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SESSION 1995

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HOUSE BILL 706
Committee Substitute Favorable 7/19/95
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Short Title: Various Occupancy Tax Changes.

(Local)

Sponsors:

Referred to:

March 30, 1995

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING VARIOUS LOCAL GOVERNMENTS TO LEVY OR
3 INCREASE A ROOM OCCUPANCY TAX SUBJECT TO APPROVAL BY THE
4 VOTERS AND MODIFYING THE METHOD OF APPOINTMENT OF MEMBERS
5 TO THE HAYWOOD COUNTY TOURISM DEVELOPMENT AUTHORITY.

6 The General Assembly of North Carolina enacts:

7 PART I.
8 AUTHORIZATION FOR ADDITIONAL CRAVEN COUNTY
9 ROOM OCCUPANCY TAX

10 Section 1. Levy of Additional Occupancy Tax. (a) **Authorization.** The Craven
11 County Board of Commissioners may direct the county board of elections to conduct an
12 advisory referendum on the question of whether the county room occupancy tax shall be
13 increased from three percent (3%) to a maximum of six percent (6%). The election shall
14 be held on a date jointly agreed upon by the two boards and shall be held in accordance
15 with the procedures of G.S. 163-287. The form of the question to be presented in a
16 special election concerning the increase of the room occupancy tax shall be:

17 "[] FOR [] AGAINST

1 Increase of the existing three percent (3%) Craven County room occupancy tax to a
2 maximum of six percent (6%)."

3 If the majority of those voting in a referendum held pursuant to this section
4 vote for the increase of the tax, the Craven County Board of Commissioners may by
5 resolution, after not less than 10 days' public notice and after a public hearing held
6 pursuant thereto, levy a room occupancy tax of up to three percent (3%) of the gross
7 receipts derived from the rental of accommodations taxable under Chapter 980 of the
8 1983 Session Laws. This tax shall be in addition to the tax authorized by that Chapter.
9 Except as provided in this section, the levy, collection, administration, and repeal of the
10 tax authorized by this act shall be in accordance with the provisions of Sections 1 through
11 5 of Chapter 980 of the 1983 Session Laws. Craven County may not levy a tax under this
12 act unless it also levies the tax authorized under Chapter 980 of the 1983 Session Laws.

13 (b) **Use of Proceeds of Additional Tax.** Craven County shall, on a monthly basis,
14 remit to the Craven County Tourism Development Authority the net proceeds, as defined
15 in Section 6 of Chapter 980 of the 1983 Session Laws, of the tax levied under this act.

16 The Authority shall use the proceeds to pay the construction, debt service, and
17 operations of a convention center. The Authority shall distribute any proceeds not
18 needed for these purposes as follows:

19 (1) Proceeds collected from a business located in a municipality shall be
20 distributed to that municipality.

21 (2) Proceeds collected from a business not located in a municipality shall be
22 distributed to Craven County.

23 Craven County and the municipalities in Craven County shall use the proceeds
24 distributed to them under this section only to promote tourism and for tourism-related
25 expenditures as defined in Section 6 of Chapter 980 of the 1983 Session Laws.

26 Sec. 2. Reduction of Tax. The Craven County Board of Commissioners may
27 adopt a resolution to reduce the tax levied pursuant to this Part. Reduction of the tax
28 shall be subject to the provisions governing repeal of the tax in Section 8 of Chapter 980
29 of the 1983 Session Laws.

30 PART II.

31 MODIFICATIONS TO EXISTING CRAVEN COUNTY 32 ROOM OCCUPANCY TAX

33 Sec. 3. Section 4 of Chapter 980 of the 1983 Session Laws reads as rewritten:

34 "Sec. 4. Administration of Tax. (a) Any tax levied under this act is due and payable
35 to the county in monthly installments on or before the 15th day of the month following
36 the month in which the tax accrues. Every person, firm, corporation, or association liable
37 for the tax shall, on or before the 15th day of each month, prepare and render a return on
38 a form prescribed by Craven County. The return shall state the total gross receipts
39 derived in the preceding month from rentals upon which the tax is levied.

