of this period of limitation, no right of action or defense
33 based upon the invalidity of or any irregularity in the referendum shall be asserted, nor
34 shall the validity of the referendum be open to question in any court upon any ground
35 whatever, except in an action or proceeding begun within the period of limitation
36 prescribed herein.

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

1 (e) With an approving vote of the people, any county may increase the property
2 tax rate limitation imposed in subsection (c) and may call a referendum for that purpose.
3 The referendum may be held at the same time as any other referendum or election, but
4 may not be otherwise held within the period of time beginning 30 days before and ending
5 30 days after any other referendum or election. The referendum shall be conducted by the
6 county board of elections.

7 The proposition submitted to the voters shall be substantially in the following form:
8 'Shall the property tax rate limitation applicable to County be increased from on
9 the one hundred dollars (\$100.00) value of property subject to taxation to on the one
10 hundred dollars (\$100.00) value of property subject to taxation?'

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

13 (f) With respect to any of the categories listed in subsections (b) and (c) of this
14 section, the county may provide the necessary personnel, land, buildings, equipment,
15 supplies, and financial support from property tax revenues for the program, function, or
16 service.

17 (g) This section does not authorize any county to undertake any program, function,
18 joint undertaking, or service not otherwise authorized by law. It is intended only to
19 authorize the levy of property taxes within the limitations set out herein to finance
20 programs, functions, or services authorized by other portions of the General Statutes or
21 by local acts."

22 Sec. 7. Section 6 of this act becomes effective only if the constitutional
23 amendments proposed by Sections 1 through 3 of this act are approved as provided by
24 Sections 4 and 5 of this act. If these constitutional amendments are approved, Section 6
25 of this act becomes effective January 1, 1996, and applies to ordinances, resolutions, and
26 other legislative acts adopted by local government units on or after that date. If a tax has
27 been authorized by a vote of the people of the taxing unit before the effective date of the
28 amendments, an additional vote is not required.

29 Sec. 8. This act is effective upon ratification.