

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 3*
Committee Substitute Favorable 2/28/95

Short Title: Taxpayer Protection Act.

(Public)

Sponsors:

Referred to:

January 26, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE GOVERNMENTAL ACCOUNTABILITY AND PROTECTION TO THE TAXPAYERS BY LIMITING INCREASES IN THE GENERAL FUND BUDGET, REFORMING THE BUDGET PROCESS, ESTABLISHING AN EMERGENCY RESERVE TRUST FUND, AND PROHIBITING UNFUNDED STATE MANDATES.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 143 of the General Statutes is amended by adding the following new sections:

"§ 143-2.1. Determination of the General Fund expenditure limit.

(a) Definitions. – The following definitions apply in this section:

(1) Fiscal growth factor. – The average of the sum of inflation and population change for each of the preceding three calendar years. If either inflation or the population change for the preceding three calendar years is negative, then that change shall be counted as zero.

(2) Inflation. – The percentage change in the federal Consumer Price Index for All Urban Consumers for a calendar year.

(3) Population change. – The percentage change in State population for a calendar year as reported by the Office of State Planning.

1 (b) Limit. – The General Fund expenditure limit for each fiscal year shall be the
2 previous fiscal year's General Fund expenditure limit increased by a percentage rate that
3 equals the fiscal growth factor.

4 (c) Base Fiscal Year. – The total certified General Fund budget for the fiscal year
5 beginning July 1, 1995, plus the fiscal growth factor shall be used to determine the
6 General Fund expenditure limit for the fiscal year beginning July 1, 1996, which will then
7 be used to determine the General Fund expenditure limit for succeeding fiscal years.

8 (d) Decreases. – If, on or after December 31, 1994, the cost of any State program
9 or function is shifted from the General Fund to another source of funding, including, but
10 not limited to, counties or other units of local government, or if moneys are transferred
11 from the General Fund to another fund or account, the General Fund expenditure limit
12 shall be reduced by a like amount.

13 (e) Increases. – To the extent that any percent increase in appropriations for a
14 fiscal year resulting from compliance with an existing or new mandate imposed by any
15 court or by federal law exceeds the fiscal growth factor, the General Fund expenditure
16 limit for that fiscal year shall be increased by the dollar amount represented by the excess
17 percentage. If the mandate is a one-time expenditure, such as payment of an award in a
18 case, and therefore does not affect the General Fund operating budget, the General Fund
19 expenditure limit shall be decreased for the subsequent fiscal year by the amount of the
20 one-time increase.

21 If the General Assembly makes appropriations for a fiscal year in excess of the
22 expenditure limit for that year, in accordance with G.S. 143-2.5, the expenditure limit for
23 that year is increased by the amount of the appropriations that exceeds the limit. The
24 General Fund expenditure limit shall be decreased for the subsequent fiscal year by the
25 amount of the increase.

26 (f) Fiscal Reports. – On or before March 15 of each year, the Fiscal Research
27 Division and the Office of State Budget and Management shall issue a determination of
28 the General Fund expenditure limit for the fiscal year beginning July 1 of that year and a
29 projection of the General Fund expenditure limit for the next fiscal year. If the Fiscal
30 Research Division and the Office of State Budget and Management do not agree on the
31 General Fund expenditure limit, the lower determination and projection shall be used.

32 **"§ 143-2.2. Increase in General Fund expenditures limited.**

33 (a) Governor Bound by General Fund Expenditure Limit. – In preparing the
34 budget for a fiscal year, the Governor shall not propose expenditures from the General
35 Fund for the ensuing fiscal period in excess of the projected General Fund expenditure
36 limit established under G.S. 143-2.1.

37 (b) General Assembly Bound by General Fund Expenditure Limit. – In enacting
38 the budget for the fiscal year, the General Assembly shall not make appropriations from
39 the General Fund in excess of the General Fund expenditure limit established under G.S.
40 143-2.1.

