

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH80127-SVx-6A (01/21)

Short Title: Modify Hickory and Conover Occupancy Tax. (Local)

Sponsors: Representatives R. Warren and Setzer (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITIES OF HICKORY AND CONOVER TO LEVY AN
ADDITIONAL ONE PERCENT ROOM OCCUPANCY AND TOURISM
DEVELOPMENT TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. The purpose of this act is to revise and consolidate certain acts that authorize the Cities of Hickory and Conover to levy a room occupancy and tourism development tax, to clarify the authority of Hickory and Conover to levy a room occupancy tax by establishing separate authorizing provisions for each city, and to authorize each city to levy an additional one percent (1%) room occupancy tax. No provision of this act is intended, nor shall be construed, to affect in any way the authority of any other municipality authorized under the acts listed in Section 3 of this act to levy a room occupancy and tourism development tax.

SECTION 2. Chapter 929 of the 1985 Session Laws, as amended by Chapter 319 of the 1987 Session Laws and Section 21(j) of S.L. 2007-527, is revised and consolidated to read as follows:

"HICKORY OCCUPANCY TAX

"Section 1. Occupancy tax. – (a) Authorization and Scope. – The City of Hickory may, by joint resolution with the City of Conover, levy a room occupancy and tourism development tax of not less than three percent (3%) nor more than five percent (5%) 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 city 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) Authorization for Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the City of Hickory may, by joint resolution with the City of Conover, levy an additional room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection must be in accordance with the provisions of this section. The City of Hickory may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

"Section 1.(c) Administration. – Except as otherwise provided in this subsection, a tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section. The City of Hickory may not repeal the levy of the room occupancy tax levied by it if,



1 before the effective date of the repeal, either Hickory or Conover has outstanding indebtedness
2 under Article 4, 5, 8, or 9 of Chapter 159 of the General Statutes for the provision of a
3 convention center facility. A repeal of a tax levied under this section must be made by joint
4 resolution with the City of Conover.

5 "Section 1.(d) Distribution and Use of Tax Revenue. – The City of Hickory shall, on a
6 quarterly basis, remit the net proceeds of the occupancy tax to the Hickory-Conover Tourism
7 Development Authority.

8 (1) Through December 31, 2019. – Prior to and through December 31, 2019, the
9 Authority may use two-thirds of the funds remitted to it under this
10 subsection for improving, leasing, constructing, financing, operating, or
11 acquiring facilities and properties as needed to provide for a convention
12 center facility, including parking facilities for the convention center. The
13 remainder of the funds must be used to promote travel and tourism.

14 (2) After December 31, 2019. – After December 31, 2019, the Authority may
15 use at least two-thirds of the funds remitted to it under this subsection to
16 promote travel and tourism in the area and must use the remainder for
17 tourism-related expenditures.

18 "Section 1.(e) The following definitions apply in this section:

19 (1) Net proceeds. – Gross proceeds less the cost to the city of administering and
20 collecting the tax, as determined by the finance officer, not to exceed three
21 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross
22 proceeds collected each year and one percent (1%) of the remaining gross
23 proceeds collected each year.

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

29 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
30 Hickory-Conover Tourism Development Authority, are designed to increase
31 the use of lodging facilities, meeting facilities, or convention facilities in the
32 city or to attract tourists or business travelers to the city. The term includes
33 tourism-related capital expenditures.

34 "Section 2.(a) Tourism Development Authority. – (a) Appointment and Membership. – If
35 the City of Hickory levies a tax under Section 1 of this act, being the Hickory Occupancy Tax,
36 and the City of Conover has created a Tourism Development Authority pursuant to Section 4 of
37 this act, being the Conover Occupancy Tax, then the proceeds of any tax levied under Section 1
38 of this act shall be remitted to that Authority in accordance with Section 1(d) of this act.

39 If the City of Hickory levies a tax under Section 1 of this act, being the Hickory Occupancy
40 Tax, and the City of Conover has not created a Tourism Development Authority pursuant to
41 Section 4 of this act, being the Conover Occupancy Tax, then when the City Council of
42 Hickory adopts a resolution levying a room occupancy tax under this act, it shall also adopt a
43 resolution creating the Hickory-Conover Tourism Development Authority, which shall be a
44 public authority under the Local Government Budget and Fiscal Control Act. The membership
45 of the Hickory-Conover Tourism Development Authority is as follows:

46 (1) Three owners or operators of hotels, motels, or other taxable
47 accommodations in the Cities of Hickory and Conover, two of whom shall
48 be appointed by the Hickory City Council and one appointed by Conover
49 City Council.

