



HOUSE BILL 704: Local Option Sales Tax Flexibility.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	May 6, 2021
Introduced by:	Reps. Howard, Moffitt, Warren, Setzer	Prepared by:	Trina Griffin
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: House Bill 704 would do the following:

- *Modify the existing Article 46 local option sales tax so that it could be levied at a rate of either 1/4-cent or 1/2-cent.*
- *Provide counties with the option of specifying in the ballot question the use of the proceeds of the tax, which may be for one or more of the uses for which property taxes may be used.*
- *Cap the overall total local sales and use tax rate at the current maximum, which is two and one-half percent (2½%) for 94 counties and two and three-quarters (2.75%) for 6 counties.*
- *Allow the Department of Revenue to retain \$300,000 from the proceeds of the tax to make the necessary administrative changes to accommodate the additional rate and makes minor technical changes.*

CURRENT LAW:

Generally. – The local sales and use tax rate varies among the counties, ranging from 2% to 2.75%.¹ Under current law, there are 6 counties that *could* have a total local sales and use tax rate of two and three-quarters (2.75%), for a total State and local rate of 7.5%. Those counties are: Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake.² Only 2 counties are levying at that rate: Durham and Orange. The maximum that may be levied in the other 94 counties is two and one-half percent (2½%). The reason for the difference is that those 94 counties may only levy a one-quarter cent (1/4%) tax for public transportation. The remaining local taxes for those counties are the same.

"General Purpose" Quarter-Cent Tax (Article 46). – In 2007, the General Assembly gave counties a local-option, quarter-cent sales tax. The tax must be approved by voters in a referendum before it can be adopted. The proceeds of the tax are not shared with the cities and may be used for any public purpose. Currently, 46 counties levy this tax.

Public Transportation (Article 43). – Counties may levy, upon referendum, a local sales and use tax to be used only for public transportation if the county or at least one unit of local government in the county operates a public transportation system. "Public transportation system" is broadly defined as any

¹See Table #1 in the **BACKGROUND** section of this Bill Analysis for a listing of current local option sales and use tax rates in all 100 counties.

² To reach the maximum, a county would have to levy the first cent, the first one-half cent, the second one-half cent, the one-half cent public transportation tax, and the one-quarter cent tax. To date, only 2 of these 6 counties levy the maximum: Durham and Orange.

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combination of real and personal property established for purposes of public transportation, but specifically excludes streets, roads, and highways (except to the extent they are dedicated to public transportation vehicles). The rate of tax that may be levied for this purpose is ½% for the following six counties: Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake.³ The rate of tax that may be levied in all other counties is ¼%.

Currently, the only counties levying a tax under this Article are Mecklenburg,⁴ Durham,⁵ Orange,⁶ and Wake⁷ Counties. None of the 94 counties levy the 1/4¢ tax under this Article.

BILL ANALYSIS:

Section 1 modifies Article 46 as follows:

- It would increase from ¼% to ½% the maximum rate of tax that may be levied under this Article.
- It would also provide that the maximum rate that a county may levy under any combination of local option sales taxes is 2 1/2 % for most counties and 2 3/4% for the 6 counties that currently have that maximum.
- It would allow counties the option of specifying in the ballot question the use of the proceeds, which may be one or more of the permitted uses for property tax. Those uses are set out in G.S. 153A-149 and appear at the end of this summary.

Section 2 makes a conforming change to Article 43 to provide that the maximum rate that a county may levy under any combination of local option sales taxes is 2 1/2 % for most counties and 2 3/4% for the 6 counties that currently have that maximum.

Section 3 makes a conforming change to ensure that the combined general rate is not affected as the result of changes to Article 46.

Section 4 allows the Department of Revenue to retain \$300,000 from the proceeds of the tax to make necessary administrative changes, such as new forms and programming changes, to accommodate the additional rate.

EFFECTIVE DATE: The act would become effective when it becomes law. However, the earliest that a county could levy a tax under Article 46, as amended, would be October 1, 2022. This date generally reflects the timeline that is currently in place for a new tax rate authorized in a special election.

BACKGROUND:

³ Of these six counties, Durham and Orange are the only ones that also levy the quarter-cent tax under Article 46.

⁴ Mecklenburg County passed a one-half cent sales tax for transit, with 58% of the voters in favor, in November 1998. The county began levying the tax April 1, 1999.

⁵ Durham County passed a one-half cent sales tax for transit, with 60% of the voters in favor, in November 2011. The county began levying the tax April 1, 2013.

⁶ Orange County passed a one-half cent sales tax for transit, with 59% of the voters in favor, in November 2012. The county began levying the tax April 1, 2013.