41 (c) No State Moneys to Be Paid in Excess of General Fund Expenditure Limit. –
42 No money shall be drawn from the State treasury if the withdrawal will result in a State
43 expenditure for any fiscal year in excess of the General Fund expenditure limit

1 established under G.S. 143-2.1. The Governor, the State Treasurer, and the State
2 Controller shall not issue or redeem any draft, check, warrant, or voucher that will result
3 in a State expenditure for any fiscal year in excess of the General Fund expenditure limit
4 established under G.S. 143-2.1.

5 (d) Revenue in Excess of General Fund Expenditure Limit Credited to Emergency
6 Reserve Trust Fund. – All General Fund tax and nontax revenue collected in excess of the
7 General Fund expenditure limit shall be credited to the Emergency Reserve Trust Fund at
8 the end of each fiscal year.

9 **"§ 143-2.3. Use of General Fund credit balance.**

10 The State Controller shall reserve one-fourth of any credit balance remaining in the
11 General Fund at the end of each fiscal year to the Emergency Reserve Trust Fund. The
12 State Controller shall reserve the lesser of (i) one-fourth of any credit balance
13 remaining in the General Fund or (ii) one and one-half percent (1.5%) of the replacement
14 value of all State buildings supported from the General Fund at the end of each fiscal year
15 to the Repairs and Renovations Reserve Account as provided in G.S. 143-15.3A. The
16 General Assembly may appropriate that part of the anticipated General Fund credit
17 balance not expected to be reserved to the Emergency Reserve Trust Fund or reserved to
18 the Repairs and Renovations Reserve Account only for capital improvements or other
19 nonrecurring expenditures within the General Fund expenditure limit. The State
20 Controller shall determine the General Fund credit balance on a cash basis.

21 **"§ 143-2.4. Emergency Reserve Trust Fund.**

22 (a) Fund Established. – The Emergency Reserve Trust Fund is established as an
23 expendable trust fund in the State treasury. Interest and other investment income earned
24 by the Emergency Reserve Trust Fund accrues to the General Fund. The Emergency
25 Reserve Trust Fund shall include the funds reserved by the State Controller in accordance
26 with G.S. 143-2.3. The Emergency Reserve Trust Fund shall also include revenue in
27 excess of the General Fund expenditure limit credited in accordance with G.S. 143-2.2.

28 (b) Transfers From Emergency Reserve Trust Fund Permissible to Pay
29 Appropriations When Budgeted Funds Are Insufficient. – If the Director of the Budget
30 determines that pursuant to the provisions of Article III, Section 5(3) of the Constitution
31 of North Carolina, receipts during a fiscal year when added to the surplus remaining in
32 the State treasury at the beginning of the fiscal year will not be sufficient to meet
33 budgeted expenditures, the Director may, in the Director's discretion, transfer funds from
34 the Emergency Reserve Trust Fund to pay the appropriations for the fiscal year to the
35 extent funds are available. If the Director of the Budget decides not to transfer the funds
36 from the Emergency Reserve Trust Fund as provided in this section, the Director shall
37 proceed as provided in G.S. 143-25 or Article III, Section 5(3) of the Constitution of
38 North Carolina to administer the budget so as to prevent any overdraft or deficit.

39 (c) Two-Thirds Vote Required to Appropriate Funds From the Emergency
40 Reserve Trust Fund. – The General Assembly may make appropriations out of the
41 Emergency Reserve Trust Fund only by the affirmative vote of two-thirds of the
42 members of each house.

1 (d) Excess Funds to Be Returned to Taxpayers. – If the total of funds in the
2 Emergency Reserve Trust Fund at the end of the fiscal year exceeds an amount equal to
3 five percent (5%) of the total General Fund appropriation for the prior fiscal year, the
4 excess over five percent (5%) shall be reserved to provide tax relief as determined by the
5 General Assembly.

6 **"§ 143-2.5. Two-thirds vote of General Assembly required to exceed General Fund**
7 **expenditure limit.**

8 The General Assembly may, by an affirmative vote of two-thirds of the members of
9 each house, make General Fund appropriations for nonrecurring expenses in excess of the
10 General Fund expenditure limit for a period not to exceed 12 months beginning on the
11 effective date of the appropriations.

