**South Carolina General Assembly**

125th Session, 2023-2024

**S. 792**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Davis

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Introduced in the Senate on May 10, 2023

Currently residing in the Senate Committee on **Finance**

Summary: County Green Space Sales Tax

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 5/10/2023 Senate Introduced and read first time (Senate Journal‑page 4)

 5/10/2023 Senate Referred to Committee on **Finance** (Senate Journal‑page 4)

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**VERSIONS OF THIS BILL**

[05/10/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/792_20230510.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 4-10-1010, RELATING TO THE DEFINITION OF PRESERVATION PROCUREMENTS AND SALES AND USE TAX, SO AS TO PROVIDE FOR THE INCLUSION OF CONSERVATION MANAGEMENT ACTIVITES; BY AMENDING SECTION 4-10-1020, RELATING TO THE IMPOSITION OF SALES AND USE TAX AND ENACTING ORDINANCE REQUIREMENTS, SO AS TO PROHIBIT THE AMOUNT OF REVENUE COLLECTED THAT MAY BE USED FOR CONSERVATION MANAGEMENT ACTIVITIES FROM EXCEEDING TWO PERCENT OF THE FUNDS COLLECTED AND TO PROVIDE FOR THE USE OF FUNDS FOR CONSERVATION MANAGEMENT ACTIVITIES ON THE REFERENDUM; BY AMENDING SECTION 4-10-1030, RELATING TO THE IMPOSITION AND TERMINATION OF THE TAX, SO AS TO PROVIDE FOR THE INCLUSION OF CONSERVATION MANAGEMENT ACTIVITIES; AND BY AMENDING SECTION 4-10-1040, RELATING TO ADMINISTRATION AND COLLECTION OF THE TAX, SO AS TO PROVIDE GUIDELINES FOR THE OVERSIGHT COMMITTEE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 4‑10‑1010 of the S.C. Code is amended to read:

 Section 4‑10‑1010. (A)(1) For the purposes of this article, “preservation procurements” means procuring open lands or green space for preservation, by and through the acquisition of interests in real property, including:

 (1)(a) the acquisition of fee simple titles;

 (2)(b) conservation easements;

 (3)(c) development rights;

 (4)(d) rights of first refusal;

 (5)(e) options;

 (6)(f) leases with options to purchase; and

 (7)(g) any other interests in real property.

 (2) For purposes of this article, “conservation management activities” means a management activity undertaken on real property.

 (B)(1) Subject to the requirements of this article, a county's governing body may impose a sales and use tax by ordinance, subject to a referendum, within the county area for preservation procurements and for conservation management activities on open lands or green space acquired with revenues

collected pursuant to this article.

 (2) Revenues collected pursuant to this article may be used to defray debt service on bonds issued to pay for preservation procurements authorized in this article. This authorization is in addition to any other locally imposed sales and use taxes. Municipalities are not entitled to revenues collected pursuant to this article except to the extent authorized by county ordinance for the purpose of preservation procurements or conservation management activities.

 (3) A county’s governing body may establish a preservation procurement process in order to determine the specific identification of procurements to be made. This process may, but is not required to, include the oversight committee established in Section 4‑10‑1040.

SECTION 2. Section 4‑10‑1020 of the S.C. Code is amended to read:

 Section 4‑10‑1020. (A) A county governing body may impose a sales and use tax up to one percent authorized by this article, by ordinance, subject to a referendum. An enacting ordinance must specify:

 (1) the purpose for which the proceeds of the tax are to be used, which may include preservation procurements located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area;

 (2) if the county proposes to issue bonds to provide for the payment of any costs of the preservation procurements, the maximum amount of bonds to be issued, whether the sales tax proceeds are to be pledged to the payment of the bonds and, if other sources of funds are to be used for the preservation procurements, a list of the other sources;

 (3) the maximum cost of the preservation procurements, to be funded from the proceeds of the tax or bonds issued as provided in this article and the maximum amount of net proceeds expected to be used to pay the cost or debt service on the bonds, as the case may be; and

 (4) the fact that preservation procurements may pertain to real property situated outside of the boundaries of the taxing jurisdiction.

 (5) the amount of revenue collected that may be used for conservation management activities, which may not exceed two percent of the funds collected.

