

**FOUR PROPOSALS FOR REPLACEMENT OF
LOCAL PRIVILEGE LICENSE TAX REVENUE,
AND FOR STABILIZATION OF FUTURE
MUNICIPAL REVENUES**

- 1. Broaden the sales tax base to include more services**
- 2. Municipal authority to levy a municipal-only sales tax
(bill draft attached)**
- 3. Local distribution of share of state franchise tax
(two bill drafts attached)**
- 4. Immediate vote to delay privilege license repeal until July
1, 2016, to allow time for further discussion**

1 Short title: Enable Cities to Replace Lost Tax Revenue.

2
3 A BILL TO BE ENTITLED
4 AN ACT TO ENABLE CITIES TO MAINTAIN THEIR LEVEL OF SERVICE BY
5 PROVIDING A REPLACEMENT SOURCE OF REVENUE FOR THE REPEALED CITY
6 PRIVILEGE LICENSE TAX AND TO PROVIDE STABILIZATION OF FUTURE
7 MUNICIPAL REVENUES.

8 The General Assembly of North Carolina enacts:

9
10 **SECTION 1.** Subchapter VIII of Chapter 105 of the General Statutes is amended by
11 adding a new Article to read:

12 “Article 47.

13 “One-Quarter Cent (1/4¢) City Sales and Use Tax.

14 **“§ 105-540. Definitions.**

15 The following definitions apply in this Article:

- 16 (1) City. – Defined in G.S. 160A-1.
17 (2) Council. – Defined in G.S. 160A-1.
18 (3) Net proceeds. – Gross proceeds of the tax collected in a city under this Article less
19 taxes refunded and the cost to the State of collecting and administering the tax, as
20 determined by the Secretary.

21 **“§ 105-541. Authorization and levy.**

22 A city council may, by resolution, levy a city sales and use tax at the rate of one-quarter
23 percent (1/4%). This tax is in addition to any other State or local sales and use taxes. Before
24 adopting a resolution under this section, the council must give at least 10 days’ public notice of
25 its intent to levy the tax and must hold a public hearing on the proposed levy.

26 **“§ 105-542. Administration.**

27 Except as provided in this Article, the provisions of Article 39 of this Subchapter concerning
28 the levy, collection, administration, and repeal of the taxes authorized by that Article apply to the
29 taxes authorized by this Article. When applying the provisions of Article 39 to this Article,
30 references to a “county,” “counties,” or “board of county commissioners” are considered to be
31 references to a “city,” “cities,” and “council,” respectively. G.S. 105-468.1 is an administrative
32 provision that applies to this Article. A tax levied under this Article does not apply to the sales
33 price of food that is exempt from State sales and use tax under G.S. 105-164.13B or to the sales
34 price of a bundled transaction that is subject to county sales and use taxes under G.S. 105-
35 467(a)(5a).

36 **“§ 105-543. Monthly distribution to taxing cities.**

37 The Secretary must distribute on a monthly basis to each taxing city under this Article the net
38 proceeds of the taxes collected in that city. If the Secretary cannot source taxes collected in a
39 month to a particular city, the Secretary must allocate the unsourced amount among the taxing
40 cities in proportion to the amount that can be sourced to them for that month. Amounts collected
41 by electronic funds transfer payments are included in the distribution for the month in which the
42 return that applies to the payment is received.

43 **“§ 105-544. Use of tax proceeds.**

44 A city may use the net proceeds of a tax levied under this Article for any public purpose.

45 **SECTION 2.** This act is effective when it becomes law.

1 **REPLACEMENT REVENUE FOR REPEALED CITY PRIVILEGE LICENSE TAX,**
2 **AND STABILIZATION OF FUTURE MUNICIPAL REVENUES**

3 **SECTION *.*.(a)** Purpose. – This section fulfills the commitment to find a
4 resolution to the repeal of the authority of cities to levy local privilege license taxes and the
5 resulting loss of revenue to them. This resolution replaces the temporary, one-year solution
6 enacted by Part XII of S.L. 2014-3 for the 2014-15 fiscal year with a permanent solution. It does
7 so by replacing the myriad of local taxes with an extension of the state-levied tax imposed under
8 G.S. 105-114 specifically for “for the privilege of engaging in business” in this State.

9 **SECTION *.*.(b)** G.S. 105-114(d) reads as rewritten:

10 “(d) After determining the proportion of its total capital stock, surplus and
11 undivided profits as set out in subsection (c1) of this section, which amount shall not be less than
12 fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the
13 real and tangible personal property in this State of each corporation nor less than its total actual
14 investment in tangible property in this State, every corporation taxed under this section shall
15 annually pay to the Secretary of Revenue, at the time the return is due, a franchise or privilege
16 tax at the rate of one dollar and ~~fifty cents (\$1.50)~~ sixty-five cents (\$1.65) per one thousand
17 dollars (\$1,000) of the total amount of capital stock, surplus and undivided profits as provided in
18 this section. The tax imposed in this section shall not be less than thirty-five dollars (\$35.00) and
19 is for the privilege of carrying on, doing business, and/or the continuance of articles of
20 incorporation or domestication of each corporation in this State. Appraised value of tangible
21 property including real estate is the ad valorem valuation for the calendar year next preceding the
22 due date of the franchise tax return. The term "total actual investment in tangible property" as
23 used in this section means the total original purchase price or consideration to the reporting
24 taxpayer of its tangible properties, including real estate, in this State plus additions and
25 improvements thereto less reserve for depreciation as permitted for income tax purposes, and
26 also less any indebtedness incurred and existing by virtue of the purchase of any real estate and
27 any permanent improvements made thereon. In computing "total actual investment in tangible
28 personal property" a corporation may deduct reserves for the entire cost of any air-cleaning
29 device or sewage or waste treatment plant, including waste lagoons, and pollution abatement
30 equipment purchased or constructed and installed which reduces the amount of air or water
31 pollution resulting from the emission of air contaminants or the discharge of sewage and
32 industrial wastes or other polluting materials or substances into the outdoor atmosphere or into
33 streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall furnish
34 to the Secretary a certificate from the Department of Environment and Natural Resources or from
35 a local air pollution control program for air-cleaning devices located in an area where the
36 Environmental Management Commission has certified a local air pollution control program
37 pursuant to G.S. 143-215.112 certifying that said Department or local air pollution control
38 program has found as a fact that the air-cleaning device, waste treatment plant or pollution
39 abatement equipment purchased or constructed and installed as above described has actually
40 been constructed and installed and that the device, plant or equipment complies with the
41 requirements of the Environmental Management Commission or local air pollution control
42 program with respect to the devices, plants or equipment, that the device, plant or equipment is
43 being effectively operated in accordance with the terms and conditions set forth in the permit,
44 certificate of approval, or other document of approval issued by the Environmental Management
45 Commission or local air pollution control program and that the primary purpose is to reduce air
46 or water pollution resulting from the emission of air contaminants or the discharge of sewage and

47 waste and not merely incidental to other purposes and functions. The cost of constructing
48 facilities of any private or public utility built for the purpose of providing sewer service to
49 residential and outlying areas is treated as deductible for the purposes of this section; the
50 deductible liability allowed by this section applies only with respect to pollution abatement
51 plants or equipment constructed or installed on or after January 1, 1955.”

52 **SECTION *.*.(c)** Article 3 of Chapter 105 of the General Statutes is amended
53 by adding a new section to read:

54 **"§ 105-127.1. Distribution in lieu of local privilege license tax.**

55 (a) Findings. – The General Assembly finds that the authority formerly given to cities to levy
56 local privilege license taxes led to inequities in taxation among entities engaged in the same
57 business in different locations as well as among entities engaged in different types of business in
58 the same location. The General Assembly further finds that numerous cities relied on local
59 privilege license tax revenue. This section replaces local privilege license tax revenue with a
60 portion of the State business privilege license tax.

61 (b) Distribution. – Each fiscal year the Secretary must distribute to cities the net proceeds of
62 tax collected in the preceding calendar year under G.S. 105-114 at the rate of fifteen cents
63 (\$0.15) per one thousand dollars (\$1,000). The Secretary must distribute one-fourth of this
64 amount within 75 days after the end of each calendar quarter. The share of a city is its
65 proportionate share based on the amount of ad valorem taxes levied by the city for the preceding
66 fiscal year compared to the amount of ad valorem taxes levied by all cities for the preceding
67 fiscal year.

68 (c) Ineligible Cities. – An ineligible city is disregarded for all purposes under this section. A
69 city incorporated after January 1, 2000, is not eligible for a distribution under this section unless
70 it meets both of the following requirements:

71 (1) It is eligible to receive funds under G.S. 136-41.2.

72 (2) A majority of the mileage of the streets is open to the public.

73 (d) Local Revenue. – The General Assembly finds that the revenue distributed under this
74 section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of
75 the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the
76 distribution.”

77 **SECTION *.*.(d)** Subsection (b) of this section becomes effective January 1,
78 2016, and applies to taxes due in that year or a subsequent year. The remainder of this section is
79 effective when it becomes law. The first distribution under G.S. 105-127.1, as enacted by
80 subsection (c) of this section, is to be made within 75 days after July 1, 2015.

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5 resulting loss of revenue to them. This resolution replaces the temporary, one-year solution
6 enacted by Part XII of S.L. 2014-3 for the 2014-15 fiscal year with a permanent solution. It does
7 so by replacing the myriad of local taxes with an extension of the state-levied tax imposed under
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11 undivided profits as set out in subsection (c1) of this section, which amount shall not be less than
12 fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the
13 real and tangible personal property in this State of each corporation nor less than its total actual
14 investment in tangible property in this State, every corporation taxed under this section shall
15 annually pay to the Secretary of Revenue, at the time the return is due, a franchise or privilege
16 tax at the rate of one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the total
17 amount of capital stock, surplus and undivided profits as provided in this section. The tax
18 imposed in this section shall not be less than thirty-five dollars (\$35.00) and is for the privilege
19 of carrying on, doing business, and/or the continuance of articles of incorporation or
20 domestication of each corporation in this State. Appraised value of tangible property including
21 real estate is the ad valorem valuation for the calendar year next preceding the due date of the
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31 resulting from the emission of air contaminants or the discharge of sewage and industrial wastes
32 or other polluting materials or substances into the outdoor atmosphere or into streams, lakes, or
33 rivers, upon condition that the corporation claiming this deduction shall furnish to the Secretary a
34 certificate from the Department of Environment and Natural Resources or from a local air
35 pollution control program for air-cleaning devices located in an area where the Environmental
36 Management Commission has certified a local air pollution control program pursuant to G.S.
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