



HOUSE BILL 667: Local Option Sales Tax Flexibility.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	May 15, 2019
Introduced by:	Reps. Howard, Saine, Szoka, Hunter	Prepared by:	Trina Griffin
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *House Bill 667 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 identifying in the ballot question the use of the proceeds of the Article 46 local option sales tax as being for any public purpose, for public education purposes, or for some combination of the two.*
- *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.*

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.

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 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%.

¹See Table #2 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.

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

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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.

"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. Food is not included in the base to which the tax applies. Since the enactment of the authorization, at least 159 referenda have been held in approximately 75 counties. Of those, 42 were approved.

BILL ANALYSIS:

Changes to Article 46: One-Quarter Cent (1/4¢) County Sales and Use Tax

Section 1 would modify the current 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 of the tax to be either any public purpose, to be limited to public education purposes, or to be used for a combination of those purposes.

"Public education purposes" is defined in the bill as follows:

- Public school capital outlay purposes or to retire any indebtedness incurred by the county for these purposes.
- Supplements of classroom teacher salaries. A classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction.
- Financial support of community colleges, including funds to supplement State financial support of community colleges.

Changes to Article 43: Local Government Sales and Use Tax for Public Transportation

Section 2 does not make any substantive changes to the Article 43 tax other than 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.

BACKGROUND: The following tables set out 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

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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cities, which articles are currently subject to the adjustment factor, and the various taxes that the counties are currently levying:

Table 1: Local Option Sales & Use Tax Articles in the North Carolina General Statutes, Chapter 105

Article	Rate	Levied By	Distribution	Adjustment Factor (G.S. 105-486)?	2015 Redistribution?	Restrictions	Shared with Cities?	Enacted
39	1¢	100 counties	Point of Destination	No	Yes	None	Yes	1969
40	½¢	100 counties	Per Capita	Yes	Yes	30% of a county's proceeds must be used for school capital.	Yes	1983
42	½¢	100 counties	Point of Destination	Yes, food portion only	Yes	60% of a county's proceeds must be used for school capital.	Yes	1986
43	¼¢ ½¢	0 counties Durham, Mecklenburg, Orange, Wake	Point of Destination	No	No	Transit	If the city operates a transit system.	1997
46	¼ ¢	42 counties	Point of Destination	No	No	None	No	2007

Table 2. County Tax Rates

County	Tax Rate	Articles Levied
56 Counties Have a Total Sales & Use Tax Rate of 6.75%		
Alamance Alleghany Avery Beaufort Bertie Bladen Brunswick Burke Caldwell Camden	Carteret Caswell Chatham Chowan Cleveland Columbus Craven Currituck Dare Davie	Forsyth Franklin Gates Granville Guilford Henderson Hoke Hyde Iredell
Johnston Lenoir Macon Madison McDowell Mitchell Nash Northampton Pamlico	Pender Perquimans Person Polk Richmond Scotland Stokes Transylvania Tyrrell	Union Vance Warren Washington Watauga Wayne Wilson Yadkin Yancey
2.00% local + 4.75% State 6.75% Tax		
40 Counties Have a Total Sales & Use Tax Rate of 7.00%		
Alexander Anson Ashe Buncombe Cabarrus Catawba Cherokee	Clay Cumberland Davidson Duplin Edgecombe Gaston Graham	Greene Halifax Harnett Haywood Hertford Jackson Jones
Lee Lincoln Martin Montgomery Moore New Hanover Onslow	Pasquotank Pitt Randolph Robeson Rockingham Rutherford	Rowan Sampson Stanly Surry Swain Wilkes
2.25% local + 4.75% State 7.00% Tax		
2 Counties Have a Total Sales & Use Tax Rate of 7.25%		
Mecklenburg Wake	2.50% local + 4.75 State 7.25% Tax	- Art. 39, 40, & 42 - Art. 43 at ½¢
2 Counties Have a Total Sales & Use Tax Rate of 7.50%		
Durham Orange	2.75% local + 4.75% State 7.50% Tax	- Art. 39, 40, & 42 - Art. 43 at ½¢ - Art. 46