



FACT SHEET

South Carolina Policy Council

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Retail Incentives Set Stage for 2 Percent Sales Tax Increase

A few months ago it seemed as if the idea of handing out retail tax incentives was all but dead. But, be warned, the last week of session is the time when bad ideas and long-forgotten bills ([H 4478](#), for instance) come back to life. Thus, on June 2, the House passed S 1054, "[The Local Option Extraordinary Commercial Facilities Fee Act](#)," on third reading. It is unclear whether the Senate will concur with the bill, setting the stage for a conference committee.

It is common knowledge [S 1054](#) was initially written for the benefit of the Sembler Co., a mall developer seeking to build at Okatie Crossings. We've previously written on this legislation – [here](#), [here](#) and [here](#) – and, most recently on *The Nerve* – [here](#).

Sembler currently owns 40 acres at the Okatie site while Horne Properties owns 230 acres and is considering building an "epicenter property" made up of retail space, hotels, restaurants and apartments. [According to Doug Horne](#), president of Horne Properties, his company "does not intend to seek the broad, state incentives Sembler initially sought ... but would like to capitalize on the smaller, local incentives as well as a separate financing deal Sembler had previously worked out with Hardeeville."

The latest version of [S 1054](#) apparently represents this smaller, local incentives package. That said, the legislation has important ramifications for the state as a whole. [S 1054](#) essentially does the following:

Imposes a 1 percent general sales tax increase. [S 1054](#) allows any municipality within a county that takes in at least \$5 million in state accommodations taxes, and also has a per capita income of at least \$40,000, to implement a 1 percent sales tax increase. The tax would be subject to voter approval. The new revenue would be earmarked as follows (no doubt, with select developers in mind): 50 percent for "tourism promotion"; 30 percent for municipal property tax credits; and 20 percent for tourism-related capital projects. Information about the specific taxpayers receiving the credits would remain confidential.

Imposes a 1 percent sales tax increase on site merchants/customers. [S 1054](#) allows the Okatie site, and others like it, to be classified as a multicounty "economic development site" eligible for reimbursement for various infrastructure projects. These expenses would be funded with a 1 percent tax hike on sales within the economic development site (i.e., the epicenter property). The tax increase would be subject to approval by voters.

Applies the Beaufort County Stormwater Management Ordinance.

Given that proposed economic development sites will be in more than one county, the bill applies the most stringent of the various counties' stormwater ordinances. In relation to Okatie Crossings, this means [Beaufort County's stricter rules](#) will be enforced instead of Jasper County's. The bill would also require developers at the site to submit a fully developed stormwater plan/model and to pay for third party compliance monitoring.

Requires "Preferred Treatment" for local and state vendors. In order to be reimbursed for applicable infrastructure costs, developers must extend "Preferred Treatment" to local and state vendors. In effect, they must hire local and state contractors to do the infrastructure work. Note, however, that, in relation to Okatie Crossings, the 45-mile radius that applies to local vendors extends into Georgia; there is also an exception for "specialized" infrastructure work.

Creates another commission. [S 1054](#) would create a "Designated Economic Development Site Oversight Commission" controlled by the legislature. The commission would verify all reimbursements to developers. Upon unanimous agreement, it would also have the power to administratively waive or revise "any changes in definitions or requirements provided" by [S 1054](#).

Even under the best circumstances, a 2 percent sales tax increase is difficult to stomach. To put things into perspective, Beaufort County already has a [total sales tax rate](#) of 7 percent while Jasper County has an 8 percent rate. A 2 percent increase would mark localities within these counties as having among the highest sales taxes in the country. But what is even worse is that these new taxes are institutionalizing a system of providing incentives to retailers, not only at Okatie Crossings, but potentially in every S.C. municipality. Consider the following statewide consequences of this legislation:

Makes retail incentives a new state policy. Throughout this debate, we've pointed out that retail incentives are completely ineffective. They don't create new jobs, don't increase sales – and could be [unconstitutional](#). Likewise, Governor Sanford has repeatedly [vetoed retail incentives](#) legislation. This bill, however, would extend retail incentives, not only to Sember or Horne, but to any development classified as an "economic development site." Under the current legislation, any "geographic area which has been designated as part of a multicounty park" may be declared an economic development site that may benefit from the imposition of the 1 percent "local option extraordinary commercial facilities" tax.

Potentially a statewide tax increase. In spite of repeated references to being a fee, this bill is a local option sales tax increase. Even more

important is that [S 1054](#) has widespread applicability, opening the door for [localities across the state](#) to introduce a 1 percent to 2 percent local option tax increase. The bill contains no investment or job targets for Sembler or Horne – or any other potential beneficiaries. The 1 percent commercial facilities tax is also not limited to counties with a minimum per capita income or minimum accommodations/tourism tax base.

A bait and switch? It is curious that a retail developer would agree to a 1 percent tax increase to fund infrastructure costs, especially given the bill’s preference for local/state contractors. After all, the tax increase will put Okatie merchants at a competitive disadvantage. Even more curious, however, is a provision in [S 1054](#) that allows the proposed 1 percent commercial facilities tax increase to be rescinded “upon written petition of all of the property owners in the entire site” (4-10-1130(E)). Could this provision be used by Sembler/Horne to recoup infrastructure costs and then petition for the tax to be eliminated – leaving local taxpayers holding the bag?¹ In addition to the seemingly unlimited power of the Designated Economic Development Site Oversight Commission to change the terms of [S 1054](#), it is also worth noting that the bill seems to permit a two-thirds majority of the respective municipal or county council to rescind the proposed tax (cf. 4-10-1130(D)).

While the final version of [S 1054](#) is much better than the first, the current proposal sets the stage for the widespread use of tax incentives for retailers. The bill also contains several provisions that seem to subvert voter approval regarding nullification of the tax increase, leaving questions regarding the real beneficiaries of this legislation. Will it be the citizens of South Carolina – or retail developers such as Sembler and Horne?

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¹While all revenue from the tax must be allocated to infrastructure reimbursement (4-10-1160(A)), it is not clear who would pay for these costs if the tax is rescinded or if the costs exceed revenue from the tax increase.