GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

HOUSE BILL 900

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

Sponsors: Representatives Ross and Saine (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Finance

April 26, 2017

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:
SECTION 1. The Department of Revenue, in conjunction with municipal
governing entities and county boards of commissioners, shall study the existing property tax
exemptions, exclusions, deferrals, and other benefits for the purpose of determining whether
those benefits are needed or no longer serve the intended function and are, therefore, suitable
for repeal. The Department shall report the findings of its study to the Revenue Laws Study
Committee no later than January 1, 2018.

SECTION 2. The Revenue Laws Study Committee is directed to study property
tax benefits currently provided to nonprofit entities. The study shall include evaluating the
amount of charity care provided by recipient nonprofit entities, the costs associated with all
local services provided to and benefitting nonprofit entities, and the impact on local property
tax revenues of the loss of tax base resulting from nonprofit entities purchasing and using
previously taxed parcels of property. The Committee shall report its findings, together with any
recommended legislation, to the 2018 Regular Session of the 2017 General Assembly upon its
convening.

SECTION 3. Subchapter X of Chapter 105 of the General Statutes is
amended by
adding the following new Article to read:

"Article 61,
"Local Government Tax Options.

§ 105-605. Local option meals tax.
(a) Authority. – The governing body of a municipality may levy a prepared food and
beverages tax of up to one and one-half percent (1.5%) of the sales price of prepared food and
drink sold within the municipality at retail for consumption on or off the premises by a retailer
subject to sales tax under G.S. 105-164.4(a)(1) as authorized in this subsection. For purposes of
catering, the tax applies to food served in the town without regard to the residency of the
caterer. This tax is in addition to State and local sales tax. The municipality may levy the tax
authorized in this section if the majority of those voting in a referendum vote for the levy of the
tax and the governing body of the municipality, by resolution, levies the tax. The governing
body shall direct the county board of elections to conduct an advisory referendum in the
municipality on the question of whether to levy a local prepared food tax in the taxing unit as
provided in this section. The election shall be held in accordance with the procedures of
G.S. 163-287. The form of the question to be presented on a ballot for a special election
concerning the levy of the tax authorized by this section shall be:

"[] FOR   [ ] AGAINST
One and one-half percent (1.5%) local prepared food tax, in addition to the current
local sales and use taxes to be used only for construction and improvement public infrastructure
and facilities or for economic development."

(b) Definitions. – The definitions in G.S. 105-164.3 apply to this section to the extent
they are not inconsistent with the provisions of this section. In addition, the following
definitions apply in this section:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering
and collecting the tax.

(2) Prepared food and beverages. – The term includes the following:
   a. Prepared food, as defined in G.S. 105-164.3.
   b. An alcoholic beverage, as defined in G.S. 18B-101.

(c) Exemptions. – The prepared food and beverages tax does not apply to the following
sales of prepared food and beverages:

(1) Prepared food and beverages served to residents in boardinghouses and sold
together on a periodic basis with rental of a sleeping room or lodging.

(2) Retail sales exempt from taxation under G.S. 105-164.13.

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

Prepared food and beverages furnished without charge by an employer to an employee.

Retail sales by grocers or by grocery sections of supermarkets or other diversified retail establishments, other than sales of prepared food and beverages in the delicatessen or similar department of the grocer or grocery section.

Prepared food and beverages served on a federal military reservation.

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

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

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

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

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

Use. — The proceeds of a tax levied under this section shall be used as provided in this subsection. The entity administering and collecting the tax may deduct from the gross
proceeds of the taxes collected under this section an amount not to exceed three percent (3%) of
the gross proceeds to pay for the direct cost of administering and collecting the taxes. The
remaining proceeds shall be used to construct and improve public infrastructure and facilities or
for economic development or for both.

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

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

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

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


§ 105-606. Local option occupancy tax.

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

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

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

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

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

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

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

"[ ] FOR  [ ] AGAINST

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

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

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

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

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

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

"§ 105-607. Local option sales tax."

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

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

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

"[ ] FOR  [ ] AGAINST

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

(d) Administration. – Except as provided in this section, the adoption, levy, collection,
administration, and repeal of the additional taxes authorized by this section shall be in
accordance with Article 39 of this Chapter. References to "county," "counties," or "board of
county commissioners" within Article 39 of this Chapter shall be interpreted as referring to
"municipality," "municipalities," or "governing body of the municipality," respectively, for
purposes of the tax authorized by this Article. G.S. 105-468.1 is an administrative provision
that applies to this section. A tax levied under this section does not apply to the sales price of
food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled
transaction taxable pursuant to G.S. 105-467(a)(5a).
(e) Distribution. – The Secretary shall, on a monthly basis, distribute to each taxing municipality for which the Secretary collects the tax the net proceeds of the tax collected in that municipality under this section. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing municipality, the Secretary shall allocate the taxes among the taxing municipalities in proportion to the amount of taxes collected in each municipality under this section during that month and shall include them in the monthly distribution. Amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is received.

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

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

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