

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

HOUSE BILL 462
PROPOSED COMMITTEE SUBSTITUTE H462-PCS11369-TD-66

Short Title: Contingency Contracts for Audits/Assessments.

(Public)

Sponsors:

Referred to:

March 28, 2011

A BILL TO BE ENTITLED

AN ACT TO LIMIT USE OF CONTINGENT-BASED CONTRACTS FOR AUDIT OR
ASSESSMENT PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-243.1 is amended by adding a new subsection to read:

"(a1) In determining the liability of any person for a tax, the Secretary may not employ an agent who is compensated in whole or in part by the State for services rendered on a contingent basis or any other basis related to the amount of tax, interest, or penalty assessed against or collected from the person."

SECTION 2. G.S. 105-299 reads as rewritten:

"§ 105-299. **Employment of experts.**

The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the assessor to assist the assessor in the performance of these duties. The county may also assign to county agencies, or contract with State or federal agencies for, any duties involved with the approval or auditing of use-value accounts. The county may make available to these persons any information it has that will facilitate the performance of a contract entered into pursuant to this section. Persons receiving this information are subject to the provisions of G.S. 105-289(e) and G.S. 105-259 regarding the use and disclosure of information provided to them by the county. Any person employed by an appraisal firm whose duties include the appraisal of property for the county must be required to demonstrate that he or she is qualified to carry out these duties by achieving a passing grade on a comprehensive examination in the appraisal of property administered by the Department of Revenue. In the employment of these firms, primary consideration must be given to the firms registered with the Department of Revenue pursuant to G.S. 105-289(i). A copy of the specifications to be submitted to potential bidders and a copy of the proposed contract may be sent by the board to the Department of Revenue for review before the invitation or acceptance of any bids. Contracts for the employment of these firms or persons are contracts for personal services and are not subject to the provisions of Article 8, Chapter 143, of the General Statutes. If the board of county commissioners employs any person or firm to assist the assessor in the performance of the assessor's duties, the person or firm may not be compensated, in whole or in part, on a contingent fee basis or any other similar method that may impair the assessor's independence or the perception of the assessor's independence by the public."

SECTION 3. Chapter 116B-8 reads as rewritten:



* H 4 6 2 - P C S 1 1 3 6 9 - T D - 6 6 *

1 **"§ 116B-8. Employment of persons with specialized skills or knowledge.**

2 The Treasurer may employ the services of such independent consultants, real estate
3 managers and other persons possessing specialized skills or knowledge as the Treasurer deems
4 necessary or appropriate for the administration of this Chapter, including valuation,
5 maintenance, upkeep, management, sale and conveyance of property and determination of
6 sources of unreported abandoned property. The Treasurer may also employ the services of an
7 attorney to perform a title search or to provide an accurate legal description of real property
8 which the Treasurer has reason to believe may have escheated. Persons whose services are
9 employed by the Treasurer pursuant to this section to determine sources and amounts of
10 unreported property are subject to the same policies, including confidentiality and ethics, as
11 employees of the Department of State Treasurer assigned to determine sources and amounts of
12 unreported property. ~~Compensation of persons whose services are employed pursuant to this~~
13 ~~section on a contingent fee basis shall be limited to twelve percent (12%) of the final~~
14 ~~assessment.~~If the Treasurer contracts with any other person to conduct an audit under this
15 Chapter, the audit shall not be performed on a contingent fee basis or any other similar method
16 that may impair an auditor's independence or the perception of the auditor's independence by
17 the public."

18 **SECTION 4.** G.S. 153A-146 reads as rewritten:

19 **"§ 153A-146. General power to impose taxes.**

20 A county may impose taxes only as specifically authorized by act of the General Assembly.
21 Except when the statute authorizing a tax provides for penalties and interest, the power to
22 impose a tax includes the power to impose reasonable penalties for failure to declare tax
23 liability, if required, and to impose penalties or interest for failure to pay taxes lawfully due
24 within the time prescribed by law or ordinance. In determining the liability of any taxpayer for
25 a tax, a county may not employ an agent who is compensated in whole or in part by the county
26 for services rendered on a contingent basis or any other basis related to the amount of tax,
27 interest, or penalty assessed against or collected from the taxpayer. The power to impose a tax
28 also includes the power to provide for its administration in a manner not inconsistent with the
29 statute authorizing the tax."

30 **SECTION 5.** G.S. 160A-206 reads as rewritten:

31 **"§ 160A-206. General power to impose taxes.**

32 A city shall have power to impose taxes only as specifically authorized by act of the
33 General Assembly. Except when the statute authorizing a tax provides for penalties and
34 interest, the power to impose a tax shall include the power to impose reasonable penalties for
35 failure to declare tax liability, if required, or to impose penalties or interest for failure to pay
36 taxes lawfully due within the time prescribed by law or ordinance. In determining the liability
37 of any taxpayer for a tax, a city may not employ an agent who is compensated in whole or in
38 part by the city for services rendered on a contingent basis or any other basis related to the
39 amount of tax, interest, or penalty assessed against or collected from the taxpayer. The power to
40 impose a tax shall also include the power to provide for its administration in a manner not
41 inconsistent with the statute authorizing the tax."

42 **SECTION 6.** This act becomes effective July 1, 2012, and applies to audits,
43 determinations of liability, and assessments contracted for on or after that date. Units of local
44 government and the Treasurer shall not renew contingency fee based contracts for these
45 services after July 1, 2012.