



# HOUSE BILL 388: Dare County Local Option Sales Tax

2015-2016 General Assembly

**Committee:** House Finance  
**Introduced by:** Rep. Tine  
**Analysis of:** Second Edition

**Date:** March 31, 2015  
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**SUMMARY:** *House Bill 388 would authorize Dare County to levy, by resolution, a ¼-cent sales tax to be used only for dredging purposes. A tax so levied would expire the year following completion of the Bonner Bridge replacement project. The authority to levy the tax without holding a referendum would expire January 1, 2020. After that date, Dare County would be authorized to levy the tax but only by referendum.*

**CURRENT LAW:** Dare County's current local sales tax rate is 2%. Dare County also levies a 6% room occupancy tax and a 1% prepared food and beverage tax.

The local sales and use tax rate varies among the counties, ranging from 2% to 2.75%.<sup>1</sup> 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.<sup>2</sup> The maximum that could 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.

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 general purpose. Food is not included in the base to which the tax applies. Since the enactment of the authorization, 106 referendums have been held in 66 counties. Of those 106, 29 were approved.

**BILL ANALYSIS:** The bill creates a local modification to Article 46 that would authorize Dare County to levy a ¼-cent sales tax without a referendum. The county would be required to hold a public hearing, after 10 days' public notice, prior to adopting a resolution levying the tax. The proceeds of the tax may only be used for dredging purposes. A tax levied by resolution would expire the year following the completion of the Bonner Bridge replacement project, including the removal of the existing bridge.

If the county has not levied the tax, by resolution, by January 1, 2020, the authority to do so without a referendum would expire. On and after that date, the tax could only be levied after holding a referendum and would not be subject to the same use limitation or expiration provision.

**EFFECTIVE DATE:** An Article 46 tax is subject to the administrative provisions of Article 39 of Chapter 105.<sup>3</sup> Under Article 39, collection of the tax must begin on the first day of a calendar quarter. Moreover, the rate may not be changed earlier than the first day of the second succeeding calendar

<sup>1</sup>See table in the **BACKGROUND** section for this Part of the Bill Analysis.

<sup>2</sup>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 the 6 counties levy the maximum: Durham and Orange. That rate became effective in those counties in April of 2013.

<sup>3</sup>G.S. 105-538.

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month after the date of the adoption of the resolution. The county must also give the Secretary of the Department of Revenue at least 90 days advance notice of a new tax or tax rate change. However, this bill was amended in House Finance to shorten the required notice to the Department to 75 days. With this amendment, the earliest that Dare County could levy the tax under this bill is July 1, 2015.

**BACKGROUND:** This bill was prompted by the closing Oregon Inlet last week to most deep sea ships as the result of the latest U.S. Army Corps of Engineers survey, which showed that search-and-rescue vessels can no longer get out of the inlet. In response, the Dare County Board of Commissioners adopted a resolution seeking a ¼-cent sales tax increase, the proceeds of which would be used exclusively for dredging. The funds generated from the local sales tax could be matched on a one-to-one basis from funds in the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund within the Department of Environmental and Natural Resources.

**ADDITIONAL INFORMATION:** The following table identifies the current total local sales and use tax rate in the counties.

Local Rate of Sales & Use Tax	Counties	
2.75%	Durham Orange	
2.50%	Mecklenburg	
2.25%	Alexander Anson Ashe Buncombe Cabarrus Catawba Cumberland Davidson Duplin Edgecombe Greene Halifax Harnett Haywood	Hertford Lee Martin Montgomery New Hanover Onslow Pitt Randolph Robeson Rowan Sampson Surry Wilkes
2.00%	Remaining 70 counties	

The following table sets out how the local sales and use taxes may be used, how they are distributed, and whether their enactment required a referendum.

Statutory Authority	Use of Proceeds		Distribution Method	Referendum Requirement
1st 1-cent (Article 39)	Any lawful purpose		Point of collection	Permitted, but not required
1st ½-cent (Article 40)	Counties – 30% school capital		Per capita * Adjustment formula	Permitted but not required
2nd ½-cent (Article 42)	Counties – 60% school capital		Point of collection	Permitted, but not required
½-cent or ¼-cent (Article 43)	Counties/Transportation Authorities – public transportation systems only		Per capita among county and units of local government in county that operate public transportation system	Required
	<p><b>½-cent</b> Part 2: Mecklenburg Part 4: Triangle (Wake, Durham, Orange)</p>	<p><b>¼-cent</b> Part 6 – All other counties</p>		

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	Part 5: Triad (Forsyth, Guilford)			
¼-cent (Article 46)	Any lawful purpose		Point of collection – distributed to county only	Required