

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH10171-MBx-57 (3/22)

Short Title: Haywood County Occupancy Tax. (Local)

Sponsors: Representatives Rapp and Haire (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE HAYWOOD COUNTY TO LEVY A ONE-HALF CENT LOCAL SALES AND USE TAX FOR COMMUNITY COLLEGE CAPITAL OUTLAY PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to Haywood County only.

SECTION 2. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"Fourth One-Half Cent (1/2¢) Local Government Sales and Use Tax.

"§ 105-535. Short title.

This Article is the Fourth One-Half Cent (1/2¢) Local Government Sales and Use Tax Act.

"§ 105-536. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter, and the third one-half cent (1/2¢) local sales and use tax under Article 44 of this Chapter.

"§ 105-537. Levy of tax.

(a) After Vote. – If a majority of those voting in a special election held pursuant to this Article vote for the levy of the taxes in a county, the board of commissioners of a county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

(b) Without Vote. – If the question of whether to levy taxes under this Article has not been defeated in a special election held in the county within two years, the board of

1 commissioners of a county may, by resolution, levy one-half percent (1/2%) local sales
2 and use taxes in addition to any other State and local sales and use taxes levied pursuant
3 to law. Before adopting a resolution under this subsection, the board of commissioners
4 must give at least 10 days' public notice of its intent to adopt the resolution and must
5 hold a public hearing on the issue of adopting the resolution.

6 **"§ 105-538. County election on adoption of tax.**

7 (a) Resolution. – The board of commissioners of a county may direct the county
8 board of elections to conduct a special election on the question of whether to levy local
9 one-half percent (1/2%) sales and use taxes in the county as provided in this Article.
10 The election must be held on a date jointly agreed upon by the two boards and must be
11 held in accordance with the procedures of G.S. 163-287.

12 (b) Ballot Question. – The question to be presented on a ballot for a special
13 election concerning the levy of the taxes authorized by this Article must be in the
14 following form:

15 FOR AGAINST

16 One-half percent (1/2%) local sales and use taxes, in addition to all current
17 State and local sales and use taxes.'

18 **"§ 105.539. Administration.**

19 Except as provided in this Article, the adoption, levy, collection, administration, and
20 repeal of the additional taxes authorized by this Article shall be in accordance with
21 Article 39 of this Chapter. A tax levied under this Article does not apply to the sales
22 price of food that is exempt from tax pursuant to G.S. 105-164.13B.

23 **"§ 105-540. Distribution and use of taxes.**

24 (a) Distribution. – The Secretary shall, on a monthly basis, distribute to each
25 taxing county the net proceeds of the tax collected in that county under this Article. If
26 the Secretary collects taxes under this Article in a month and the taxes cannot be
27 identified as being attributable to a particular taxing county, the Secretary shall allocate
28 these taxes among the taxing counties in proportion to the amount of taxes collected in
29 each county under this Article in that month and shall include them in the monthly
30 distribution.

31 (b) Use. – The proceeds of a tax levied under this Article may be used only for
32 community college capital outlay and infrastructure improvements or to retire
33 indebtedness incurred by the county for these purposes.

34 (c) Nonsupplant Restriction. – It is the purpose of this Article for counties to
35 appropriate funds generated under this Article to increase the level of county spending
36 for community college capital outlay and infrastructure improvements above the level
37 of spending before the levy of the tax authorized in this Article. A county that levies a
38 tax under this Article must continue to spend for community college capital outlay and
39 infrastructure improvements the same amount of money it would have spent for those
40 purposes if it had not levied the tax.

41 **"§ 105-541. Expiration.**

42 A tax levied under this Article expires six years after the effective date of its levy. A
43 county's authorization to levy a tax under this Article expires six years after the effective
44 date of the first tax a county levies under this Article, even if the tax has not remained in

1 effect for the entire six-year period. The expiration of a tax pursuant to this Article does
2 not affect the rights or liabilities of a county, a taxpayer, or another person arising under
3 the expired tax; nor does it affect the right to any refund or credit of a tax that would
4 otherwise have been available under the expired tax before its expiration. If the
5 Secretary receives a valid request for a refund of a tax levied under this Article after the
6 tax has expired and the net proceeds have been distributed, the Secretary shall draw the
7 refund from the taxing county's share of the net proceeds of the tax it levies under
8 Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, as
9 applicable."

10 **SECTION 3.** A tax levied under Article 46 of Chapter 105 of the General
11 Statutes, as enacted by this act, does not apply to construction materials purchased to
12 fulfill a lump-sum or unit-price contract entered into or awarded before the effective
13 date of the levy or entered into or awarded pursuant to a bid made before the effective
14 date of the levy when the construction materials would otherwise be subject to the tax
15 levied under Article 46 of Chapter 105 of the General Statutes.

16 **SECTION 4.** This act is effective when it becomes law.