

Executive Summary
Draft legislation – Mecklenburg County Sales Tax 08-05-24
August 5, 2024

PART I. LEGISLATIVE FINDINGS

This Part includes findings about the benefits of investments in transportation infrastructure including public transportation, the costs of traffic congestion, and specific impacts on the Charlotte metropolitan area. Most statements include citations to reference material. These citations will be removed from the final draft that goes before the General Assembly and are included here for reference only.

PART II. REVISIONS TO CURRENT MECKLENBURG COUNTY SALES TAX FOR PUBLIC TRANSPORTATION

- Section 2.1. Changes to definitions.
 - The definition of “public transportation” is amended so that it is clear it could include tunneling technology.
 - The definition of “transportation authority” is amended to incorporate this concept with respect to the existing sales tax. The definition references the type of authority that would be created in Mecklenburg County under the provisions of Part V of this bill.
- Section 2.2. Limitation on repeal of existing tax.
 - Requires that any repeal of the tax by the County may only become effective once there is no debt outstanding that is associated with the tax. This also allows an entity to refinance any existing debt after a resolution of repeal is adopted so long as the refinancing does not extend the maturity date of the debt.
- Section 2.3. Distribution and use of proceeds.
 - Clarifies that a unit of local government that receives tax proceeds, other than the County that levies the tax, may use the proceeds of this tax to support revenue bonds.
- Section 2.4. Distribution and use of proceeds.
 - The amendment in G.S. 105-507.3(a) would shift the distribution of the existing tax proceeds from the City of Charlotte to the new Authority once the new tax is levied and becomes effective.
 - The amendments in G.S. 105-507.3(b) would:
 - Remove references to the financial plan.
 - Remove the maintenance of effort requirements currently imposed on the County, the City of Charlotte, and the Town of Huntersville.
- Section 2.5. Effective date.
 - Section 2.4, which shifts the proceeds of the existing tax from the City of Charlotte to the new Authority, would become effective only if the new tax is levied, and it would become effective on the effective date of that levy. The remainder of the changes in this Part would become effective when the bill becomes law.

PART III. REVISIONS TO CURRENT MECKLENBURG COUNTY U-DRIVE-IT TAX

Under current law, the following entities may levy a tax on the short-term rental of motor vehicles:

- All municipalities are allowed to levy a tax on these rentals of up to 1.5%, the proceeds of which may be used for any legitimate purpose. G.S. 160A-215.1.
- All counties are allowed to levy a tax on these rentals of up to 1.5%, the proceeds of which may be used for any legitimate purpose. G.S. 153A-156.
- Mecklenburg County has been given special authority to levy an additional tax on rental vehicles, usually referred to as the U-drive-it tax, of up to 5%, the proceeds of which must be given to the largest city in the County operating a public transportation system. S.L. 1997-417, as added by Section 30 of S.L. 2006-162 and amended by Section 2.(h) of S.L. 2009-527.

The change in this Part affects only the 5% tax levied by Mecklenburg County – it does not affect the 1.5% tax levied by the County or a 1.5% tax levied by any municipality. It would shift the distribution of these tax proceeds (for public transportation purposes) from the City of Charlotte to the Authority when the new sales tax becomes effective.

PART IV. ADDITIONAL MECKLENBURG COUNTY ROADWAY SYSTEMS AND PUBLIC TRANSPORTATION SYSTEMS SALES TAX

This Part authorizes Mecklenburg County to levy an additional sales and use tax for public transportation.

- Section 4.1 Title of the Part.
- Section 4.2 Definitions.
 - Applies existing definitions with respect to sales taxes in general and the existing 0.5% sales tax for public transportation.
 - Creates definitions of:
 - A new type of public transportation authority described more in Part V.
 - An eligible municipality – the municipalities of Charlotte, Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville.
 - The Red Line – a rail line running from the center of Charlotte through the northern towns and terminating north of Davidson.
 - Roadway system.
- Section 4.3 Exemption of food.
 - As with the current 0.5% sales tax for transportation, this tax would not apply to sales of most food.
- Section 4.4. Referendum
 - Section 4.4(a) provides that before the tax could be levied, the Mecklenburg County Board of Commissioners would have to adopt a resolution to put a referendum authorizing the tax on the ballot. The Board would also be required to hold a public hearing on the issue at least 30 days before the election.
 - Section 4.4(b) provides the exact question that must appear on the ballot.
- Section 4.5. Levy of tax.

