

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 916

Short Title: Restore Local Govt. Earmarking.

(Public)

Sponsors: Representatives Barnes; Gottovi and Warner.

Referred to: Appropriations.

April 18, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT DISTRIBUTIONS AND REIMBURSEMENTS TO LOCAL GOVERNMENTS SHALL BE PROVIDED BY EARMARKING RATHER THAN BY APPROPRIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.82 reads as rewritten:

"§ 105-113.82. ~~Appropriation~~ Distribution of amount equal to part of beer and wine taxes.

(a) Amount, Method. ~~An amount equal to~~ The Secretary shall annually distribute the following percentages of the net amount of excise taxes ~~collected,~~ collected during the period that begins the preceding October 1 and ends September ~~30,~~ 30 on the sale of malt beverages and wine, less the amount of the net proceeds credited to the Department of Agriculture under G.S. 105-113.81A, ~~is annually appropriated from the General Fund to~~ the counties and cities in which the retail sale of these beverages is authorized:

- (1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23 3/4%);
- (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%); and
- (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount ~~appropriated,~~ of excise tax to be distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed

1 to be sold at retail in a city located in a county in which the sale of the beverage is
2 otherwise prohibited, only the city shall receive a portion of the amount ~~appropriated, of~~
3 excise tax to be distributed, that portion to be determined on the basis of population.
4 The ~~amount of the appropriation amounts~~ to be distributed under subdivisions (1), (2), and
5 (3) shall be computed separately.

6 (b) ~~Reduction in Appropriation Amount Distributed.~~ – Where the sale of malt
7 beverages, unfortified wine, or fortified wine is prohibited in a defined area of a city or
8 county in which the sale of the beverage is authorized, the amount that would otherwise
9 be ~~appropriated distributed~~ to the city or county on the basis of population under
10 subsection (a) shall be reduced in the same ratio that the area of the defined area bears
11 to the total area of the city or county, unless the defined area is a city. If the defined area
12 in a county is a city, the reduction in the amount that would otherwise be ~~appropriated~~
13 distributed to the county under subsection (a) shall be based on population instead of
14 area. All reductions shall be retained by the State.

15 (c) Exception. – Notwithstanding subsection (a), in a county in which ABC
16 stores have been established by petition, ~~the amount appropriated excise tax revenue~~ shall
17 be distributed as though the entire county had approved the retail sale of a beverage
18 whose retail sale is authorized in part of the county.

19 (d) Time. – ~~The appropriation shall be distributed to cities and counties distribution~~
20 shall be made within 60 days after September 30 of each year.

21 (e) Population Estimates. – To determine the population of a city or county for
22 purposes of the distribution required by this section, the Secretary shall use the most
23 recent annual estimate of population certified by the State Budget Officer.

24 (f) City Defined. – As used in this section, the term 'city' means a city as defined
25 in G.S. 153A-1(1) or an urban service district defined by the governing body of a
26 consolidated city-county.

27 (g) Use of Funds. – Funds ~~appropriated distributed~~ to a county or city under this
28 section may be used for any public purpose.

29 (h) ~~Act.—The appropriation made by this section shall be included in the Current~~
30 ~~Operations Appropriations Act."~~

31 Sec. 2. G.S. 105-116(d) reads as rewritten:

32 "(d) ~~Appropriation Distribution.~~ There is annually appropriated from the General Fund
33 Each year, the Secretary of Revenue shall distribute to each municipality from
34 collections received under this section an amount that equals three and nine hundredths
35 percent (3.09%) of the taxable gross receipts derived, from April 1 of the preceding
36 fiscal year to the following March 31, by an electric power company and a natural gas
37 company from sales within the municipality of the commodities and services described
38 in subsection (a). The Secretary of Revenue shall transfer the amount appropriated
39 distribute the amount to a municipality in quarterly installments on or before September
40 15, December 15, March 15, and June 15 based on the taxable gross receipts derived
41 within the municipality during the preceding calendar quarter. If a company's report
42 does not state the company's taxable gross receipts derived within a municipality, the
43 Secretary of Revenue shall determine a practical method of allocating part of the
44 company's taxable gross receipts to the municipality. Before transferring the amount

