

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH10582-MC_x-12 (5/8)

Short Title: New Hanover County Infrastructure Referendum. (Local)

Sponsors: Representatives McComas, Wright, and Justice (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A REFERENDUM ON TRANSPORTATION AND
SEWER NEEDS IN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies only to New Hanover County.

SECTION 2. Short title; purpose. – This act is the New Hanover County Sewer and Transportation Infrastructure Referendum Act. This act gives New Hanover County an opportunity to improve infrastructure without having to raise property tax rates. These improvements include the construction of transportation projects and improving failing sewer infrastructure located within the County. It provides New Hanover County with authority to levy sales and use taxes for these purposes.

SECTION 3. Definitions. – The definitions in G.S. 105-164.3 and the following definitions apply in this act:

- (1) Net proceeds. – Gross proceeds less the cost of administering and collecting the tax.
- (2) Sewer infrastructure. – The system of pipes, conduits, pumping stations, force mains, and necessary appurtenances for collecting and conveying wastewater to a designated wastewater treatment facility or to another sewer system.
- (3) Transportation improvement projects. – The highway projects to be accelerated with the revenue collected pursuant to this act are the following:
 - a. U-4434 – Independence Boulevard Extension.
 - b. Construction on U-4751 – SR 1409 (Military Cutoff Road) to the Wilmington Bypass (R-2405).

- 1 c. Construction on R-4708 – US 421 (Lake Park Boulevard) in
2 Carolina Beach to US 421 (Fort Fisher Boulevard) in Kure
3 Beach.

4 **SECTION 4.** Local election on adoption of sales and use tax. – (a)
5 Resolution. – The Board of Commissioners shall direct the county board of elections to
6 conduct an advisory referendum within the county on the following two questions: (1)
7 whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied in
8 accordance with this act and (2) whether an additional local sales and use tax not greater
9 than one-half percent (1/2%), at a rate equal to the difference between four and one-half
10 percent (4 1/2%) and the rate authorized by G.S. 105-164.4(a) if that rate is reduced
11 below four and one-half percent (4 1/2%) before July 1, 2007, may be levied in
12 accordance with this act. The election shall be held on November 7, 2006, and shall be
13 held in accordance with the procedures of G.S. 163-287. The Board of Commissioners
14 shall hold a public hearing on the question at least 30 days before the date the election is
15 to be held.

16 **SECTION 4.(b)** Ballot question. – The question to be presented on a ballot
17 for a special election concerning the levy of a tax authorized by this section shall be in
18 the following form:

19 **"[] FOR [] AGAINST**

20 One-half percent (1/2%) local sales and use tax, in addition to the current two and
21 one-half percent (2 1/2%) local sales and use taxes, to be used only for the improvement
22 of county sewer infrastructure and the construction of the following transportation
23 improvement projects: (1) U-4434 – Independence Boulevard Extension, (2) U-4751 –
24 SR 1409 (Military Cutoff Road) to the Wilmington Bypass (R-2405), and (3) R-4708 –
25 US 421 (Lake Park Boulevard) in Carolina Beach to US 421 (Fort Fisher Boulevard) in
26 Kure Beach."

27 **SECTION 4.(c)** Ballot question on additional local sales and use tax. – The
28 question to be presented on a ballot for a special election concerning the levy of the
29 additional tax authorized by this section shall be in the following form:

30 **"[] FOR [] AGAINST**

31 An additional local sales and use taxes not greater than one-half percent (1/2%), at a rate
32 equal to the difference between four and one-half percent (4 1/2%) and the rate
33 authorized by G.S. 105-164.4(a) if that rate is reduced below four and one-half percent
34 (4 1/2%) before July 1, 2007, in addition to the current local sales and use taxes, to be
35 used only for the improvement of county sewer infrastructure and the construction of
36 the following transportation improvement projects: (1) U-4434 – Independence
37 Boulevard Extension, (2) U-4751 – SR 1409 (Military Cutoff Road) to the Wilmington
38 Bypass (R-2405), and (3) R-4708 – US 421 (Lake Park Boulevard) in Carolina Beach to
39 US 421 (Fort Fisher Boulevard) in Kure Beach."

40 **SECTION 5.** Levy of sales and use tax. – If the majority of those voting in a
41 referendum held pursuant to Section 4 of this act vote for the levy of those taxes, the
42 Board of Commissioners may, by resolution, levy the additional local sales and use
43 taxes, as permitted by this act, in addition to any other State and local sales and use

1 taxes levied pursuant to law. Notwithstanding the provisions of G.S. 105-466, the rate
2 change may become effective January 1, 2007.

3 A tax levied under this act does not apply to the sales price of food that is
4 exempt from tax pursuant to G.S. 105-164.13B.

5 **SECTION 6.** Distribution. – The Secretary shall, on a quarterly basis,
6 allocate to New Hanover County the net proceeds of any tax levied under this act.

7 **SECTION 7.** Funds reserved to the Infrastructure Improvement Fund. –
8 New Hanover County shall establish the Infrastructure Improvement Fund to receive the
9 net proceeds of a tax levied under this act. The funds in the Infrastructure Improvement
10 Fund shall be used only in accordance with this act.

11 **SECTION 8.** Use and limitation. – New Hanover County shall use one-half
12 of the net proceeds distributed to it under this act to participate in the right-of-way and
13 construction costs associated with the transportation improvement projects only. New
14 Hanover County shall use the remaining net proceeds to improve sewer infrastructure
15 located within the County. Upon the completion of the transportation improvement
16 projects, all net proceeds under this act shall be used for improvements to sewer
17 infrastructure located within the County. In funding sewer infrastructure improvements,
18 the County shall give priority to projects necessary to repair failing sewer infrastructure
19 and prevent sanitary sewer overflows, including but not limited to replacement of
20 failing sewer lines, extension of sewer lines to areas with failing subsurface waste
21 systems, construction of parallel or replacement lines to provide adequate sewer
22 capacity, and replacement of pump stations.

23 **SECTION 9.** Administration. – Except as provided in this act, the adoption,
24 levy, collection, administration, and repeal of these additional taxes shall be in
25 accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of
26 Chapter 105 of the General Statutes to this act, references to "this Article" mean "this
27 act."

28 **SECTION 10.** No TIP disadvantage for participation. – If New Hanover
29 County participates in the right-of-way acquisition and construction of the
30 transportation improvement projects, the Department of Transportation shall ensure that
31 the County's participation does not cause any disruption to or delay of a project that is in
32 the Transportation Improvement Program and approved by the Board of Transportation
33 pursuant to G.S. 143B-350(f)(4) and that is located in New Hanover County.

34 **SECTION 11.** Lump sum or unit price contracts. – A tax levied under this
35 act does not apply to construction materials purchased to fulfill a lump sum or unit price
36 contract entered into or awarded before the effective date of the levy or entered into or
37 awarded pursuant to a bid made before the effective date of the levy when the
38 construction materials would otherwise be subject to the tax levied under this act.

39 **SECTION 12.** This act is effective when it becomes law.