

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS35126-MC~~x~~-36 (1/31)

Short Title: One-Cent Local Option Sales Tax. (Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COUNTIES TO LEVY A ONE-CENT LOCAL SALES AND USE TAX FOR PUBLIC SCHOOL CAPITAL OUTLAY PURPOSES, OTHER CAPITAL INFRASTRUCTURE NEEDS, ROAD CONSTRUCTION, OR MENTAL HEALTH PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"Second One-Cent (1¢) Local Government Sales and Use Tax.

"§ 105-535. Short title.

This Article is the Second One-Cent (1¢) 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.

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 percent (1%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

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

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct a special election on the question of whether to levy local

1 one percent (1%) sales and use taxes in the county as provided in this Article. The
2 election shall be held on a date jointly agreed upon by the two boards and shall be held
3 in accordance with the procedures of G.S. 163-287.

4 (b) Ballot Question. – The question to be presented on a ballot for a special
5 election concerning the levy of the taxes authorized by this Article shall be in the
6 following form:

7 [] FOR [] AGAINST

8 One percent (1%) local sales and use taxes, in addition to all current State and
9 local sales and use taxes.'

10 **"§ 105-539. Administration.**

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

15 **"§ 105-540. Distribution of taxes.**

16 (a) Allocation. – The Secretary shall, on a monthly basis, allocate to each taxing
17 county the net proceeds of the tax collected in that county under this Article. If the
18 Secretary collects taxes under this Article in a month and the taxes cannot be identified
19 as being attributable to a particular taxing county, the Secretary shall allocate the net
20 proceeds of these taxes among the taxing counties in proportion to the amount of taxes
21 collected in each county under this Article in that month.

22 (b) Distribution. – On a monthly basis, the Secretary shall distribute to each
23 taxing county the amounts allocated under this section. A county is not required to share
24 proceeds collected under this Article with municipalities.

25 **"§ 105-541. Use.**

26 (a) Use. – Counties may use the proceeds of a tax levied under this Article only
27 for public school capital outlay purposes as defined in G.S. 115C-426(f), other capital
28 infrastructure needs, road construction, mental health programs, or to retire
29 indebtedness incurred by the county for these purposes on or after the date of the
30 resolution levying the tax.

31 (b) Nonsupplant Restriction. – It is the purpose of this Article for counties to
32 appropriate funds generated under this Article to increase the level of county spending
33 for the purposes listed in subsection (a) of this section above the level of spending
34 before the levy of the tax authorized in this Article. A county that levies a tax under this
35 Article shall continue to spend for the purposes listed in subsection (a) of this section
36 the same amount of money it would have spent for those purposes if it had not levied
37 the tax."

38 **SECTION 2.** A tax levied under Article 46 of Chapter 105 of the General
39 Statutes, as enacted by this act, does not apply to construction materials purchased to
40 fulfill a lump-sum or unit-price contract entered into or awarded before the effective
41 date of the levy or entered into or awarded pursuant to a bid made before the effective
42 date of the levy when the construction materials would otherwise be subject to the tax
43 levied under Article 46 of Chapter 105 of the General Statutes.

44 **SECTION 3.** G.S. 105-269.14(b) reads as rewritten:

1 "(b) Distribution. – The Secretary must distribute a portion of the net use tax
2 proceeds collected under this section to counties and cities. The portion to be distributed
3 to all counties and cities is the total net use tax proceeds collected under this section
4 multiplied by a fraction. The numerator of the fraction is the local use tax proceeds
5 collected under this section. The denominator of the fraction is the total use tax
6 proceeds collected under this section. The Secretary must distribute this portion to the
7 counties and cities in proportion to their total distributions under Articles 39, 40, 42, 43,
8 ~~and 44~~44, 45, and 46 of this Chapter and Chapter 1096 of the 1967 Session Laws for the
9 most recent period for which data are available. The provisions of G.S. 105-472,
10 105-486, ~~and 105-501~~105-501, 105-510, 105-520, 105-531, and 105-539 do not apply
11 to tax proceeds distributed under this section."

12 **SECTION 4.** G.S. 136.98 is repealed.

13 **SECTION 5.** Section 3 of this act is effective for taxable years beginning on
14 or after January 1, 2008. The remainder of this act is effective when it becomes law.