40 (b) Any person, firm, corporation, or association ~~failing or refusing to file the~~
41 ~~return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's~~
42 ~~omission.~~

1 (e) ~~In case of failure or refusal to file the return or pay the tax for a period of 30~~
2 ~~days after the time required for filing the return or for paying the tax, there shall be an~~
3 ~~additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty~~
4 ~~prescribed in subsection (b), with an additional tax of five percent (5%) for each~~
5 ~~additional month or fraction thereof until the occupancy tax is paid.~~

6 (d) ~~Any person who willfully attempts in any manner to evade the tax imposed by~~
7 ~~this act or to make a return or who willfully fails to pay the tax or make and file a return~~
8 ~~shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and~~
9 ~~shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment~~
10 ~~not to exceed six months, or both, who fails or refuses to file the return required by this~~
11 ~~act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or~~
12 ~~file a return for State sales and use taxes. The board of commissioners has the same~~
13 ~~authority to waive the penalties for a room occupancy tax that the Secretary of Revenue~~
14 ~~has to waive the penalties for State sales and use taxes."~~

15 Sec. 4. Section 6 of Chapter 980 of the 1983 Session Laws reads as rewritten:

16 "Sec. 6. Disposition of Taxes Collected. (a) Craven County shall remit the net
17 proceeds of the occupancy tax to the Craven County Tourism Development Authority.
18 The Authority shall use the net proceeds only to promote travel and tourism in Craven
19 County and for tourism-related expenditures. The following definitions apply in this
20 subsection:

21 (1) Net proceeds. – Gross "Net proceeds" means gross proceeds less the cost
22 to the county of administering and collecting the tax, not to exceed three
23 percent (3%) of the gross proceeds of the tax. ~~The County Tourism~~
24 ~~Development Authority shall allocate the occupancy tax revenue remitted to it~~
25 ~~for the following purposes:~~

26 (2) Promote travel and tourism. – To advertise or market an area or activity,
27 publish and distribute pamphlets and other materials, conduct market
28 research, or engage in similar promotional activities that attract tourists
29 or business travelers to the area; the term includes administrative
30 expenses incurred in engaging in the listed activities.

31 (3) Tourism-related expenditures. – Expenditures that are designed to
32 increase the use of lodging facilities in a county or to attract tourists or
33 business travelers to the county. The term includes expenditures to
34 construct, maintain, operate, or market a convention center and any of
35 the following expenditures:

36 (1) ~~Direct advertising costs for visitor promotions, conventions, or tourism,~~
37 ~~including outdoor advertising, print media, broadcast media, and~~
38 ~~brochures;~~

39 (2) a. Marketing and promotions expenses, including test
40 market programs, consultant fees, entertainment, housing
41 expenses, travel expenses, and registration fees;

- (3) b. Operating expenses for the Visitor Information Center, including postage, telephone, supplies, dues, subscriptions, equipment, rent, and overhead allocation;
- (4) c. Salaries, benefits, and expenses for Visitor Information Center personnel; and
- (5) d. Other expenses that aid and encourage visitor promotions, conventions, or tourism.

~~Thirty five percent (35%) of the net proceeds in excess of one hundred thousand dollars (\$100,000) remitted to the Authority in a calendar year shall be allocated to the funding of museums, meeting facilities, civic centers, parking facilities, or other projects specifically intended primarily for visitor, tourist, or convention programs, projects, and activities.~~

(b) The County Tourism Development Authority may contract with appropriate organizations or agencies to assist it in carrying out the above purposes."

**PART III.
AUTHORIZATION FOR COLUMBUS COUNTY
ROOM OCCUPANCY TAX**

Sec. 5. Occupancy Tax. (a) **Authorization and scope.** The Columbus County Board of Commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether a three percent (3%) room occupancy tax shall be levied in the county. The election shall be held on a date jointly agreed upon by the two boards and shall be held in accordance with the procedures of G.S. 163-287. The form of the question to be presented in a special election concerning the levy of the room occupancy tax shall be:

**"[] FOR [] AGAINST
Levy of a three percent (3%) county room occupancy tax."**

If the majority of those voting in a referendum held pursuant to this section vote for the levy of the tax, the Columbus County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) **Collection.** Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns

1 and instructions to ensure the full collection of the tax. An operator of a business who
2 collects the occupancy tax levied under this section may deduct from the amount remitted
3 to the county a discount equal to the discount the State allows the operator for State sales
4 and use tax.