⁷ Wake County passed a one-half cent sales tax for transit, with 53% of the voters in favor in November 2016. The county began levying the tax April 1, 2017.

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Authorized Uses for Property Tax. – The authorized uses for property tax under G.S. 153A-149 are: Courts; Debt Service; Deficits; Elections; Jails; Joint Undertakings; Schools; Social Services; Agricultural Extension; Air Pollution; Airports; Ambulance Service; Animal Protection and Control; Arts Programs and Museums; Auditoriums, Coliseums, and Convention and Civic Centers; Beach Erosion and Natural Disasters; Cemeteries; Civil Preparedness; Debts and Judgments; Defense of Employees and Officers; Economic Development; Energy Financing; Fire Protection; Forest Protection; Health; Historic Preservation; Hospitals; Housing Rehabilitation; Housing; Human Relations; Industrial Development; Joint Undertakings; Law Enforcement; Libraries; Mapping; Medical Examiner; Mental Health; Open Space; Parking; Parks and Recreation; Planning; Ports and Harbors; Public Transportation; Railway Corridor Preservation; Register of Deeds; Roads; Sewage; Social Services; Solid Waste; Stormwater; Surveyor; Veterans' Service Officer; Water; Watershed Improvement; Water Resources; and Armories.

Table #1: Local Sales and Use Tax Rates. – The following table identifies the local sales and use tax rate levied in each county.

Sales and Use Tax Rates Across North Carolina Counties

Tax Rate	County							
6.75% Total:	Alamance	Camden	Dare	Hyde	Nash	Richmond	Warren	
4.75% State	Alleghany	Carteret	Davie	Iredell	Northampton	Scotland	Washington	
1.00% Art. 39	Avery	Caswell	Franklin	Johnston	Pamlico	Stokes	Watauga	
0.50% Art. 40	Beaufort	Chowan	Gates	Lenoir	Pender	Transylvania	Wayne	
0.50% Art. 42	Bladen	Cleveland	Granville	Macon	Perquimans	Tyrrell	Wilson	
	Brunswick	Columbus	Guilford	McDowell	Person	Union	Yadkin	
	Burke	Craven	Henderson	Mitchell	Polk	Vance	Yancey	
	Caldwell	Currituck	Hoke					
7.00% Total:	Alexander	Chatham	Forsyth	Haywood	Madison	Pasquotank	Rutherford	
4.75% State	Anson	Cherokee	Gaston	Hertford	Martin	Pitt	Sampson	
1.00% Art. 39	Ashe	Clay	Graham	Jackson	Montgomery	Randolph	Stanly	
0.50% Art. 40	Bertie	Cumberland	Greene	Jones	Moore	Robeson	Surry	
0.50% Art. 42	Buncombe	Davidson	Halifax	Lee	New Hanover	Rockingham	Swain	
0.25% Art. 46	Cabarrus	Duplin	Harnett	Lincoln	Onslow	Rowan	Wilkes	
	Catawba	Edgecombe						
7.25% Total:	Mecklenburg	Wake						
4.75% State								
2.50% ----->	1% Art. 39 + 0.5% Art. 40 + 0.5% Art. 42 + 0.5% Art. 43							
7.50% Total:	Durham	Orange						
4.75% State								
2.75% ----->	1% Art. 39 + 0.5% Art. 40 + 0.5% Art. 42 + 0.5% Art. 43 + 0.25% Art. 46							

Source: North Carolina Department of Revenue

Table #2: Local Sales and Use Tax Articles. – The following table sets out the details of each of the local option sales tax authorizations, including the purposes for which the proceeds may be used, whether the proceeds are shared with the cities, and which articles are currently subject to the adjustment factor:

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North Carolina Local Sales Tax Articles As Authorized in G.S. Chapter 105

Feature	Article 39	Article 40	Article 42	Article 43	Article 46
Year Enacted	1969	1983	1986	1997	2007
Tax Basics	1¢ distributed point of sale	½¢ distributed per capita.	½¢ distributed point of sale.	¾¢ or ½¢ * dist. point of sale	¾¢ distributed point of sale.
Restrictions on Use of Proceeds	No	Counties must put 30% to school capital.	Counties must put 60% to school capital.	100% to Transit	No
Proceeds Shared With Cities	Yes	Yes	Yes	If a city runs a transit system.	No
Affected by G.S. 105-486 Adjustment Factors, Enacted 1987	No	Yes	Only for grocery sales.	No	No
Affected by G.S. 105-524 Redistribution, Enacted 2015	Yes	Yes	Yes	No	No
Counties Levying	100 counties	100 counties	100 counties	4 counties	46 counties