1 ~~appropriated by~~ Before distributing an amount under this subsection, the Secretary of
2 Revenue shall certify the amount to be ~~transferred~~ distributed to the State Controller.
3 ~~The appropriation made by this subsection shall be included in the Current Operations~~
4 ~~Appropriations Act.~~

5 As used in this subsection, the term 'municipality' includes an urban service district
6 defined by the governing board of a consolidated city-county. The amount due an urban
7 service district shall be distributed to the governing board of the consolidated city-
8 county."

9 Sec. 3. G.S. 105-120(c) reads as rewritten:

10 "(c) ~~Appropriation-Distribution.~~ ~~There is annually appropriated from the General Fund~~
11 Each year, the Secretary of Revenue shall distribute to each municipality from
12 collections received under this section an amount that equals three and nine hundredths
13 percent (3.09%) of the taxable gross receipts derived, from April 1 of the preceding
14 fiscal year to the following March 31, from local telecommunications service provided
15 within the municipality. The Secretary of Revenue shall ~~transfer the amount appropriated~~
16 distribute the amount to a municipality in quarterly installments on or before September
17 15, December 15, March 15, and June 15 based on the taxable gross receipts derived
18 within the municipality during the preceding calendar quarter. If a company's report
19 does not state the company's taxable gross receipts derived within a municipality, the
20 Secretary of Revenue shall determine a practical method of allocating part of the
21 company's taxable gross receipts to the municipality. ~~Before transferring the amount~~
22 ~~appropriated by~~ Before distributing an amount under this subsection, the Secretary of
23 Revenue shall certify the amount to be ~~transferred~~ distributed to the State Controller.
24 ~~The appropriation made by this subsection shall be included in the Current Operations~~
25 ~~Appropriations Act.~~

26 As used in this subsection, the term 'municipality' includes an urban service district
27 defined by the governing board of a consolidated city-county. The amount due an urban
28 service district shall be distributed to the governing board of the consolidated city-
29 county."

30 Sec. 4. G.S. 105-164.44C reads as rewritten:

31 "**§ 105-164.44C. Reimbursement for sales taxes on food stamp foods and**
32 **supplemental foods.**

33 As soon as practicable after July 1 of each year, the Secretary shall determine from
34 available information the amount of local sales taxes that would have been collected in
35 each county during the preceding fiscal year on foods purchased with food stamp
36 coupons or supplemental food instruments in the county, had these foods not been
37 exempt from tax under G.S. 105-164.13(38). The Secretary shall then distribute the
38 amounts determined to be due each county between the county and the cities located in
39 the county in accordance with the method by which local sales and use taxes are
40 distributed in that county. In order to pay for the reimbursement under this section and
41 the cost to the Department of Revenue for administering the reimbursement, the
42 Secretary of Revenue shall draw from the ~~Local Government Tax Reimbursement Reserve~~
43 collections received under Article 2B of this Chapter an amount equal to the amount of
44 the reimbursement and the cost of administration."

1 Sec. 5. G.S. 105-213 reads as rewritten:

2 **"§ 105-213. ~~Appropriation~~ Distribution of taxes and reimbursement to counties and**
3 **municipalities; use of ~~appropriation~~ funds distributed.**

4 (a) ~~There is annually appropriated from the General Fund~~ The Secretary shall
5 annually distribute to counties and municipalities the net amount of revenue collected
6 under this Article during the preceding fiscal year, plus an amount equal to forty percent
7 (40%) of the tax collected on accounts receivable during the preceding fiscal year and
8 less an amount equal to the costs during the preceding fiscal year of:

9 (1) Refunds made during the fiscal year of taxes levied under this Article.

