

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1490
Committee Substitute Favorable 6/12/02

Short Title: Secure Local Revenues.

(Public)

Sponsors:

Referred to:

May 30, 2002

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT LOCAL REVENUES MAY NOT BE WITHHELD OR
3 IMPOUNDED BY THE GOVERNOR.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-113.82(d) reads as rewritten:

6 "(d) Time. – The revenue shall be distributed to cities and counties within 60 days
7 after March 31 of each year. The General Assembly finds that the revenue distributed
8 under this section is local revenue, not a State expenditure, for the purpose of Section
9 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not
10 reduce or withhold the distribution."

11 **SECTION 2.** G.S. 105-116.1(b) reads as rewritten:

12 "(b) Distribution. – The Secretary must distribute to the cities part of the taxes
13 collected under this Article on electric power companies. Each city's share for a
14 calendar quarter is the percentage distribution amount for that city for that quarter minus
15 one-fourth of the city's hold-back amount and one-fourth of the city's proportionate
16 share of the annual cost to the Department of administering the distribution. The
17 Secretary must make the distribution within 75 days after the end of each calendar
18 quarter. The General Assembly finds that the revenue distributed under this section is
19 local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of
20 the North Carolina Constitution. Therefore, the Governor may not reduce or withhold
21 the distribution."

22 **SECTION 3.** G.S. 105-187.44(b) reads as rewritten:

23 "(b) Distribution. – Within 75 days after the end of each calendar quarter, the
24 Secretary must distribute to the cities part of the tax proceeds collected under this
25 Article during that quarter. The amount to be distributed to a city is one-half of the
26 amount of tax attributable to that city for that quarter under subsection (a) of this
27 section. The General Assembly finds that the revenue distributed under this section is
28 local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of

1 the North Carolina Constitution. Therefore, the Governor may not reduce or withhold
2 the distribution."

3 **SECTION 4.** G.S. 105-164.44F is amended by adding a new subsection to
4 read:

5 "(f) Nature. – The General Assembly finds that the revenue distributed under this
6 section is local revenue, not a State expenditure, for the purpose of Section 5(3) of
7 Article III of the North Carolina Constitution. Therefore, the Governor may not reduce
8 or withhold the distribution."

9 **SECTION 5.** G.S. 136-41.1 is amended by adding a new subsection to read:

10 "(d) Nature. – The General Assembly finds that the revenue distributed under this
11 section is local revenue, not a State expenditure, for the purpose of Section 5(3) of
12 Article III of the North Carolina Constitution. Therefore, the Governor may not reduce
13 or withhold the distribution."

14 **SECTION 6.** G.S. 143-25 reads as rewritten:

15 "**§ 143-25. Maintenance appropriations dependent upon adequacy of revenues to**
16 **support them.**

17 (a) All maintenance appropriations now or hereafter made are hereby declared to
18 be maximum, conditional and proportionate appropriations, the purpose being to make
19 the appropriations payable in full in the amounts named herein if necessary and then
20 only in the event the aggregate revenues collected and available during each fiscal year
21 of the biennium for which such appropriations are made, are sufficient to pay all of the
22 appropriations in full; otherwise, the said appropriations shall be deemed to be payable
23 in such proportion as the total sum of all appropriations bears to the total amount of
24 revenue available in each of said fiscal years. ~~The~~ Except as provided in subsection (b)
25 of this section, the Director of the Budget is hereby given full power and authority to
26 examine and survey the progress of the collection of the revenue out of which such
27 appropriations are to be made, and to declare and determine the amounts that can be,
28 during each quarter of each of the fiscal years of the biennium properly allocated to
29 each respective appropriation. In making such examination and survey, ~~he~~ the Director
30 of the Budget shall receive estimates of the prospective collection of revenues from the
31 Secretary of Revenue and every other revenue collecting agency of the State. The
32 Director of the Budget may reduce all of said appropriations pro rata when necessary to
33 prevent an overdraft or deficit to the fiscal period for which such appropriations are
34 made. The Governor may also reduce all of said appropriations pursuant to Article III,
35 Section 5(3) of the Constitution in accordance with subsection (b) of this section, after
36 consulting with the Joint Legislative Commission on Governmental Operations under
37 G.S. 120-76(8) if prior consultation is required by that section. The purpose and policy
38 of this Article are to provide and insure that there shall be no overdraft or deficit in the
39 general fund of the State at the end of the fiscal period, growing out of appropriations
40 for maintenance and the Director of the Budget is directed and required to so administer
41 this Article as to prevent any such overdraft or deficit. Prior to taking any action under
42 this section to reduce appropriations pro rata, the Governor may consult with the
43 Advisory Budget Commission.

1 (b) The General Assembly recognizes that it has required units of local
2 government to adopt and maintain annual balanced budgets and take other steps to
3 assure financially sound operations under the Local Government Budget and Fiscal
4 Control Act and other provisions of Chapter 159 of the General Statutes. Accordingly,
5 the General Assembly finds that in order to satisfy those statutory requirements and
6 provide adequate services to their citizens, units of local government must be able to
7 rely on the funds and local revenue sources the General Assembly has provided.

8 It is the intent of the General Assembly that funds that have been collected by the
9 State on behalf of local governments and funds that the General Assembly has
10 appropriated or otherwise committed to local governments shall not be reduced except
11 as provided in this section. In exercising the powers contained in Section 5(3) of Article
12 III of the Constitution, the Governor shall not withhold from distribution funds that have
13 been collected by the State on behalf of local governments or funds that the General
14 Assembly has appropriated or otherwise committed to local governments unless, after
15 making adequate provision for the prompt payment of principal of and interest on bonds
16 and notes of the State according to their terms, the Governor has exhausted all other
17 sources of revenue of the State including surplus remaining in the treasury at the
18 beginning of the fiscal period and has been authorized to withhold the funds by an act of
19 the General Assembly.

20 This subsection does not authorize the Governor to withhold revenues from taxes
21 levied by units of local governments and collected by the State. The General Assembly
22 recognizes that under Section 19 of Article I of the North Carolina Constitution and
23 under the Due Process Clause of the United States Constitution, the State is prohibited
24 from taking local tax revenue."

25 **SECTION 7.** The provisions of this act are severable. If any provision of
26 this act is held invalid by a court of competent jurisdiction, the invalidity does not affect
27 other provisions of the act that can be given effect without the invalid provision.

28 **SECTION 8.** This act is effective when it becomes law.