- Provides that the Board of Commissioners may levy the tax by resolution only after the following have occurred:
 - The referendum passes.
 - An Authority has been created.
 - At least one municipality or an Authority operates a public transportation system.
- Section 4.6. Administration.
 - This is standard language that provides that, except as otherwise provided in this Part, this new tax will be administered in the same manner as other local sales and use taxes.
- Section 4.7. Distribution.
 - This Section sets out the distribution of the proceeds of the new tax. Forty percent (40%) of the net proceeds of the new tax must be used for roadway systems as provided in Section 4.8 and sixty percent (60%) must be used for public transportation as provided in Section 4.9.
- Section 4.8. Roadway distribution.
 - 40% of the proceeds would be distributed to the seven eligible municipalities and could be used for roadway systems only. The proceeds would be divided between the City of Charlotte and the Towns based on a formula. This formula seeks to ensure that all municipalities share in the pain when there is an overall decrease in tax proceeds (e.g., during a severe recession) AND in the bounty when a rising tide is lifting all ships (e.g., during a strong economy). There is an adjustment that comes into play when overall tax receipts are growing, but something about the distribution formula causes the amount to be distributed to one or more Towns to decrease. There would be a multistep process to determine the amount to be distributed to each municipality each year.
 - First, the following amounts would be calculated for each municipality.
 - The monthly amount. This is equal to the amount determined by a formula that uses the most recent annual population estimates and the most recent figures with respect to street miles as submitted to the Department of Transportation with respect to Powell Bill funds.
 - For the Towns, this is equal to 125% of the greater of two formulas – one based solely on street miles and one using the Powell Bill methodology (which is based off street miles and population).
 - For Charlotte, this would be the remainder of the funds after the distribution to the Towns.
 - The annual amount. This is the sum of the 12 monthly amounts in a fiscal year without adjustment.
 - The baseline amount.
 - For the Towns, this amount would initially be equal to the annual amount for the first full fiscal year that

the tax is in effect. The amount would then be adjusted after each decennial census.

- For Charlotte, there is no baseline amount.
- Next, the distribution of the proceeds would then proceed as follows:
 - For the first 11 months of the fiscal year, each municipality would receive its monthly amount.
 - For the 12th month there is a mechanism to ensure that a Town does not fall below its baseline amount in some circumstances. The distribution for the 12th month would be as follows:
 - For years in which the total net proceeds received by the County as compared to the previous year decline, each municipality would receive its monthly amount. This would likely result in some, or even all, Towns falling below their baseline amounts. This means that all municipalities would bear some of the pain during years in which the total pot of money shrinks (e.g., during a severe recession.).
 - For years in which the total net proceeds received by the County as compared to the previous year increase, the distribution for the 12th month would be as follows:
 - If the annual amount for each Town is greater than the baseline amount for that Town, then each municipality would receive its monthly amount.
 - If the annual amount for at least one Town is less than the baseline amount, then the following:
 - The Town(s) that fell below its baseline amount would receive a distribution in the final month that would ensure that the total amount distributed to the Town for the fiscal year would equal the baseline amount for that Town. The cost of this supplement to that Town would be borne by all the other municipalities in proportion to their relative populations, UNLESS
 - If the redistribution required by the calculation immediately preceding this bullet would result in an additional Town(s) falling below its

baseline amount, then all municipalities would receive their monthly amounts without adjustment.

- Section 4.9. Public Transportation Distribution.
 - This Section requires that 60% of the proceeds be distributed to the Authority to be used for public transportation purposes. This Section imposes the following additional restrictions on the use of these funds:
 - No more than two-thirds of this amount (40% of the net tax proceeds overall) could be used for rail projects.
 - The Authority must complete at least 50% of the Red Line before any other rail project is completed, absent the existence of an event beyond the control of the Authority that delays completion or makes completion impossible. Once the event that caused the delay no longer exists, the Authority must resume work on the Red Line.
 - The Authority must solicit input from the Towns of Cornelius, Davidson, Huntersville, and, in some cases, Mooresville on all aspects of the Red Line.
 - The Authority must reimburse the City of Charlotte for the purchase of the O-Line.
- Section 4.10. Provides that the Mecklenburg County Board of Commissioners may repeal the tax by resolution, but the repeal may not become effective until the latest of the following:
 - The end of the current fiscal year (this is standard language for all local sales and use taxes).
 - All debt that is supported by the tax revenues have been satisfied.
 - The Authority has reimbursed the City for the purchase of the O-line

PART V. METROPOLITAN PUBLIC TRANSPORTATION AUTHORITY

This Part creates a new type of public transportation authority that would have responsibility for running the public transportation system once the new tax becomes effective.

The North Carolina Constitution requires that the General Assembly enact general laws with respect to the regulation of local government debt financing. This new authority would be authorized to issue debt, therefore, it must be created by general law. This means that the General Assembly cannot simply create a new authority for Mecklenburg County. That is why this draft does not specifically name Mecklenburg County but instead describes it in general terms in a way that could only refer to Mecklenburg County for the foreseeable future.

Section 5.1 establishes a new type of entity called a metropolitan public transportation authority. The authority would include the territory of a single county that satisfies certain conditions – a population of at least 1 million, bordering another state, and has at least one unit of local government that operates a light rail system. Mecklenburg County is the only county that would satisfy these conditions for the foreseeable future.

The structure of the new authority is based on existing law that provides the basis for the Research Triangle Public Transportation Authority (a.k.a. GoTriangle).