10 (2) The Department of Revenue to collect and administer the taxes levied
11 under this Article.

12 (3) The Department of Revenue in performing the duties imposed by
13 Article 15 of this Chapter.

14 (4) The Property Tax Commission.

15 (5) The Institute of Government in operating a training program in
16 property tax appraisal and assessment.

17 ~~The appropriation shall be distributed~~ distribution shall be made by August 30 of each
18 year. ~~The appropriation shall be included in the Current Operations Appropriations Act.~~

19 To ~~distribute the appropriation~~, make the distribution, the Secretary of Revenue shall
20 keep a separate record by counties of the taxes collected under this Article and shall
21 certify to the State Controller and to the State Treasurer the amount to be distributed to
22 each county and municipality in the State. ~~The State Controller shall then issue a~~
23 warrant on the State Treasurer to each county and municipality in the amount certified.
24 Article ~~The Secretary and~~ shall allocate the amount appropriated under this Article net
25 amount of taxes collected under this Article, less the deductions enumerated above, to
26 the counties according to the county in which the taxes were collected. The Secretary
27 shall then increase the amount allocable to each county by a sum equal to forty percent
28 (40%) of the amount of tax on accounts receivable allocated to the county on the basis
29 of collections. To pay for this increase, the Secretary shall draw an amount equal to the
30 increase from collections received under Division II of Article 4 of this Chapter. The
31 amounts so allocated to each county shall in turn be divided between the county and the
32 municipalities in the county in proportion to the total amount of ad valorem taxes levied
33 by each during the fiscal year preceding the distribution.

34 The Secretary shall certify to the State Controller and to the State Treasurer the
35 amount to be distributed to each county and municipality in the State. The State
36 Controller shall then issue a warrant on the State Treasurer to each county and
37 municipality in the amount certified.

38 For the purpose of computing the distribution of the intangibles tax to any county
39 and the municipalities located in the county for any year with respect to which the
40 property valuation of a public service company is the subject of an appeal pursuant to
41 the provisions of the Machinery Act, or to applicable provisions of federal law, and the
42 Department of Revenue is restrained by operation of law or by a court of competent
43 jurisdiction from certifying such valuation to the county and municipalities therein, the
44 Department shall use the last property valuation of such public service company which

1 has been so certified in order to determine the ad valorem tax levies applicable to such
2 public service company in the county and the municipalities therein.

3 The chairman of each board of county commissioners and the mayor of each
4 municipality shall report to the Secretary of Revenue information requested by the
5 Secretary to enable the Secretary to ~~distribute the amount appropriated~~ make the
6 distributions provided by this section. If a county or municipality fails to make a
7 requested report within the time allowed, the Secretary may disregard the county or
8 municipality in ~~distributing the amount appropriated~~ making the distribution provided by
9 this section. The amount distributed to each county and municipality shall be used by
10 the county or municipality in proportion to property tax levies made by it for the various
11 funds and activities of the county or municipality, unless the county or municipality has
12 pledged the amount to be distributed to it under this section in payment of a loan
13 agreement with the North Carolina Solid Waste Management Capital Projects Financing
14 Agency. A county or municipality that has pledged amounts distributed under this
15 section in payment of a loan agreement with the Agency may apply the amount the loan
16 agreement requires.

17 (b) For purposes of this section, the term 'municipality' includes any urban
18 service district defined by the governing board of a consolidated city-county, and the
19 amounts due thereby shall be distributed to the government of the consolidated city-
20 county."

