

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 757
Committee Substitute Favorable 5/9/01

Short Title: Raise Washington Occupancy Tax.

(Local)

Sponsors:

Referred to:

March 26, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE WASHINGTON COUNTY TO INCREASE ITS ROOM
3 OCCUPANCY TAX FOR TOURISM PROMOTION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 821 of the 1991 Session Laws reads as rewritten:

6 "Section 1. Occupancy tax. (a) Authorization and scope. The Washington County
7 Board of Commissioners may ~~by resolution, after not less than 10 days' public notice~~
8 ~~and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three
9 percent (3%) of the gross receipts derived from the rental of any room, lodging, or
10 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
11 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
12 This tax is in addition to any State or local sales tax. This tax does not apply to
13 accommodations furnished by:

- 14 (1) Nonprofit charitable, educational, or religious organizations.
15 (2) A business that offers to rent fewer than five units.
16 (3) Summer camps.

17 (a1) Additional tax. – In addition to the tax authorized by subsection (a) of this
18 section, the Washington County Board of Commissioners may levy a room occupancy
19 and tourism development tax of three percent (3%) of the gross receipts derived from
20 the rental of accommodations taxable under that subsection. The levy, collection,
21 administration, use, and repeal of the tax authorized by this subsection shall be in
22 accordance with this section. Washington County may not levy a tax under this
23 subsection unless it also levies a tax under subsection (a) of this section.

24 (b) Administration. – A tax levied under this act shall be levied, administered,
25 collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S.
26 153A-155 apply to a tax levied under this act. Collection. Every operator of a business
27 subject to the tax levied under this section shall, on and after the effective date of the
28 levy of the tax, collect the tax. This tax shall be collected as part of the charge for
29 furnishing a taxable accommodation. The tax shall be stated and charged separately

1 from the sales records, and shall be paid by the purchaser to the operator of the business
2 as trustee for and on account of the county. The tax shall be added to the sales price and
3 shall be passed on to the purchaser instead of being borne by the operator of the
4 business. The county shall design, print, and furnish to all appropriate businesses and
5 persons in the county the necessary forms for filing returns and instructions to ensure
6 the full collection of the tax.

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

14 A return filed with the county finance officer under this section is not a public record
15 as defined by G.S. 132-1 and may not be disclosed except as required by law.

16 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
17 file the return required by this section shall pay a penalty of ten dollars (\$10.00) for
18 each day's omission. In case of failure or refusal to file the return or pay the tax for a
19 period of 30 days after the time required for filing the return or for paying the tax, there
20 shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to
21 any other penalty, with an additional tax of five percent (5%) for each additional month
22 or fraction thereof until the tax is paid. The board of commissioners may, for good
23 cause shown, compromise or forgive the civil penalties imposed by this subsection.

24 Any person who willfully attempts in any manner to evade a tax imposed under this
25 section or who willfully fails to pay the tax or make and file a return shall, in addition to
26 all other penalties provided by law, be guilty of a misdemeanor and shall be punishable
27 by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six
28 months, or both.

29 (e) Distribution and use of tax revenue. Washington County shall deposit the
30 proceeds of the tax in its general fund. The proceeds may be used only to further the
31 development of travel, tourism, and conventions in the county. shall, on a quarterly
32 basis, remit the net proceeds of the occupancy tax to the Washington Tourism
33 Development Authority. The Authority shall use at least two-thirds of the funds
34 remitted to it under this subsection to promote travel and tourism in Washington County
35 and shall use the remainder for tourism-related expenditures.

36 The following definitions apply in this subsection:

- 37 (1) Net proceeds. – Gross proceeds less the cost to the county of
38 administering and collecting the tax, as determined by the finance
39 officer, not to exceed three percent (3%) of the first five hundred
40 thousand dollars (\$500,000) of gross proceeds collected each year and
41 one percent (1%) of the remaining gross receipts collected each year.

1 (2) Promote travel and tourism. – To advertise or market an area or
2 activity, publish and distribute pamphlets and other materials, conduct
3 market research, or engage in similar promotional activities that attract
4 tourists or business travelers to the area; the term includes
5 administrative expenses incurred in engaging in these activities.

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

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

15 (g) Repeal. A tax levied under this section may be repealed by a resolution
16 adopted by the Washington County Board of Commissioners. Repeal of a tax levied
17 under this section shall become effective on the first day of a month and may not
18 become effective until the end of the fiscal year in which the repeal resolution was
19 adopted. Repeal of a tax levied under this section does not affect a liability for a tax that
20 was attached before the effective date of the repeal, nor does it affect a right to a refund
21 of a tax that accrued before the effective date of the repeal.

22 **Sec. 2.** Washington Tourism Development Authority. (a) Appointment and
23 membership. When the board of commissioners adopts a resolution levying a room
24 occupancy tax under this act, it shall also adopt a resolution creating a county Tourism
25 Development Authority, which shall be a public authority under the Local Government
26 Budget and Fiscal Control Act. The resolution shall provide for the membership of the
27 Authority, including the members' terms of office, and for the filling of vacancies on the
28 Authority. At least one-third of the members must be individuals who are affiliated
29 with businesses that collect the tax in the county, and at least three-fourths of the
30 members must be individuals who are currently active in the promotion of travel and
31 tourism in the county. The board of commissioners shall designate one member of the
32 Authority as chair and shall determine the compensation, if any, to be paid to members
33 of the Authority.

34 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
35 govern its meetings. The Finance Officer for Washington County shall be the ex officio
36 finance officer of the Authority.

37 (b) Duties. The Authority shall expend the net proceeds of the tax levied under
38 this act for the purposes provided in Section 1 of this act. The Authority shall promote
39 travel, tourism, and conventions in the county, sponsor tourist-related events and
40 activities in the county, and finance tourist-related capital projects in the county.

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 ~~Sec. 2.~~Sec. 3. This act is effective upon ratification."

5 **SECTION 2.** G.S. 153A-155 reads as rewritten:

6 **"§ 153A-155. Uniform provisions for room occupancy taxes.**

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

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

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

26 (d) Administration. – The taxing county shall administer a room occupancy tax it
27 levies. A room occupancy tax 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 taxing county. The return shall state the total gross receipts derived in
32 the preceding month from rentals upon which the tax is levied. A room occupancy tax
33 return filed with the county finance officer is not a public record and may not be
34 disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

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

41 (f) Repeal or Reduction. – A room occupancy tax levied by a county may be
42 repealed or reduced by a resolution adopted by the governing body of the county.

1 Repeal or reduction of a room occupancy tax shall become effective on the first day of a
2 month and may not become effective until the end of the fiscal year in which the
3 resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a
4 liability for a tax that was attached before the effective date of the repeal or reduction,
5 nor does it affect a right to a refund of a tax that accrued before the effective date of the
6 repeal or reduction.

7 (g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie,
8 Granville, Madison, Nash, Person, Randolph, Scotland, ~~and Transylvania~~Transylvania,
9 and Washington Counties."

10 **SECTION 3.** This act is effective when it becomes law.