

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1343*

Short Title: Yadkin/Jonesville Occupancy Taxes. (Local)

Sponsors: Senators Garwood; and Moore.

Referred to: Finance.

June 12, 2002

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE YADKIN COUNTY AND THE TOWN OF JONESVILLE
TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Yadkin occupancy tax. (a) Authorization and Scope. – The Yadkin County Board of Commissioners may 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 when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section is levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Distribution and Use of Tax Revenue. – Yadkin County must, on a quarterly basis, remit the net proceeds of the occupancy tax to the Yadkin Tourism Development Authority. The Authority must use at least two-thirds of the remitted funds to promote travel and tourism within the county and must use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract

1 tourists or business travelers to the area; the term includes
2 administrative expenses incurred in engaging in these activities.

- 3 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
4 the tourism development authority, are designed to increase the use of
5 lodging facilities, meeting facilities, and convention facilities in a
6 county by attracting tourists or business travelers to the county. The
7 term includes tourism-related capital expenditures.

8 **SECTION 2.** Yadkin Tourism Development Authority. – (a) Appointment
9 and Membership. – When the board of commissioners adopts a resolution levying a
10 room occupancy tax under this act, it shall also adopt a resolution creating a county
11 Tourism Development Authority, 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 Authority including the members' terms of office, and for the filling
14 of vacancies on the Authority. At least one-third of the members must be individuals
15 who are affiliated with businesses that collect the tax in the county and at least
16 three-fourths of the members must be individuals who are currently active in the
17 promotion of travel and tourism in the county. The board of commissioners shall
18 designate one member of the Authority as chair and shall determine the compensation,
19 if any, to be paid to members of the Authority.

20 The Authority shall meet at the call of the chair and shall adopt rules of
21 procedure to govern its meetings. The Finance Officer for Yadkin County shall be the
22 ex officio finance officer of the Authority.

23 **SECTION 2.(b) Duties.** – The Authority shall expend the net proceeds of the
24 tax levied under this act for the purposes provided in Section 1 of this act. The
25 Authority shall promote travel, tourism, and conventions in the county, sponsor
26 tourist-related events and activities in the county, and finance tourist-related capital
27 projects in the county.

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

31 **SECTION 3.** County Administrative Provisions. – G.S. 153A-155 reads as
32 rewritten:

33 "**§ 153A-155. Uniform provisions for room occupancy taxes.**

34 (a) Scope. – This section applies only to counties the General Assembly has
35 authorized to levy room occupancy taxes.

36 (b) Levy. – A room occupancy tax may be levied only by resolution, after not
37 less than 10 days' public notice and after a public hearing held pursuant thereto. A room
38 occupancy tax shall become effective on the date specified in the resolution levying the
39 tax. That date must be the first day of a calendar month, however, and may not be
40 earlier than the first day of the second month after the date the resolution is adopted.

41 (c) Collection. – Every operator of a business subject to a room occupancy tax
42 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
43 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
44 be stated and charged separately from the sales records and shall be paid by the

1 purchaser to the operator of the business as trustee for and on account of the taxing
2 county. The tax shall be added to the sales price and shall be passed on to the purchaser
3 instead of being borne by the operator of the business. The taxing county shall design,
4 print, and furnish to all appropriate businesses and persons in the county the necessary
5 forms for filing returns and instructions to ensure the full collection of the tax. An
6 operator of a business who collects a room occupancy tax may deduct from the amount
7 remitted to the taxing county a discount equal to the discount the State allows the
8 operator for State sales and use tax.

9 (d) Administration. – The taxing county shall administer a room occupancy tax it
10 levies. A room occupancy tax is due and payable to the county finance officer in
11 monthly installments on or before the 15th day of the month following the month in
12 which the tax accrues. Every person, firm, corporation, or association liable for the tax
13 shall, on or before the 15th day of each month, prepare and render a return on a form
14 prescribed by the taxing county. The return shall state the total gross receipts derived in
15 the preceding month from rentals upon which the tax is levied. A room occupancy tax
16 return filed with the county finance officer is not a public record and may not be
17 disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

18 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
19 file a room occupancy tax return or pay a room occupancy tax as required by law is
20 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
21 return for State sales and use taxes. The governing board of the taxing county has the
22 same authority to waive the penalties for a room occupancy tax that the Secretary of
23 Revenue has to waive the penalties for State sales and use taxes.

24 (f) Repeal or Reduction. – A room occupancy tax levied by a county may be
25 repealed or reduced by a resolution adopted by the governing body of the county.
26 Repeal or reduction of a room occupancy tax shall become effective on the first day of a
27 month and may not become effective until the end of the fiscal year in which the
28 resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a
29 liability for a tax that was attached before the effective date of the repeal or reduction,
30 nor does it affect a right to a refund of a tax that accrued before the effective date of the
31 repeal or reduction.

32 (g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus,
33 Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison,
34 Montgomery, Nash, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly,
35 Transylvania, Tyrrell, Vance, ~~and Washington~~ Washington, and Yadkin Counties, and
36 to the Township of Averagesboro in Harnett County. "

37 **SECTION 4.** Jonesville occupancy tax. – (a) Authorization and Scope. –
38 The Jonesville Town Council may levy a room occupancy tax of up to three percent
39 (3%) of the gross receipts derived from the rental of any room, lodging, or
40 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
41 the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
42 This tax is in addition to any State or local sales tax. This tax does not apply to
43 accommodations furnished by nonprofit charitable, educational, or religious
44 organizations when furnished in furtherance of their nonprofit purpose.