5 (c) **Administration.** The county shall administer a tax levied under this section.
6 A tax levied under this section is due and payable to the county finance officer in
7 monthly installments on or before the 15th day of the month following the month in
8 which the tax accrues. Every person, firm, corporation, or association liable for the tax
9 shall, on or before the 15th day of each month, prepare and render a return on a form
10 prescribed by the county. The return shall state the total gross receipts derived in the
11 preceding month from rentals upon which the tax is levied.

12 A return filed with the county finance officer under this section is not a public
13 record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S.
14 160A-208.1.

15 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to
16 file the return or pay the tax required by this section is subject to the civil and criminal
17 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use
18 taxes. The Columbus County Board of Commissioners has the same authority to waive
19 the penalties for a room occupancy tax that the Secretary of Revenue has to waive the
20 penalties for State sales and use taxes.

21 (e) **Distribution and use of tax revenue.** Columbus County shall, on a
22 quarterly basis, remit the net proceeds of the occupancy tax to the Columbus County
23 Tourism Board. The Board shall use the funds remitted to it under this subsection to
24 promote travel and tourism in Columbus County and for tourism-related expenditures.

25 The following definitions apply in this subsection:

- 26 (1) Net proceeds. – Gross proceeds less the cost to the county of
27 administering and collecting the tax, as determined by the finance
28 officer, not to exceed seven percent (7%) of the gross proceeds.
- 29 (2) Promote travel and tourism. – To advertise or market an area or activity,
30 publish and distribute pamphlets and other materials, conduct market
31 research, or engage in similar promotional activities that attract tourists
32 or business travelers to the area; the term includes administrative
33 expenses incurred in engaging in the listed activities.
- 34 (3) Tourism-related expenditures. – Expenditures that are designed to
35 increase the use of lodging facilities in a county or to attract tourists or
36 business travelers to the county. The term includes expenditures to
37 construct, maintain, operate, or market a convention or meeting facility,
38 a visitors' center, or a coliseum and other expenditures that, in the
39 judgment of the Authority, will facilitate and promote tourism.

40 (f) **Effective date of levy.** A tax levied under this section shall become
41 effective on the date specified in the resolution levying the tax. That date must be the
42 first day of a calendar month, however, and may not be earlier than the first day of the
43 second month after the date the resolution is adopted.

1 (g) **Repeal.** A tax levied under this section may be repealed by a resolution
2 adopted by the Columbus County Board of Commissioners. Repeal of a tax levied under
3 this section shall become effective on the first day of a month and may not become
4 effective until the end of the fiscal year in which the repeal resolution was adopted.
5 Repeal of a tax levied under this section does not affect a liability for a tax that was
6 attached before the effective date of the repeal, nor does it affect a right to a refund of a
7 tax that accrued before the effective date of the repeal.

8 Sec. 6. Tourism Board. (a) **Appointment.** When the board of commissioners
9 adopts a resolution levying a room occupancy tax under this act, if it has not already
10 created a county Tourism Board under Chapter 706 of the 1993 Session Laws, it shall
11 adopt a resolution creating that Board, which shall be a public authority under the Local
12 Government Budget and Fiscal Control Act. The resolution shall provide for the
13 membership of the Board including the members' qualifications and terms of office, and
14 for the filling of vacancies on the Board. The board of commissioners may designate one
15 member of the Board as chair and shall determine the compensation, if any, to be paid to
16 members of the Board.

17 The Board shall meet at the call of the chair and shall adopt rules of procedure
18 to govern its meetings. The Finance Officer for Columbus County shall be the ex officio
19 finance officer of the Board.

20 (b) **Duties.** The Board shall expend the net proceeds of the tax levied under this
21 act for the purposes provided in this Part. The Board shall promote travel, tourism, and
22 conventions in the county, sponsor tourist-related events and activities in the county, and
23 finance tourist-related capital projects in the county.

24 (c) **Reports.** The Board shall report quarterly and at the close of the fiscal year to
25 the board of commissioners on its receipts and expenditures for the preceding quarter and
26 for the year in such detail as the board may require.