12 **"§ 143-2.6. Intent to prohibit unfunded State mandates.**

13 It is the intent of the General Assembly to enact legislation prohibiting unfunded State
14 mandates to counties and other units of local government. The General Assembly
15 recognizes the burden an unfunded State mandate places on a unit of local government
16 and also recognizes the complexity of the issue of unfunded mandates. The General
17 Assembly therefore intends to enact the legislation after a careful and comprehensive
18 study of the issue."

19 Sec. 2. (a) The Legislative Research Commission is authorized to study the
20 issue of State mandates to local governments to determine what items are unfunded
21 mandates and what items are not unfunded mandates. The study shall review past
22 legislation that has required local governments to assume financial responsibility for
23 items and the appropriate role of State and local governments in providing services. The
24 study shall consider the following:

- 25 (1) Due process mandates that require notice of proposed local government
26 actions directed by the State.
- 27 (2) Entitlement mandates that provide that certain classes of citizens are
28 entitled to receive a specific benefit.
- 29 (3) Personnel mandates that relate to fringe benefits, retirement benefits,
30 and other terms or conditions of local government employment.
- 31 (4) Record-keeping mandates that relate to accounting standards, financial
32 statements, or other local governmental operations.
- 33 (5) Regulatory mandates that require that local governments comply with
34 State environmental, health, and other governmental regulations.
- 35 (6) Service level mandates that require that local services meet certain
36 minimum standards.
- 37 (7) Tax base mandates that grant exemptions from the local tax base.

38 (b) In reviewing existing State mandates to local governments, the study shall
39 identify those that have required local government funding to implement and determine
40 what local revenue sources and what amounts have been used to fund these mandates.
41 The Commission shall then determine which mandates should be financed by the State
42 and which mandates may properly be funded by the local governments. In reviewing

1 State mandates to local government, the Commission's inquiry shall relate to the
2 following:

- 3 (1) Whether the mandate prescribes an activity that the local government
4 ought to be doing whether mandated to do so or not.
5 (2) If the activity is a reasonable one for local government, whether the
6 prescribed level of the activity is excessive and whether differing
7 economies of scale affect the reasonableness of the activity.
8 (3) Whether the State should pay for some or all of the cost of the activity.
9 (4) Whether the benefits of a State mandate accrue only to local citizens or
10 to residents of a broader area.
11 (5) Whether the benefits of a State mandate exceed the costs of complying
12 with it or impose an unreasonable burden on some local governments.

13 (c) The Commission may call upon the Governor, the Council of State, the North
14 Carolina Association of County Commissioners, and the North Carolina League of
15 Municipalities to cooperate with it in the study of State mandates.

16 (d) The Commission may make an interim report of its recommendations to the
17 1996 Regular Session of the 1995 General Assembly and shall make a final report of its
18 recommendations to the 1997 General Assembly.

19 Sec. 3. G.S. 143-15.3A(a) reads as rewritten:

20 "(a) There is established a Repairs and Renovations Reserve Account as a restricted
21 reserve in the General Fund. The State Controller shall reserve to the Repairs and
22 Renovations Reserve Account ~~one-fourth of any unreserved credit balance remaining in the~~
23 ~~General Fund at the end of each fiscal year. As used in this section, the term "unreserved credit~~
24 ~~balance" means the credit balance amount, as determined on a cash basis, before funds are~~
25 ~~reserved by the Controller to the Savings Reserve Account or the Repairs and Renovations~~
26 ~~Reserve Account pursuant to this section and G.S. 143-15.3. at the end of each fiscal year the~~
27 amount required by G.S. 143-2.3."

28 Sec. 4. G.S. 143-15.2 and G.S. 143-15.3 are repealed. The funds in the
29 Savings Reserve Account are transferred to the Emergency Reserve Trust Fund
30 established by G.S. 143-2.4 as enacted by Section 1 of this act.

31 Sec. 5. G.S. 143-15.4 is amended by adding a new subsection to read:

32 "(d) Effect On Expenditure Limit. – If the limit set by this section is higher than the
33 General Fund expenditure limit set by G.S. 143-2.1, the General Fund expenditure limit
34 set in that section, rather than the limit set by this section, applies."

35 Sec. 6. This act is effective upon ratification.