 (B) Upon receipt of an ordinance, a county's election commission must conduct a referendum on the question of imposing the sales and use tax in the area of the county that is to be subject to the tax. A referendum for imposition or reimposition of the tax must be held at the time of the next general election in an even‑numbered year. Two weeks before a referendum, a county's election commission must publish in a newspaper of general circulation the question that is to appear on the ballot, with a description of the methods by which the county's governing body intends to procure open lands and green space for preservation. If the proposed question includes the use of sales taxes to defray debt

service on bonds issued to pay the costs of any preservation procurements, then the notice must include a statement indicating the principal amount of the bonds proposed to be issued for the purpose and, if the issuance of the bonds is to be approved as part of the referendum, stating that the referendum includes the authorization of the issuance of bonds in that amount. If the proposed question includes the use of sales taxes for conservation management activities, then the notice must include a statement indicating the amount of the funds for the purpose. This notice is in lieu of any other notice otherwise required by law.

 (C) The referendum question to be on the ballot must read substantially as follows:

 “To protect drinking water sources, to protect the water quality of rivers, lakes, and streams, to conserve fish and wildlife habitat, to create parks, to provide outdoor recreation opportunities, and to maintain the overall quality of life, Mustmust a special [percent] sales and use tax be imposed in [county] for not more than [time] to raise the amounts specified for protecting preservation procurements for the purpose of procuring open lands and green space by and through the acquisition of interests in real property, such interests to include:

 (a) the acquisition of fee simple titles;

 (b) conservation easements;

 (c) development rights;

 (d) rights of first refusal;

 (e) options;

 (f) leases with options to purchase; or

 (g) any other interests in real property?using any standard conservation acquisition procedure, alone or in partnership with any other public or fully accredited not‑for‑profit entity, located within or outside the boundaries of [county] County, with review of all expenditures by an oversight committee.

|  |  |
| --- | --- |
| 24 | Yes [] |
| 25 | No []” |

 If the referendum includes the issuance of bonds, then the question must be revised to include the principal amount of bonds proposed to be authorized by the referendum and the sources of payment of the bonds if the sales tax approved in the referendum is inadequate for the payment of the bonds.

 If the referendum includes the use of the funds for conservation management activities, then the question must be revised to include the amount of funds proposed to be authorized by the referendum for these activities and the purpose of the activities, which may include improving water quality, improving wildlife habitat, or improving nature‑based public recreation.

 (D) All qualified electors desiring to vote in favor of imposing the tax for the stated purposes shall vote “yes”, and all qualified electors opposed to levying the tax shall vote “no”. If a majority of the votes cast are in favor of imposing the tax, then the tax is imposed as provided in this article and the

enacting ordinance. Any subsequent referendum on this question must be held on the date prescribed in subsection (B). The election commission shall conduct the referendum under the election laws of this State, mutatis mutandis, and shall certify the result no later than November thirtieth to the county governing body and to the Department of Revenue. Expenses of the referendum must be paid by the governmental entities that would receive the proceeds of the tax in the same proportion as those entities would receive the net proceeds of the tax.

 (E) Upon receipt of the returns of a referendum, a county's governing body must, by resolution, declare the results thereof. In such event, the results of the referendum, as declared by resolution of the county's governing body, are not open to question except by a suit or proceeding instituted within thirty days from the date such resolution is adopted.

 (F) The provisions of this section are not available to a county with more than two existing sales and use taxes currently in effect.

SECTION 3. Section 4‑10‑1030(C) of the S.C. Code is amended to read:

 (C) Amounts collected in excess of the required net proceeds must first be applied, if applicable, to complete the preservation procurements or conservation management activities for which the tax was imposed.

SECTION 4. Section 4‑10‑1040(A) of the S.C. Code is amended to read:

 (A)(1) The tax levied pursuant to this article must be administered and collected by the Department of Revenue in the same manner that other sales and use taxes are collected. The Department of Revenue may prescribe amounts that may be added to sales prices because of the tax.

 (2) The county in which a referendum is passed shall assemble an advisory committee to assist the Department of Revenue with directing the distribution of the taxes collected oversight committee to review the process established under Section 4‑10‑1010(B)(3) in order to ensure revenues raised pursuant to the tax are expended on appropriate projects and to ensure a transparent and equal distribution of funds within the county. The advisory oversight committee shall include seven members:

 (a) one member who is a member of the county council;

 (b) one member who is a member of the legislative delegation;

 (c) one member who is knowledgeable about the geography and condition of the county's land; and

 (d) four citizen members, each representing the northern, southern, eastern, and western portions of the county. residing in areas that reflect the geographic diversity of the county.

 (3) The oversight committee shall make an annual report to the county’s governing board, the Department of Revenue, and the county’s legislative delegation regarding the use of revenues.

SECTION 5. This act takes effect upon approval by the Governor.

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