



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# HOUSE BILL 112: Roanoke Rapids Local Option Sales Tax.

2019-2020 General Assembly

<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	July 8, 2019
<b>Introduced by:</b>	Rep. Wray	<b>Prepared by:</b>	Trina Griffin Staff Attorney
<b>Analysis of:</b>	Second Edition		

**OVERVIEW:** House Bill 112 would authorize the City of Roanoke Rapids to levy a 1% local sales and use tax for the purpose of repaying debt incurred to finance the Roanoke Rapids Theatre, formerly known as the Randy Parton Theatre. The tax would expire the earlier of when the debt is repaid or 15 years after the levy.

### CURRENT LAW:

**Generally.** – No city in the State of North Carolina has the authority to levy a local sales and use tax. Counties are authorized to levy a local sales and use tax at a rate that varies from 2% to 2.75%.<sup>1</sup> The counties must distribute a portion of the first 2% to the cities. The distribution between a county and its municipalities is based upon one of two methods: ad valorem or per capita.

Cities have authority to levy the property tax, the rental car gross receipts tax, the heavy equipment rental tax, and vehicle taxes. Cities also receive a distribution of beer and wine excise taxes and a portion of the sales taxes on electric utilities, piped natural gas, telecommunications services, and video programming services. Cities also have the authority to levy special assessments for building and improving streets. Voter petitions are required, and the assessment must be levied after the project is complete.

**Roanoke Rapids.** – Roanoke Rapids, located in Halifax County, has an estimated population of 15,000. In 2004, North Carolina voters approved a constitutional amendment to allow local governments to finance development within defined districts by issuing tax increment financing<sup>2</sup> bonds without a local referendum. The City of Roanoke Rapids was the first North Carolina local government to use this financing tool. In 2005, the NC Northeast Partnership, a 16-county, state-funded regional economic development organization, announced a deal between private developers and the City for development of a 1,500-seat entertainment venue to be managed by Randy Parton, who would also perform there. The City borrowed \$21.5 million, with Local Government Commission approval, and State agencies contributed about \$6 million to launch the project. The theater opened in July 2007 as the "Randy Parton Theatre." The theater struggled to generate sufficient revenue, and shortly after it opened, Randy Parton was removed from his position, and it was renamed the Roanoke Rapids Theatre. Concurrent with this change, the City assumed full responsibility for operating the theater.

<sup>1</sup> 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. Only 2 counties are levying at that rate. 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.

<sup>2</sup> Tax increment financing (TIF) allows local governments to set aside the additional property taxes that are generated by a new investment to pay for public facilities that support that new investment. A local government may repay the debt with any available revenues of the unit provided the financing agreement does not constitute a pledge of the unit's taxing power.

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Under tax increment financing, a public economic development investment is supposed to improve the value of the surrounding property, and the incremental increase in property tax collections is then used to repay the borrowed money. Roanoke Rapids officials planned for the increased property tax revenue to be only a reserve and expected theater revenues to cover most of the cost. However, the project essentially failed leaving the City with debt to retire and little revenue to do so.

The City owes approximately \$14 million on the theater and has an annual debt service of \$952,000. In July of 2018, the City sold the theater for \$3 million under a short-term financing arrangement wherein the purchaser made a \$300,000 down payment and continues to make monthly payments, which the City uses toward paying down the debt. The City is seeking to levy a city sales tax so it may use that revenue toward the remaining \$11 million. The theater is currently being used for various entertainment activities such as concerts, variety shows, and festivals.

**BILL ANALYSIS:** House Bill 112 would, for the first time, authorize a municipality in North Carolina to levy a city-only sales tax. The bill would allow the City of Roanoke Rapids to hold a referendum on the question of whether to levy a municipal sales tax at the rate of one percent (1%) and would restrict the use of the proceeds for the repayment of debt service on the Roanoke Rapids Theatre. The tax would expire the earlier of when the debt is repaid or 15 years from the date of levy.

The tax would be administered in the same manner as the county local option sales tax. The City Council may not levy the tax unless a majority of the voters approve the levy in a referendum, which may only be held as follows:

- (1) At the same time as any other State or county general election.
- (2) At the same time as the primary election in any even-numbered year.
- (3) At the same time as any other election requiring all the precincts in the county to be open.
- (4) At the same time as a municipal general election, if the special election is within the jurisdiction of the municipality only.

If the City were to hold a referendum at the same time as the general election in 2019 and it is successful, the earliest the tax could be levied is April 1, 2020.<sup>3</sup>

**EFFECTIVE DATE:** This act is effective when it becomes law.

**BACKGROUND:** If the General Assembly begins to authorize city sales taxes more broadly, there will be some administrative issues to be resolved. Since there are currently no city sales taxes, the Department of Revenue will likely need to create new forms and make programmatic or IT changes to accommodate a new distribution process. Also, under the Streamlined Sales Tax Agreement, the State must apply the lowest combined tax rate imposed in a zip code area if the area includes more than one tax rate. This requirement would need to be taken into consideration for cities that share a zip code or for cities that lie in multiple counties and across zip code areas. It could also present challenges for sellers when trying to identify the applicable rate. Also, an annexation or deannexation would potentially have the effect of changing the tax rate in a jurisdiction without sufficient notice to retailers.

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<sup>3</sup> Under current law, a rate increase may only go into effect on the first day of a calendar quarter after retailers have been given 60 days' notice; also, the local government must give the Department of Revenue 90 days' notice of a rate increase.