

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10370-MCxf-172

Short Title: Local Option Sales Tax Flexibility. (Public)

Sponsors: Representatives Howard, Saine, and Szoka (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO GIVE COUNTIES ADDITIONAL FLEXIBILITY WITH REGARD TO THE
3 LOCAL OPTION SALES AND USE TAX WITHOUT INCREASING THE EXISTING
4 MAXIMUM TAX RATE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Subchapter VIII of Chapter 105 of the General Statutes is amended by
7 adding a new Article to read:

8 "Article 43A.

9 "County Sales and Use Tax for Public Education.

10 "§ 105-513.1. Short title; purpose.

11 This Article is the County Sales and Use Tax for Public Education. Article 43 of this Chapter,
12 Article 46 of this Chapter, and this Article give the counties of this State an opportunity to obtain
13 additional sources of revenue with which to meet their needs. A county may choose to use these
14 sources of revenue to finance local public transportation systems, as provided in Article 43 of
15 this Chapter, for public education needs, as provided in this Article, or for general purposes, as
16 provided in Article 46 of this Chapter.

17 "§ 105-513.2. Levy.

18 (a) Referendum. – A tax levied under this Article must be approved in a referendum. The
19 board of commissioners of a county may direct the county board of elections to conduct an
20 advisory referendum on the question of whether to levy a local sales and use tax in the county at
21 a rate of up to one-half percent (1/2%). The applicable rate must meet all of the conditions listed
22 in this subsection. The election shall be held in accordance with the procedures of G.S. 163-287.
23 The conditions are:

24 (1) It must be in an increment of one-quarter percent (1/4%).

25 (2) It must be at a rate that, if levied, would not result in a total local sales and use
26 tax rate in the county in excess of the following:

27 a. Two and one-half percent (2 1/2%) if the county is authorized to levy
28 a local sales and use tax under Part 6 of Article 43 of this Chapter.

29 b. Two and three-quarters percent (2 3/4%) if the county is authorized to
30 levy, or is located in a special district authorized to levy, a local sales
31 and use tax under Part 2, Part 4, or Part 5 of Article 43 of this Chapter.

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

34 " FOR AGAINST

35 Local sales and use tax at [the applicable rate stated in both words and as a percentage] in
36 addition to the current local sales and use taxes, to be used only for public education."



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1 (c) Authority. – If the majority of those voting in a referendum held pursuant to this
2 Article vote for the levy of the tax, the board of commissioners of the county may, by resolution
3 and after 10 days' public notice, levy a local sales and use tax at the rate specified in the ballot.

4 **"§ 105-513.3. Administration.**

5 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
6 of these additional taxes must be in accordance with Article 39 of this Chapter. In applying the
7 provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Article
8 43A of Chapter 105 of the General Statutes." G.S. 105-468.1 is an administrative provision that
9 applies to this Article. A tax levied under this Article does not apply to the sales price of food
10 that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled
11 transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount
12 allocated to a county between the county and the municipalities within the county.

13 **"§ 105-513.4. Use.**

14 A county may use the proceeds of a tax levied under this Article only for the following
15 purposes:

- 16 (1) Public school capital outlay purposes, as defined in G.S. 115C-426(f), or to
17 retire any indebtedness incurred by the county for these purposes.
- 18 (2) Supplements of classroom teacher salaries. For the purposes of this section, a
19 classroom teacher is an employee of a local board of education employed as a
20 teacher who spends at least seventy percent (70%) of his or her work time in
21 classroom instruction.
- 22 (3) Financial support of community colleges, including funds to supplement State
23 financial support of community colleges."

24 **SECTION 2.(a)** G.S. 105-506 reads as rewritten:

25 **"§ 105-506. Short title; purpose.**

26 This Article is the Local Government Public Transportation Sales Tax Act and may be cited
27 by that name. This ~~Article gives~~ Article, Article 43A of this Chapter, and Article 46 of this
28 Chapter give the counties and transportation authorities of this State an opportunity to obtain an
29 additional source of revenue with which to meet their ~~needs for financing~~ needs. Counties and
30 transportation authorities may choose to use this source of revenue to finance local public
31 transportation systems. It provides them with authority to levy sales and use taxes. All such taxes
32 systems, as provided in this Article, counties may choose to use this source of revenue to finance
33 public education needs, as provided in Article 43A of this Chapter, or counties may choose to
34 use this source of revenue for general purposes, as provided in Article 46 of this Chapter. A tax
35 levied under this Article must be approved in a referendum."

36 **SECTION 2.(b)** Part 1 of Article 43 of Chapter 105 of the General Statutes is
37 amended by adding a new section to read:

38 **"§ 105-506.3. Rate limitation.**

39 A local sales and use tax may only be levied under this Article if the total local sales and use
40 tax rate in the county, including a levy under this Article, is not in excess of the following:

- 41 (1) Two and one-half percent (2 1/2%) if the county is authorized to levy a local
42 sales and use tax under Part 6 of this Article.
- 43 (2) Two and three-quarters percent (2 3/4%) if the county is authorized to levy,
44 or is located in a special district authorized to levy, a local sales and use tax
45 under Part 2, Part 4, or Part 5 of this Article."

46 **SECTION 3.** Article 46 of Chapter 105 of the General Statutes reads as rewritten:

47 "Article 46.

48 "One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use Tax.

49 **"§ 105-535. Short title.**

50 This Article is the One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use
51 Tax Act.

"§ 105-536. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

"§ 105-537. Levy.

(a) Authority. – A tax levied under this Article must be approved in a referendum. If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners 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%) the applicable rate. The applicable rate must meet all of the following conditions:

(1) It must be in an increment of one-quarter percent (1/4%).

(2) It must be at a rate that, if levied, would not result in a total local sales and use tax rate in the county in excess of the following:

a. Two and one-half percent (2 1/2%) if the county is authorized to levy a local sales and use tax under Part 6 of Article 43 of this Chapter.

b. Two and three-quarters percent (2 3/4%) if the county is authorized to levy, or is located in a special district authorized to levy, a local sales and use tax under Part 2, Part 4, or Part 5 of Article 43 of this Chapter.

(b) Vote. – The board of county commissioners 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 county as provided in this Article. The election shall be held in accordance with the procedures of G.S. 163-287.

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

" [] FOR [] AGAINST

Local sales and use tax at the rate of ~~one-quarter percent (0.25%)~~ [The applicable rate stated in both words and as a percentage] in addition to all other State and local sales and use taxes."

...

"§ 105-538. Administration of taxes.

The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month. For purposes of this Article, the term "net proceeds" has the same meaning as defined in G.S. 105-472.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county."

SECTION 4. G.S. 105-164.3(4a) reads as rewritten:

"(4a) Combined general rate. – The sum of all of the following:

a. The State's general rate of tax set in ~~G.S. 105-164.4(a)~~ G.S. 105-164.4(a).

b. plus the ~~The~~ sum of the rates of the local sales and use taxes authorized for every county in this State by ~~Subchapter VIII~~ Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this

1 Chapter, and Article 42 of this ~~Chapter for every county in this~~
2 ~~State.~~Chapter.
3 c. One-half of the maximum rate of tax authorized by Article 46 of this
4 Chapter."

5 **SECTION 5.** This act is effective when it becomes law.