

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

S

1

SENATE BILL 86

Short Title: Asheville Local Option Sales Tax for Transit. (Local)

Sponsors: Senator Mayfield (Primary Sponsor).

Referred to: Rules and Operations of the Senate

February 9, 2023

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF ASHEVILLE TO LEVY A MUNICIPAL
QUARTER-CENT SALES AND USE TAX FOR PUBLIC TRANSPORTATION UPON A
VOTE OF THE MAJORITY OF VOTERS IN A REFERENDUM.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to the City of Asheville only.

SECTION 2. Subchapter VIII of Chapter 105 of the General Statutes is amended by
adding a new Article to read:

"Article 47.

"One-Quarter Cent (1/4¢) Municipal Sales and Use Tax for Public Transportation.

"§ 105-540. Short title.

This Article is the One-Quarter Cent (1/4¢) Municipal Sales and Use Tax for Public
Transportation Act.

"§ 105-541. Definitions.

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

(1) Net proceeds. – Defined in G.S. 105-472(a).

(2) Public transportation system. – Any combination of real and personal property
established for purposes of public transportation. The systems may include
one or more of the following: structures, improvements, buildings, equipment,
vehicle parking or passenger transfer facilities, railroads and railroad
rights-of-way, rights-of-way, bus services, shared-ride services,
high-occupancy vehicle facilities, carpool and vanpool programs, voucher
programs, telecommunications and information systems, integrated fare
systems, and the interconnected bicycle and pedestrian infrastructure that
supports public transportation, bus lanes, and busways. The term does not
include, however, streets, roads, or highways except to the extent they are
dedicated to public transportation vehicles or to the extent they are necessary
for access to vehicle parking or passenger transfer facilities.

"§ 105-542. Levy.

(a) Authority. – If the majority of those voting in a referendum held pursuant to this
Article vote for the levy of the tax, the governing body of the municipality may, by resolution
and after 10 days' public notice, levy a local sales and use tax at a rate of one-quarter percent
(0.25%) in addition to any other State and local sales and use taxes levied pursuant to law.

(b) Vote. – The governing body of the 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 municipality as provided in this Article. The election shall be held on a date jointly



1 agreed upon by the governing body of the municipality and the county board of elections and
2 shall be held in accordance with the procedures of G.S. 163-287, except that the election shall
3 not be held within one year from the date of the last preceding election under this section.

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

6 FOR AGAINST

7 One-quarter percent (0.25%) local sales and use taxes, in addition to the current local
8 sales and use taxes, to be used only for public transportation systems."

9 **"§ 105-543. Administration.**

10 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
11 of the additional taxes authorized by this Article shall be in accordance with Article 39 of this
12 Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to
13 "this Article" mean Article 47 of this Chapter and references to "county," "counties," or "board
14 of county commissioners" within Article 39 of this Chapter shall be interpreted as referring to
15 "municipality," "municipalities," or "governing body of the municipality," respectively, for
16 purposes of the tax authorized by this Article. G.S. 105-468.1 is an administrative provision that
17 applies to this Article. A tax levied under this Article does not apply to the sales price of food
18 that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled
19 transaction taxable pursuant to G.S. 105-467(a)(5a).

20 **"§ 105-544. Distribution and use of tax.**

21 (a) Distribution. – The Secretary shall, on a monthly basis, distribute to each taxing
22 municipality for which the Secretary collects the tax the net proceeds of the tax collected in that
23 municipality under this Article. If the Secretary collects local sales or use taxes in a month and
24 the taxes cannot be identified as being attributable to a particular taxing municipality, the
25 Secretary shall allocate the taxes among the taxing municipalities in proportion to the amount of
26 taxes collected in each municipality under this Article during that month and shall include them
27 in the monthly distribution. Amounts collected by electronic funds transfer payments are
28 included in the distribution for the month in which the return that applies to the payment is
29 received.

30 (b) Use. – A municipality may use the net proceeds of the tax levied under this Article
31 only for financing, constructing, operating, and maintaining local public transportation systems.
32 A municipality shall use the net proceeds to supplement and not to supplant or replace existing
33 funds or other resources for public transportation systems."

34 **SECTION 3.** For the first two fiscal years, beginning with the fiscal year during
35 which the City of Asheville levies the tax authorized by this act, the Secretary may retain the
36 Department's cost of collecting and administering the tax as determined by the Secretary, not to
37 exceed three hundred thousand dollars (\$300,000), from the gross proceeds of the tax, as
38 reimbursement to the Department. All other costs of collecting and administering the tax shall be
39 deducted from the gross proceeds of the tax in accordance with G.S. 105-472(a).

40 **SECTION 4.** This act is effective when it becomes law. The provisions of
41 G.S. 105-466(c) apply to a tax levied under this act, except that the City must give the Secretary
42 at least six months' advance notice of a tax levied under this act.