The new Authority would:

- Be created by a resolution of the Mecklenburg County Board of Commissioners
- Have territorial jurisdiction that includes the entire county.
- Have a service area that includes the entire county and could extend outside of the county with the agreement of other units of government.
- Have authority to finance, provide, operate, and maintain a public transportation system for the service area of the Authority
- Be granted numerous powers to carry out these purposes, including the power to acquire and dispose of property, to issue debt, and to hire employees and contractors and the power of eminent domain.

The Authority would be governed by a board of trustees as specified in the authorizing legislation. The board would comprise:

- 12 members appointed by the county.
 - One appointment must be made on the recommendation of each of the six Towns (for a total of six appointments). Any or all of these six appointments may be elected officials.
 - Six appointments in the discretion of the County. No more than one of these six appointments may be an elected official of the County.
- 12 members appointed by the City of Charlotte:
 - At least three of these appointments must be recommended by an entity representing the local business community.
 - Of the nine remaining appointments, no more than two may be elected officials of the City.
- Two members appointed by the General Assembly – one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tem of the Senate.
- One member appointed by the Governor.

This Part includes a provision allowing for the expansion of the Authority to include one more additional whole counties. Any expansion would require the affirmative vote of at least 75% of the members of the Authority's board of trustees and of the board of commissioners of the county to be added. The expansion resolution would contain provisions with respect to financial, legal, and operational commitments by the entities with respect to the expansion and changes to the Authority's board of trustees, if any. An expansion resolution could not alter the number or appointment requirements with respect to existing members of the board of trustees.

PART VI. REQUIREMENTS IF MECKLENBURG COUNTY CREATES A METROPOLITAN PUBLIC TRANSPORTATION AUTHORITY

This Part provides for additional requirements if an Authority is created by Mecklenburg County.

- Section 6.1 states that the provisions in this Part apply if Mecklenburg County creates an Authority.

- Section 6.2. Studies.
 - This Section would direct the Authority to study numerous issues related to the legal and financial considerations of a transfer of the assets, liabilities, and operations of CATS from the City of Charlotte to the the new Authority. It requires that these studies be completed by July 1, 2025, and that a report on the studies be published and provided to the County Board of Commissioners, the governing boards of the seven eligible municipalities in the County and the Town of Mooresville, and the General Assembly.
- Section 6.3 General Assembly appointments.
 - This Section is a placeholder that allows for appointments to the board of trustees to be made by the General Assembly.
- Section 6.4. This Section lists additional actions that must be taken by the Authority prior to July 1, 2025. They include items related to board governance, human resources, financial policies, operational policies, and information technology. The Authority is also responsible for drafting agreements related to the transfer of the existing public transportation system from the City to the Authority.
- Section 6.5. This Section lists items that occur when the new sales tax becomes effective (there is a working assumption that this will not be earlier than July 1, 2026). These items include:
 - The Authority will begin receiving all tax proceeds from the existing 0.5% sales tax, the new sales tax, and the U-drive-it tax as of the date the new tax becomes effective.
 - Operational control of public transportation systems are transferred from the City to the Authority.
 - The City retains ownership of any assets that are pledged as security for any outstanding indebtedness and begins transferring ownership of other assets to the Authority.
 - The City retains the CATS Revenue Reserve Fund.
 - The Authority begins making payments to the City to pay off any outstanding debt and reimburse the City for the purchase of the O-Line.
 - CATS employees become employees of the Authority.
- Section 6.6. Interlocal agreements and MTC.
 - This Section provides that any interlocal agreements between the County, City, and Towns with respect to the public transportation system are terminated as of the date the new tax becomes effective, and the MTC is dissolved.
- Section 6.7. This Section provides that existing service offered by CATS outside of Mecklenburg County may continue after the Authority assumes operational control of the system without requiring the consent of the applicable jurisdiction.

PART VII. REVENUE BONDS

This Part clarifies that the City of Charlotte and the Authority may use the proceeds of this new tax to support revenue bonds. As discussed above, the General Assembly must enact general

laws with respect to the regulation of local government debt financing, which is why Section 7.4 refers to cities of a certain size or this type of Authority.

PART VIII. CONFORMING CHANGES

This Part makes conforming changes throughout the General Statutes to ensure that the Authority is treated like public transportation authorities in the Triangle and Triad with respect to eminent domain, sales tax refunds, eligibility for certain funds from the North Carolina Department of Transportation, purchasing and contracting requirements, tax secrecy, and debt financing.

PART IX. MISCELLANEOUS PROVISIONS

Section 9.1 of this draft provides that it is the intent of the General Assembly not to reduce transportation funding to local governments in Mecklenburg County or funding for State transportation projects in Mecklenburg County as the result of a levy of a tax under this act. In addition, it prohibits the Department of Transportation from reducing funding for these projects absent specific authorization from the General Assembly.

Section 9.2 provides that the act is effective when it becomes law unless otherwise specified in the act.