1 **SECTION 4.(b)** Administration. – A tax levied under this section shall be
2 levied, administered, collected, and repealed as provided in G.S. 160A-215. The Town
3 of Jonesville may contract with Yadkin County to collect and administer on behalf of
4 the town a tax levied under this section. The penalties provided in G.S. 160A-215 apply
5 to a tax levied under this section.

6 **SECTION 4.(c)** Distribution and Use of Tax Revenue. – The Town of
7 Jonesville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
8 Jonesville Tourism Development Authority. The Authority shall use at least two-thirds
9 of the funds remitted to it under this subsection to promote travel and tourism in the
10 town and shall use the remainder for tourism-related expenditures.

11 The following definitions apply in this subsection:

- 12 (1) Net proceeds. – Gross proceeds less the cost to the town of
13 administering and collecting the tax, as determined by the finance
14 officer, not to exceed three percent (3%) of the first five hundred
15 thousand dollars (\$500,000) of gross proceeds collected each year and
16 one percent (1%) of the remaining gross receipts collected each year.
- 17 (2) Promote travel and tourism. – To advertise or market an area or
18 activity, publish and distribute pamphlets and other materials, conduct
19 market research, or engage in similar promotional activities that attract
20 tourists or business travelers to the area; the term includes
21 administrative expenses incurred in engaging in the listed activities.
- 22 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
23 the tourism development authority, are designed to increase the use of
24 lodging facilities, meeting facilities, or convention facilities in a town
25 or to attract tourists or business travelers to the town. The term
26 includes tourism-related capital expenditures.

27 **SECTION 5.** Jonesville Tourism Development Authority. – (a)
28 Appointment and Membership. – When the Jonesville Town Council adopts a resolution
29 levying a room occupancy tax under this act, it shall also adopt a resolution creating a
30 town Tourism Development Authority, which shall be a public authority under the
31 Local Government Budget and Fiscal Control Act. The resolution shall provide for the
32 membership of the Authority, including the members' terms of office, and for the filling
33 of vacancies on the Authority. At least one-third of the members must be individuals
34 who are affiliated with businesses that collect the tax in the town and at least
35 three-fourths of the members must be individuals who are currently active in the
36 promotion of travel and tourism in the town. The town council shall designate one
37 member of the Authority as chair and shall determine the compensation, if any, to be
38 paid to members of the Authority.

39 The Authority shall meet at the call of the chair and shall adopt rules of
40 procedure to govern its meetings. The Finance Officer for Jonesville shall be the ex
41 officio finance officer of the Authority.

42 **SECTION 5.(b)** Duties. – The Authority shall expend the net proceeds of the
43 tax levied under this act for the purposes provided in Section 4 of this act. The
44 Authority shall promote travel, tourism, and conventions in the town, sponsor

1 tourist-related events and activities in the town, and finance tourist-related capital
2 projects in the town.

3 **SECTION 5.**(c) Reports. – The Authority shall report quarterly and at the
4 close of the fiscal year to the Jonesville Town Council on its receipts and expenditures
5 for the preceding quarter and for the year in such detail as the town council may require.

6 **SECTION 6.** Town administrative provisions. – G.S. 160A-215 reads as
7 rewritten:

8 "**§ 160A-215. Uniform provisions for room occupancy taxes.**

9 (a) Scope. – This section applies only to municipalities the General Assembly
10 has authorized to levy room occupancy taxes. For the purpose of this section, the term
11 "city" means a municipality.

12 (b) Levy. – A room occupancy tax may be levied only by resolution, after not
13 less than 10 days' public notice and after a public hearing held pursuant thereto. A room
14 occupancy tax shall become effective on the date specified in the resolution levying the
15 tax. That date must be the first day of a calendar month, however, and may not be
16 earlier than the first day of the second month after the date the resolution is adopted.

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

29 (d) Administration. – The taxing city shall administer a room occupancy tax it
30 levies. A room occupancy tax is due and payable to the city finance officer in monthly
31 installments on or before the fifteenth day of the month following the month in which
32 the tax accrues. Every person, firm, corporation, or association liable for the tax shall,
33 on or before the fifteenth day of each month, prepare and render a return on a form
34 prescribed by the taxing city. The return shall state the total gross receipts derived in the
35 preceding month from rentals upon which the tax is levied. A room occupancy tax
36 return filed with the city finance officer is not a public record and may not be disclosed
37 except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

38 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
39 file a room occupancy tax return or pay a room occupancy tax as required by law is
40 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
41 return for State sales and use taxes. The governing board of the taxing city has the same
42 authority to waive the penalties for a room occupancy tax that the Secretary of Revenue
43 has to waive the penalties for State sales and use taxes.

1 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be
2 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or
3 reduction of a room occupancy tax shall become effective on the first day of a month
4 and may not become effective until the end of the fiscal year in which the resolution
5 was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for
6 a tax that was attached before the effective date of the repeal or reduction, nor does it
7 affect a right to a refund of a tax that accrued before the effective date of the repeal or
8 reduction.

9 (g) This section applies only to Beech Mountain District W, to the Cities of
10 Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton,
11 Lumberton, Monroe, Mount Airy, Shelby, Statesville, and Washington, to the Towns of
12 Beech Mountain, Carrboro, Jonesville, Mooresville, North Topsail Beach, Selma,
13 Smithfield, St. Pauls, and Wilkesboro, and to the municipalities in Avery and
14 Brunswick Counties."

15 **SECTION 7.** This act is effective when it becomes law.