

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1491

Short Title: Constitution Prohibit Holding Local Funds. (Public)

Sponsors: Representatives Gibson, Goodwin, Baddour, Gray (Primary Sponsors); Allen, Allred, Baker, Barbee, Barefoot, Barnhart, Bell, Blust, Buchanan, Capps, Carpenter, Church, Clary, Cole, Cox, M. Crawford, Creech, Culp, Cunningham, Decker, Esposito, Fox, Gulley, Hall, Harrington, Hiatt, Hilton, Holliman, Hurley, Insko, Johnson, Justus, Kiser, Lucas, McCombs, McLawhorn, McMahan, Morris, Nesbitt, Nye, Pope, Preston, Rayfield, Redwine, Saunders, Sherrill, Shubert, Smith, Starnes, Thompson, Tucker, Underhill, Wainwright, Walend, Walker, Warren, Warwick, C. Wilson, and G. Wilson.

Referred to: Rules, Calendar, and Operations of the House.

May 30, 2002

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION, SUBJECT TO
3 APPROVAL OF THE VOTERS OF THE STATE, TO PROHIBIT THE
4 GOVERNOR FROM WITHHOLDING CERTAIN LOCAL FUNDS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Section 5(3) of Article III of the North Carolina Constitution
7 reads as rewritten:

8 "(3) Budget. The Governor shall prepare and recommend to the General Assembly
9 a comprehensive budget of the anticipated revenue and proposed expenditures of the
10 State for the ensuing fiscal period. The budget as enacted by the General Assembly shall
11 be administered by the Governor.

12 The total expenditures of the State for the fiscal period covered by the budget shall
13 not exceed the total of receipts during that fiscal period and the surplus remaining in the
14 State Treasury at the beginning of the period. To insure that the State does not incur a
15 deficit for any fiscal period, the Governor shall continually survey the collection of the
16 revenue and shall effect the necessary economies in State expenditures, after first
17 making adequate provision for the prompt payment of the principal of and interest on
18 bonds and notes of the State according to their terms, whenever ~~he~~ the Governor
19 determines that receipts during the fiscal period, when added to any surplus remaining
20 in the State Treasury at the beginning of the period, will not be sufficient to meet
21 budgeted expenditures. This section shall not be construed to impair the power of the

1 State to issue its bonds and notes within the limitations imposed in Article V of this
2 Constitution, nor to impair the obligation of bonds and notes of the State now
3 outstanding or issued hereafter. Unless authorized by an act of the General Assembly,
4 the Governor may not withhold from distribution the portion of any of the following
5 taxes that has been collected by the State for distribution to units of local government:

6 (a) Beer and wine taxes, G.S. 105-113.82.

7 (b) Franchise gross receipts tax, G.S. 105-116.1.

8 (c) Piped natural gas tax, G.S. 105-187.44.

9 (d) Sales tax on telecommunications, G.S. 105-164.44F, G.S. 105-164.4.

10 (e) Powell bill funds, G.S. 136-41.1."

11 **SECTION 2.** The amendment set out in Section 1 of this act shall be
12 submitted to the qualified voters of the State at the next statewide primary, general, or
13 special election, which election shall be conducted under the laws then governing
14 elections in the State. Ballots, voting systems, or both may be used in accordance with
15 Chapter 163 of the General Statutes. The question to be used in the voting systems and
16 ballots shall be:

17 FOR AGAINST

18 Constitutional amendment providing that the Governor's power to reduce
19 expenditures to balance the budget does not include the power to withhold funds
20 traditionally designated for distribution to local governments."

21 **SECTION 3.** If a majority of the votes cast on the question are in favor of
22 the amendment set out in Section 1 of this act, the State Board of Elections shall certify
23 the amendment to the Secretary of State. The amendment becomes effective upon this
24 certification. The Secretary of State shall enroll the amendment so certified among the
25 permanent records of that office.

26 **SECTION 4.** This act is effective when it becomes law.