

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1989

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SENATE BILL 1428

Short Title: Local Sales Tax Distribution.

(Public)

Sponsors: Senator Daughtry.

Referred to: Rules and Operation of the Senate.

May 30, 1990

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE THAT CERTAIN LOCAL SALES AND USE TAX
3 PROCEEDS SHALL BE DISTRIBUTED TO THE TAXING COUNTIES ON A
4 PER CAPITA BASIS AND TO APPROPRIATE FUNDS TO THE DEPARTMENT
5 OF REVENUE FOR THE COMPUTER PROGRAMMING REQUIRED TO
6 CHANGE THE DISTRIBUTION FORMULA.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 105-472 reads as rewritten:

9 **"§ 105-472. Disposition and distribution of taxes collected.**

10 ~~With respect to the counties in which he shall collect and administer the tax, the~~
11 ~~Secretary of Revenue shall, on a quarterly basis, distribute to each taxing county and to~~
12 ~~the municipalities therein the net proceeds of the tax collected in that county under this~~
13 ~~Article which amount shall be determined by deducting taxes refunded, the cost to the~~
14 ~~State of collecting and administering the tax in the taxing county and such other~~
15 ~~deductions as may be properly charged to the taxing county, from the gross amount of~~
16 ~~the tax remitted to the Secretary of Revenue from the taxing county. The Secretary of~~
17 Revenue shall, on a quarterly basis, allocate the net proceeds of the taxes levied under
18 this Article to the taxing counties on a per capita basis according to the most recent
19 annual population estimates certified to the Secretary by the State Budget Officer. The
20 amount of the net proceeds shall be determined by deducting taxes refunded, the cost to
21 the State of collecting and administering the taxes, and any other deductions that may be
22 properly charged to the taxing counties from the gross amount of the taxes remitted to
23 the Secretary of Revenue from the taxing counties. The Secretary shall determine the
24 cost of collection and administration, and that amount shall be retained by the State
25 before distribution of the net proceeds of the tax. For the purposes of this Article,
26 'municipalities' shall mean cities as defined by G.S. 153A-1(1).

27 The amount allocated to each taxing county shall then be distributed to the county
28 and its municipalities in accordance with the method selected by the board of county

1 commissioners, as provided below. The board of county commissioners shall, in the
2 resolution levying the tax, determine that the net proceeds of the tax shall be distributed
3 in one of the following methods and thereafter said proceeds shall be distributed in
4 accordance therewith:

5 (1) The amount distributable to a taxing county and to the municipalities
6 therein from the net proceeds of the tax collected therein shall be
7 determined upon the following basis: The net proceeds of the tax
8 collected in a taxing county shall be distributed to that taxing county
9 and to the municipalities therein upon a per capita basis according to
10 the total population of the taxing county, plus the total population of
11 the municipalities therein; provided, however, that 'total population' of
12 a municipality lying within more than one county shall be only that
13 part of its population which lives within the taxing county. For this
14 purpose, the Secretary of Revenue shall determine a per capita figure
15 by dividing the net proceeds of the tax collected under this Article for
16 the preceding quarter within a taxing county by the total population of
17 that taxing county plus the total population of all municipalities therein
18 according to the most recent annual estimates of population as certified
19 to the Secretary of Revenue by the State Budget Officer. The per
20 capita figure thus derived shall be multiplied by the population of the
21 taxing county and each respective municipality therein according to
22 the most recent annual estimates of population as certified to the
23 Secretary of Revenue by the State Budget Officer, and each respective
24 product shall be the amount to be distributed to each taxing county and
25 to each municipality therein. The State Budget Officer shall annually
26 cause to be prepared and shall certify to the Secretary of Revenue such
27 reasonably accurate population estimates of all counties and
28 municipalities in the State as may be practicably developed; or

29 (2) The net proceeds of the tax collected in a taxing county shall be
30 divided between the county and the municipalities therein in
31 proportion to the total amount of ad valorem taxes levied by each on
32 property having a tax situs in the taxing county during the fiscal year
33 next preceding such distribution. For purposes of this section, the
34 amount of the ad valorem taxes levied by such county or municipality
35 shall include any ad valorem taxes levied by such county or
36 municipality in behalf of a taxing district or districts and collected by
37 the county or municipality. In computing the amount of tax proceeds to
38 be distributed to any county or municipality, the amount of any ad
39 valorem taxes levied but not substantially collected shall be ignored. Each
40 county and municipality receiving a distributable share of the sales and
41 use tax levied under this Article shall in turn immediately share the
42 proceeds with any district or districts in behalf of which the county or
43 municipality levied ad valorem taxes in the proportion that the district
44 levy bears to the total levy of the county or municipality. Any county or

1 municipality which fails to provide the Department of Revenue with
2 information concerning ad valorem taxes levied by that county or
3 municipality adequate to permit a timely determination of the appropriate
4 share of that county or municipality of tax proceeds collected under this
5 Article may be excluded by the Secretary from each quarterly distribution
6 with respect to which such information was not provided in a timely
7 manner, and such tax proceeds shall then be distributed only to the
8 governmental unit or units whose information was provided in a timely
9 manner. For the purpose of computing the distribution of the tax under
10 this subsection to any county and the municipalities located therein for
11 any quarter with respect to which the property valuation of a public
12 service company is the subject of an appeal pursuant to the provisions of
13 the Machinery Act, or to applicable provisions of federal law, and the
14 Department of Revenue is restrained by operation of law or by a court of
15 competent jurisdiction from certifying such valuation to the county and
16 the municipalities therein, the Department shall use the last property
17 valuation of such public service company which has been so certified in
18 order to determine the ad valorem tax levies applicable to such public
19 service company in the county and the municipalities therein.

20 Where local use taxes, levied pursuant to this Article, or to any other local sales tax
21 act, which cannot be identified as being attributable to any particular taxing county are
22 collected and remitted to the Secretary, he shall apportion said taxes to the taxing
23 counties in the same proportion that the local sales and use taxes collected each month
24 in a taxing county bears to the total local sales and use taxes collected in all taxing
25 counties each month during the quarter for which a distribution is to be made, and the
26 total net proceeds shall then be distributed as above provided.

27 The board of county commissioners in each taxing county shall, by resolution
28 adopted during the month of April of each year, determine which of the two foregoing
29 methods of distribution shall be in effect in the county during the next succeeding fiscal
30 year. In order for such resolution to be effective, a certified copy thereof must be
31 delivered to the Secretary of Revenue at his office in Raleigh within 15 calendar days after
32 its adoption. If the board fails to adopt any resolution or if it fails to adopt a method of
33 distribution not then in effect in the county, or if a certified copy of the resolution is not
34 timely delivered to the Secretary, the method of distribution then in effect in the county
35 shall continue in effect for the following fiscal year. The method of distribution in effect
36 on the first of July of each fiscal year shall apply to every distribution made during that
37 fiscal year."

38 Sec. 2. There is appropriated from the General Fund to the Department of
39 Revenue the sum of \$1,000 for the 1990-91 fiscal year to defray the costs of changing
40 the distribution of local sales tax proceeds as provided in this act.

41 Sec. 3. This act shall become effective July 1, 1990, and applies to sales made
42 on or after that date.