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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 CERTAIN LOCAL GOVERNMENTS TO LEVY A ROOM
3 OCCUPANCY TAX SUBJECT TO APPROVAL BY THE VOTERS, MODIFYING
4 THE METHOD OF APPOINTMENT OF MEMBERS AND OFFICERS TO
5 CERTAIN LOCAL TOURISM DEVELOPMENT BOARDS, AND MODIFYING
6 THE ALLOCATION OF THE PROCEEDS OF THE NEW HANOVER
7 OCCUPANCY TAX.

8 The General Assembly of North Carolina enacts:

PART I.

**AUTHORIZATION FOR COLUMBUS COUNTY
ROOM OCCUPANCY TAX**

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

3 " [] FOR [] AGAINST

4 Levy of a three percent (3%) county room occupancy tax."

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

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

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

33 A return filed with the county finance officer under this section is not a public
34 record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S.
35 160A-208.1.

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

42 (e) **Distribution and use of tax revenue.** Columbus County shall, on a
43 quarterly basis, remit the net proceeds of the occupancy tax to the Columbus County

1 Tourism Board. The Board shall use the funds remitted to it under this subsection to
2 promote travel and tourism in Columbus County and for tourism-related expenditures.

3 The following definitions apply in this subsection:

4 (1) Net proceeds. – Gross proceeds less the cost to the county of
5 administering and collecting the tax, as determined by the finance
6 officer, not to exceed seven percent (7%) of the gross proceeds.

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

12 (3) Tourism-related expenditures. – Expenditures that are designed to
13 increase the use of lodging facilities in a county or to attract tourists or
14 business travelers to the county. The term includes expenditures to
15 construct, maintain, operate, or market a convention or meeting facility,
16 a visitors' center, or a coliseum and other expenditures that, in the
17 judgment of the Authority, will facilitate and promote tourism.

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

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

29 Sec. 2. Tourism Board. (a) **Appointment.** When the board of commissioners
30 adopts a resolution levying a room occupancy tax under this act, if it has not already
31 created a county Tourism Board under Chapter 706 of the 1993 Session Laws, it shall
32 adopt a resolution creating that Board, which shall be a public authority under the Local
33 Government Budget and Fiscal Control Act. The resolution shall provide for the
34 membership of the Board including the members' qualifications and terms of office, and
35 for the filling of vacancies on the Board. The board of commissioners may designate one
36 member of the Board as chair and shall determine the compensation, if any, to be paid to
37 members of the Board.

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

41 (b) **Duties.** The Board shall expend the net proceeds of the tax levied under this
42 act for the purposes provided in this Part. The Board shall promote travel, tourism, and

1 conventions in the county, sponsor tourist-related events and activities in the county, and
2 finance tourist-related capital projects in the county.

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

6 Sec. 3. This Part is repealed effective July 28, 1995, if the 1995 General
7 Assembly, 1995 Regular Session, enacts Senate Bill 364 authorizing Columbus County
8 to levy a room occupancy tax.

9 PART II.

10 HAYWOOD COUNTY TOURISM DEVELOPMENT AUTHORITY

11 Sec. 4. Section 15 of Chapter 908 of the 1983 Session Laws reads as rewritten:
12 "Sec. 15. Appointments, Duties of Tourism Development Authority. (a) When
13 the Haywood County Board of Commissioners adopts a resolution levying a room
14 occupancy tax pursuant to this Part, it shall also adopt a resolution creating a County
15 Tourism Development Authority composed of nine voting members appointed as
16 follows:

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

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

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

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

PART III.**NEW HANOVER OCCUPANCY TAX USE**

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3 Sec. 5. Section 35 of Chapter 908 of the 1983 Session Laws, as amended by
4 Chapter 987 of the 1983 Session Laws and Chapter 971 of the 1985 Session Laws, reads
5 as rewritten:

6 "Sec. 35. Disposition of Taxes Collected. (a) New Hanover County shall
7 distribute the net proceeds of the occupancy tax as follows:

8 (1) ~~Seventy five percent (75%)~~ Sixty percent (60%) of the net proceeds shall
9 be deposited in a special fund, the cash balance of which shall be
10 deposited at interest or invested in accordance with G.S. 159-30; and

11 (2) ~~Twenty five percent (25%)~~ Forty percent (40%) of the net proceeds shall
12 be distributed on a quarterly basis to the county and its municipalities in
13 accordance with the method by which the one percent (1%) local sales
14 and use taxes levied in the county pursuant to Article 39 of Chapter 105
15 of the General Statutes are distributed.

16 'Net proceeds' means gross proceeds less the cost to the county of administering and
17 collecting the tax.

18 Unless a change in the use of occupancy tax revenue is authorized pursuant to
19 subsection (b), the revenue deposited in a special fund in accordance with subdivision (1)
20 shall be used by the county to control beach erosion, and the revenue distributed between
21 the county and its municipalities in accordance with subdivision (2) shall be used to
22 promote travel and tourism. No revenue distributed under subdivision (2), however, may
23 be used to plan, construct, operate, maintain, or in any way promote a civic center,
24 convention center, public auditorium, or like facility.

25 (b) The purposes for which revenue from the room occupancy tax may be used by
26 the county and its municipalities may be changed only by resolution of the New Hanover
27 Board of County Commissioners after being approved by a majority of the votes cast in
28 an election held in New Hanover County on the question of how revenue from the room
29 occupancy tax should be used. The ballot presented to the qualified voters of the county
30 in an election concerning the use of revenue from the room occupancy tax shall state all
31 the proposed uses of this revenue and the percentage of the revenue to be used for each
32 purpose. Any change in use of revenue from the room occupancy tax made by the county
33 commissioners after voter approval may likewise be changed only by resolution of the
34 county commissioners after being approved by the voters in another election.

35 The question of how revenue from the room occupancy tax should be spent may be
36 submitted to the qualified voters of the county only ~~in~~ at the time of a statewide general
37 election. All elections under this section shall be conducted in accordance with the laws
38 then governing elections in this State."

PART IV.**AUTHORIZATION FOR CITY OF MOUNT AIRY
ROOM OCCUPANCY TAX**

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42 Sec. 6. Occupancy Tax. (a) **Authorization and scope.** The Mount Airy Board of
43 Commissioners may direct the county board of elections to conduct an advisory

1 referendum within the city on the question of whether a three percent (3%) room
2 occupancy tax shall be levied in the city. The election shall be held on a date jointly
3 agreed upon by the two boards and shall be held in accordance with the procedures of
4 G.S. 163-287. The form of the question to be presented in a special election concerning
5 the levy of the room occupancy tax shall be:

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

8 If the majority of those voting in a referendum held pursuant to this section
9 vote for the levy of the tax, the Mount Airy Board of Commissioners may by resolution,
10 after not less than 10 days' public notice and after a public hearing held pursuant thereto,
11 levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from
12 the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn,
13 tourist camp, or similar place within the city that is subject to sales tax imposed by the
14 State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.
15 This tax does not apply to accommodations furnished by nonprofit charitable,
16 educational, or religious organizations or by nonprofit summer camps when the
17 accommodations are furnished in furtherance of their nonprofit purpose.

18 (b) **Collection.** Every operator of a business subject to the tax levied under this
19 section shall, on and after the effective date of the levy of the tax, collect the tax. This
20 tax shall be collected as part of the charge for furnishing a taxable accommodation. The
21 tax shall be stated and charged separately from the sales records, and shall be paid by the
22 purchaser to the operator of the business as trustee for and on account of the city. The tax
23 shall be added to the sales price and shall be passed on to the purchaser instead of being
24 borne by the operator of the business. The city shall design, print, and furnish to all
25 appropriate businesses and persons in the city the necessary forms for filing returns and
26 instructions to ensure the full collection of the tax. An operator of a business who
27 collects the occupancy tax levied under this section may deduct from the amount remitted
28 to the city a discount equal to the discount the State allows the operator for State sales
29 and use tax.

