

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 704
PROPOSED COMMITTEE SUBSTITUTE H704-PCS40560-SVxf-17

Short Title: Local Option Sales Tax Flexibility.

(Public)

Sponsors:

Referred to:

April 28, 2021

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

7 "Article 46.

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

9 **"§ 105-535. Short title.**

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

12 **"§ 105-536. Limitations.**

13 This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under
14 Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half
15 cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent
16 (1/2¢) local sales and use tax under Article 42 of this Chapter.

17 **"§ 105-537. Levy.**

18 (a) Authority. – A tax levied under this Article must be approved in a referendum. If the
19 majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax,
20 the board of county commissioners may, by resolution and after 10 days' public notice, levy a
21 local sales and use tax at ~~a rate of one-quarter percent (0.25%).~~ the applicable rate. The applicable
22 rate must meet all of the following conditions:

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

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

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

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

31 (b) Vote. – The board of county commissioners may direct the county board of elections
32 to conduct an advisory referendum on the question of whether to levy a local sales and use tax in
33 the county as provided in this Article. The election shall be held in accordance with the
34 procedures of G.S. 163-287, except that the election shall not be held within one year from the
35 date of the last preceding election under this section.



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

4 (1) Unspecified Use. – If a county wants the net proceeds of the tax to be available
 5 for any public purpose, the applicable ballot language shall be:

6 "[] FOR [] AGAINST

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

9 (2) Specified Use. – If a county wants to restrict the use of the net proceeds of the
 10 tax to a specific public purpose or purposes, the applicable ballot language
 11 shall be:

12 "[] FOR [] AGAINST

13 Local sales and use tax at the rate of [The applicable rate stated in both words and as a percentage]
 14 in addition to all other State and local sales and use taxes to be used for [the applicable use or
 15 uses chosen from the options listed in G.S. 153A-149]."

16"

17 "**§ 105-538. Administration and use of taxes.**

18 (a) Administration. – The Secretary shall, on a monthly basis, for each rate of tax, allocate
 19 to each taxing county the net proceeds of the tax levied under this Article. ~~If~~ For each rate of tax,
 20 if the Secretary collects taxes under this Article in a month and the taxes cannot be identified as
 21 being attributable to a particular taxing county, the Secretary must allocate the net proceeds of
 22 these taxes among the taxing counties in proportion to the amount of taxes collected in each
 23 county under this Article in that month. For purposes of this Article, the term "net proceeds" has
 24 the same meaning as defined in G.S. 105-472.

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

32 (b) Use. – A county must use the net proceeds of a tax levied under this Article only for
 33 a public purpose and as indicated on the ballot question presented pursuant to G.S. 105-537(c)."

34 **SECTION 2.** Part 1 of Article 43 of Chapter 105 of the General Statutes is amended
 35 by adding a new section to read:

36 "**§ 105-506.3. Rate limitation.**

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

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

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

44 **SECTION 3.** G.S. 105-164.3(37) reads as rewritten:

45 "(37) Combined general rate. – The sum of all of the following:

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

48 b. plus the ~~The~~ sum of the rates of the local sales and use taxes authorized
 49 for every county in this State by ~~Subchapter VIII~~ Article 39 of this
 50 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 4.** For the first two fiscal years, beginning with the 2021-2022 fiscal year,
6 the Secretary may retain the Department's cost of collecting and administering the tax as
7 determined by the Secretary, not to exceed three hundred thousand dollars (\$300,000), from the
8 gross proceeds of the tax, as reimbursement to the Department. All other costs of collecting and
9 administering the tax shall be deducted from the gross proceeds of the tax in accordance with
10 G.S. 105-472(a).

11 **SECTION 5.** This act is effective when it becomes law, but in no event may a county
12 levy a tax under Article 46 of Chapter 105 of the General Statutes, as amended by this act, prior
13 to October 1, 2022.