27 PART IV.

28 AUTHORIZATION FOR CITY OF MOUNT AIRY 29 ROOM OCCUPANCY TAX

30 Sec. 7. Occupancy Tax. (a) **Authorization and scope.** The Mount Airy Board of
31 Commissioners may direct the county board of elections to conduct an advisory
32 referendum within the city on the question of whether a three percent (3%) room
33 occupancy tax shall be levied in the city. The election shall be held on a date jointly
34 agreed upon by the two boards and shall be held in accordance with the procedures of
35 G.S. 163-287. The form of the question to be presented in a special election concerning
36 the levy of the room occupancy tax shall be:

37 "[] FOR [] AGAINST

38 Levy of a three percent (3%) city room occupancy tax."

39 If the majority of those voting in a referendum held pursuant to this section
40 vote for the levy of the tax, the Mount Airy Board of Commissioners may by resolution,
41 after not less than 10 days' public notice and after a public hearing held pursuant thereto,
42 levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from
43 the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn,

1 tourist camp, or similar place within the city that is subject to sales tax imposed by the
2 State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.
3 This tax does not apply to accommodations furnished by nonprofit charitable,
4 educational, or religious organizations or by nonprofit summer camps when the
5 accommodations are furnished in furtherance of their nonprofit purpose.

6 (b) **Collection.** Every operator of a business subject to the tax levied under this
7 section shall, on and after the effective date of the levy of the tax, collect the tax. This
8 tax shall be collected as part of the charge for furnishing a taxable accommodation. The
9 tax shall be stated and charged separately from the sales records, and shall be paid by the
10 purchaser to the operator of the business as trustee for and on account of the city. The tax
11 shall be added to the sales price and shall be passed on to the purchaser instead of being
12 borne by the operator of the business. The city shall design, print, and furnish to all
13 appropriate businesses and persons in the city the necessary forms for filing returns and
14 instructions to ensure the full collection of the tax. An operator of a business who
15 collects the occupancy tax levied under this section may deduct from the amount remitted
16 to the city a discount equal to the discount the State allows the operator for State sales
17 and use tax.

18 (c) **Administration.** The city shall administer a tax levied under this section. A
19 tax levied under this section is due and payable to the city finance officer in monthly
20 installments on or before the 15th day of the month following the month in which the tax
21 accrues. Every person, firm, corporation, or association liable for the tax shall, on or
22 before the 15th day of each month, prepare and render a return on a form prescribed by
23 the city. The return shall state the total gross receipts derived in the preceding month
24 from rentals upon which the tax is levied.

25 A return filed with the city finance officer under this section is not a public
26 record and may not be disclosed except in accordance with G.S. 160A-208.1.

27 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to
28 file the return or pay the tax required by this section is subject to the civil and criminal
29 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use
30 taxes. The Mount Airy Board of Commissioners has the same authority to waive the
31 penalties for a room occupancy tax that the Secretary of Revenue has to waive the
32 penalties for State sales and use taxes.

33 (e) **Distribution and use of tax revenue.** The City of Mount Airy shall, on a
34 quarterly basis, remit the net proceeds of the occupancy tax to the Mount Airy Tourism
35 Development Authority. The Authority shall use the funds remitted to it under this
36 subsection only to promote travel and tourism in Mount Airy. The following definitions
37 apply in this section:

- 38 (1) Net proceeds. – Gross proceeds less the cost to the city of administering
39 and collecting the tax, as determined by the finance officer, not to
40 exceed seven percent (7%) of the gross proceeds.
- 41 (2) Promote travel and tourism. – Advertise and market activities, develop
42 and distribute promotional materials, conduct market research, and
43 engage in other similar promotional activities that attract tourists or

1 business travelers to the area. The term also includes administration of
2 the Mount Airy Tourism Development Authority.

3 (f) **Effective date of levy.** A tax levied under this section shall become
4 effective on the date specified in the resolution levying the tax. That date must be the
5 first day of a calendar month, however, and may not be earlier than the first day of the
6 second month after the date the resolution is adopted.

7 (g) **Repeal.** A tax levied under this section may be repealed by a resolution
8 adopted by the Mount Airy Board of Commissioners. Repeal of a tax levied under this
9 section shall become effective on the first day of a month and may not become effective
10 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a
11 tax levied under this section does not affect a liability for a tax that was attached before
12 the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued
13 before the effective date of the repeal.