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

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

39 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to
40 file the return or pay the tax required by this section is subject to the civil and criminal
41 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use
42 taxes. The Mount Airy Board of Commissioners has the same authority to waive the

1 penalties for a room occupancy tax that the Secretary of Revenue has to waive the
2 penalties for State sales and use taxes.

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

8 (1) Net proceeds. – Gross proceeds less the cost to the city of administering
9 and collecting the tax, as determined by the finance officer, not to
10 exceed seven percent (7%) of the gross proceeds.

11 (2) Promote travel and tourism. – Advertise and market activities, develop
12 and distribute promotional materials, conduct market research, and
13 engage in other similar promotional activities that attract tourists or
14 business travelers to the area. The term also includes administration of
15 the Mount Airy Tourism Development Authority.

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

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

27 Sec. 7. Tourism Development Authority. (a) **Appointment and membership.**
28 When the board of commissioners adopts a resolution levying a room occupancy tax
29 under this act, it shall also adopt a resolution creating a Mount Airy Tourism
30 Development Authority, which shall be a public authority under the Local Government
31 Budget and Fiscal Control Act. The board of commissioners shall appoint the following
32 eight members to the Authority:

33 (1) Two individuals who are owners or operators of taxable tourist
34 accommodations in the city.

35 (2) Two residents of the city who have experience in the promotion of
36 travel and tourism.

37 (3) Two residents of the city who are members of the Mount Airy Chamber
38 of Commerce, selected by the Mount Airy Chamber of Commerce.

39 (4) One member of the board of commissioners.

40 (5) The city finance officer, who shall serve as an ex officio, nonvoting
41 member.

42 Members of the Authority shall serve without compensation and shall serve for
43 a term of three years. Vacancies shall be filled in the same manner as the original

1 appointment. Members appointed to fill vacancies shall serve for the remainder of the
2 unexpired term. An individual may serve as a member for no more than two consecutive
3 terms. The members shall elect a chair from among the membership, who shall serve for
4 three years. The Authority shall meet at the call of the chair and shall adopt rules of
5 procedure to govern its meetings.

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

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

16 PART V.

17 GREENSBORO/HIGH POINT TOURISM DEVELOPMENT OFFICERS

18 Sec. 8. Section 7(b) of Chapter 988 of the 1983 Session Laws (Reg. Sess.
19 1984), as amended by Chapter 39 of the 1989 Session Laws, reads as rewritten:

20 "(b) All members of the Authority shall serve without compensation. Vacancies in
21 the Authority shall be filled by the appointing authority of the member creating the
22 vacancy. Members appointed to fill vacancies shall serve for the remainder of the
23 unexpired term for which they are appointed to fill. Members shall serve three-year
24 terms, except the initial members of the following designations, who shall serve the
25 following terms:

- 26 (1) Members appointed pursuant to subdivisions (a)(1)
27 and (a)(2) above shall serve a one-year term;
- 28 (2) Of the members appointed pursuant to subdivision
29 (a)(3) above, the appointee of the Greensboro City Council who
30 owns or operates accommodations with more than 200 rental units shall
31 serve a three-year term; the appointee of the Greensboro City Council
32 who owns or operates accommodations with no meeting facilities shall
33 serve an initial term which expires September 30, 1989; and one
34 appointee of the board of commissioners shall serve a three-year term
35 and one a two-year term, as designated by the board of county
36 commissioners;
- 37 (3) The member appointed pursuant to subdivision (a)(4) above shall serve
38 a three-year term;
- 39 (4) The member appointed pursuant to subdivision (a)(5) above shall serve
40 a two-year term; and
- 41 (5) The member appointed pursuant to subdivision (a)(6) shall serve an
42 initial term which expires September 30, 1991.