21 Sec. 6. G.S. 105-213.1 reads as rewritten:

22 "**§ 105-213.1. Additional ~~appropriation~~ distribution to counties and municipalities.**

23 (a) ~~Appropriation-Distribution.~~ – As soon as practicable after July 1 of 1986, the
24 Secretary of Revenue shall allocate for distribution to each county and the
25 municipalities located in the county the amount allocated to that county from taxes
26 levied under G.S. 105-199, 105-200, and 105-205 for the last taxable year in which
27 these taxes were levied, plus or minus a sum that equals the product of this amount and
28 the percentage by which State disposable personal income has increased or decreased
29 during the most recent 12-month period for which State personal income data has been
30 compiled by the Bureau of Economic Analysis of the United States Department of
31 Commerce.

32 Thereafter, by August 30 of each year, the Secretary shall allocate to each county the
33 amount of funds allocated to the county under this section the preceding year, plus or
34 minus a sum that equals the product of this amount and the percentage by which State
35 disposable personal income has increased or decreased during the most recent 12-month
36 period for which State personal income data has been compiled by the Bureau of
37 Economic Analysis of the United States Department of Commerce.

38 Amounts allocated to a county under this section shall in turn be divided and
39 distributed between the county and the municipalities located in the county in
40 accordance with the method of allocating intangible tax revenue between a county and
41 the municipalities located in the county provided in G.S. 105-213.

42 (b) Restrictions on Use. – Amounts distributed to a county or a municipality
43 under this section are subject to the same restrictions as amounts distributed under G.S.
44 105-213.

1 (c) Municipality Defined. – As used in this section, the term 'municipality' has
2 the same meaning as in G.S. 105-213.

3 (d) Source. – ~~Funds~~ Amounts distributed under this section shall be drawn from
4 ~~the Local Government Tax Reimbursement Reserve~~ collections received under Division II
5 of Article 4 of this Chapter."

6 Sec. 7. G.S. 105-275.1(e) reads as rewritten:

7 "(e) Source of Funds. – To pay for the distribution required by this section and the
8 cost to the Department of Revenue of making the distribution, the Secretary of Revenue
9 shall draw from ~~the Local Government Tax Reimbursement Reserve~~ collections received
10 under Division I of Article 4 of this Chapter an amount equal to the amount distributed
11 and the cost of making the distribution."

12 Sec. 8. G.S. 105-277A(f) reads as rewritten:

13 "(f) Source of Funds. – ~~The Secretary of Revenue shall~~ To pay for the distribution
14 required by this section and the cost of making the ~~distribution~~ as follows:

15 (1) ~~For the distribution made in 1989, the Secretary shall draw an amount~~
16 ~~equal to the amount distributed and the cost of making the distribution~~
17 ~~first from the Inventory Tax Reimbursement Fund created in Section~~
18 ~~15.1 of the School Facilities Finance Act of 1987, until it is exhausted,~~
19 ~~and then the remainder of that amount from collections received by the~~
20 ~~Department under Division I of Article 4 of this Chapter.~~

21 (2) ~~For distributions made in subsequent years, distribution,~~ the Secretary
22 shall draw from ~~the Local Government Tax Reimbursement Reserve~~ for the distribution
23 required by this section collections received under Article 5 of this Chapter an amount
24 equal to the amount distributed and the cost of making the distribution."

25 Sec. 9. G.S. 105-277.1A(f) reads as rewritten:

26 "(f) In order to pay for the reimbursement under this section and the cost to the
27 Department of Revenue ~~for~~ of administering the reimbursement, the Secretary of
28 Revenue shall draw from ~~the Local Government Tax Reimbursement Reserve~~ collections
29 received under Articles 2A and 2C of this Chapter an amount equal to the
30 reimbursement and the cost of administration."

31 Sec. 10. Taxes collected under G.S. 105-113.80, 105-116, and 105-120 and
32 under Article 7 of Chapter 105 of the General Statutes on or after the effective date of
33 this act that are to be distributed to local governments shall be placed in a trust and
34 agency fund and reserved for the required distributions.

35 Sec. 11. Section 16 of Chapter 813 of the 1989 Session Laws is repealed.

36 Sec. 12. This act becomes effective July 1, 1991.