14 Sec. 8. Tourism Development Authority. (a) **Appointment and membership.**
15 When the board of commissioners adopts a resolution levying a room occupancy tax
16 under this act, it shall also adopt a resolution creating a Mount Airy Tourism
17 Development Authority, which shall be a public authority under the Local Government
18 Budget and Fiscal Control Act. The board of commissioners shall appoint the following
19 eight members to the Authority:

- 20 (1) Two individuals who are owners or operators of taxable tourist
21 accommodations in the city.
- 22 (2) Two residents of the city who have experience in the promotion of
23 travel and tourism.
- 24 (3) Two residents of the city who are members of the Mount Airy Chamber
25 of Commerce, selected by the Mount Airy Chamber of Commerce.
- 26 (4) One member of the board of commissioners.
- 27 (5) The city finance officer, who shall serve as an ex officio, nonvoting
28 member.

29 Members of the Authority shall serve without compensation and shall serve for
30 a term of three years. Vacancies shall be filled in the same manner as the original
31 appointment. Members appointed to fill vacancies shall serve for the remainder of the
32 unexpired term. An individual may serve as a member for no more than two consecutive
33 terms. The members shall elect a chair from among the membership, who shall serve for
34 three years. The Authority shall meet at the call of the chair and shall adopt rules of
35 procedure to govern its meetings.

36 (b) **Duties.** The Authority shall expend the net proceeds of the tax levied under
37 this act for the purposes provided in this Part. The Authority shall promote travel and
38 tourism in the city. In performing its duties, the Authority may contract with any person,
39 firm, or agency to advise and assist it, and may recommend to the board of
40 commissioners that city staff be employed for this advice and assistance. Any city staff
41 employed upon a recommendation of the Authority shall be hired and supervised by the
42 Authority, which shall pay the salaries and expenses of this staff.

1 (c) **Reports.** The Authority shall report quarterly and at the close of the fiscal
2 year to the board of commissioners on its receipts and expenditures for the preceding
3 quarter and for the year in such detail as the board may require.

4 PART V.

5 HAYWOOD COUNTY TOURISM DEVELOPMENT AUTHORITY

6 Sec. 9. Section 15 of Chapter 908 of the 1983 Session Laws reads as rewritten:

7 "Sec. 15. Appointments, Duties of Tourism Development Authority. (a) When
8 the Haywood County Board of Commissioners adopts a resolution levying a room
9 occupancy tax pursuant to this Part, it shall also adopt a resolution creating a County
10 Tourism Development Authority composed of nine voting members appointed as
11 follows:

- 12 (1) ~~three tourist-oriented business members appointed by the Board of~~
13 ~~Directors of the Maggie Valley Chamber of Commerce; Three members~~
14 ~~who own or operate hotels, motels, or other accommodations with more~~
15 ~~than 20 rental units.~~
16 (2) ~~three tourist-oriented business members appointed by the Board of~~
17 ~~Directors of the Haywood County Chamber of Commerce; and Three~~
18 ~~members who own or operate hotels, motels, or other accommodations~~
19 ~~with 20 or fewer rental units.~~
20 (3) ~~three Three~~ tourist-oriented business members at large appointed by the
21 Haywood County Board of Commissioners. Each Chamber's Board of
22 Directors and the large.

23 All members of the Authority shall be appointed by the Haywood County Board of
24 Commissioners. The Board of County Commissioners-Commissioners shall designate
25 one-three of its initial appointees to serve a one-year term, one-three to serve a two-year
26 term, and one-three to serve a three-year term. Thereafter, all members shall serve three-
27 year terms. Vacancies shall be filled by the ~~appointing authority of the member who created~~
28 ~~the vacancy.~~ Board of Commissioners subject to the qualifications established above for
29 the vacating member. Members appointed to fill vacancies shall serve the remainder of
30 the unexpired term for which they are appointed to fill.

31 (b) The members of the Tourism Development Authority shall elect from its
32 membership a ~~chairman-chair.~~ The Authority shall meet at the call of the ~~chairman-chair~~
33 and shall adopt rules of procedure to govern its meetings. The finance officer of
34 Haywood County shall serve ex officio as accountant for the Authority.

35 (c) The Tourism Development Authority shall report quarterly and at the close
36 of the fiscal year to the ~~board of county commissioners-Board of Commissioners~~ on its
37 receipts and disbursements for the preceding quarter and for the year in such detail as the
38 Board may require."

39 PART VI.

40 EFFECTIVE DATE

41 Sec. 10. This act is effective upon ratification.