50 (2) Three individuals who have demonstrated an interest in convention and
51 tourism development and do not own or operate hotels, motels, or other

1 taxable tourism accommodations, one of whom shall be appointed by the
2 Catawba County Chamber of Commerce, one appointed by the Hickory City
3 Council, and one by the Conover City Council.

4 (3) Three ex officio members shall be the City Managers of Hickory and
5 Conover and the Executive Vice President of the Catawba County Chamber
6 of Commerce.

7 All members of the Council shall serve without compensation. Vacancies in the Authority
8 shall be filled by the appointing authority of the member creating the vacancy. Members
9 appointed to fill vacancies shall serve for the remainder of the unexpired term for which they
10 are appointed to fill. Members shall serve three-year terms that will be staggered and may serve
11 no more than two consecutive three-year terms. The members shall elect a chairperson and
12 treasurer who shall serve for a term of two years.

13 The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern
14 its meetings. The Finance Officer for the City of Hickory shall be the ex officio finance officer
15 of the Authority.

16 "Section 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under
17 this act for the purposes provided in Section 1 of this act. The Authority shall promote travel,
18 tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and
19 finance tourist-related capital projects in the city.

20 "Section 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal
21 year to the Hickory and Conover City Councils on its receipts and expenditures for the
22 preceding quarter and for the year in such detail as the City Councils may require."

23 "CONOVER OCCUPANCY TAX

24 "Section 3. Occupancy tax. – (a) Authorization and Scope. – The City of Conover may, by
25 joint resolution with the City of Hickory, levy a room occupancy and tourism development tax
26 of not less than three percent (3%) nor more than five percent (5%) of the gross receipts
27 derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel,
28 inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the
29 State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax
30 does not apply to accommodations furnished by nonprofit charitable, educational, or religious
31 organizations when furnished in furtherance of their nonprofit purpose.

32 "Section 3.(b) Authorization for Additional Occupancy Tax. – In addition to the tax
33 authorized by subsection (a) of this section, the City of Conover may, by joint resolution with
34 the City of Hickory, levy an additional room occupancy tax of one percent (1%) of the gross
35 receipts derived from the rental of accommodations taxable under subsection (a) of this section.
36 The levy, collection, administration, and repeal of the tax authorized by this subsection must be
37 in accordance with the provisions of this section. The City of Conover may not levy a tax under
38 this subsection unless it also levies the tax authorized under subsection (a) of this section.

39 "Section 3.(c) Administration. – Except as otherwise provided in this subsection, a tax
40 levied under this section shall be levied, administered, collected, and repealed as provided in
41 G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this
42 section. The City of Conover may not repeal the levy of the room occupancy tax levied by it if,
43 before the effective date of the repeal, either Hickory or Conover has outstanding indebtedness
44 under Article 4, 5, 8, or 9 of Chapter 159 of the General Statutes for the provision of a
45 convention center facility. A repeal of a tax levied under this section must be made by joint
46 resolution with the City of Hickory.

47 "Section 3.(d) Distribution and Use of Tax Revenue. – The City of Conover shall, on a
48 quarterly basis, remit the net proceeds of the occupancy tax to the Hickory-Conover Tourism
49 Development Authority.

50 (1) Through December 31, 2019. – Prior to and through December 31, 2019, the
51 Authority may use two-thirds of the funds remitted to it under this

1 subsection for improving, leasing, constructing, financing, operating, or
2 acquiring facilities and properties as needed to provide for a convention
3 center facility, including parking facilities for the convention center. The
4 remainder of the funds must be used to promote travel and tourism.

5 (2) After December 31, 2019. – After December 31, 2019, the Authority may
6 use at least two-thirds of the funds remitted to it under this subsection to
7 promote travel and tourism in the area and must use the remainder for
8 tourism-related expenditures.

9 "Section 3.(e) The following definitions apply in this section:

10 (1) Net proceeds. – Gross proceeds less the cost to the city of administering and
11 collecting the tax, as determined by the finance officer, not to exceed three
12 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross
13 proceeds collected each year and one percent (1%) of the remaining gross
14 proceeds collected each year.

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

20 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
21 Hickory-Conover Tourism Development Authority, are designed to increase
22 the use of lodging facilities, meeting facilities, or convention facilities in the
23 city or to attract tourists or business travelers to the city. The term includes
24 tourism-related capital expenditures.

25 "Section 4.(a) Tourism Development Authority. – (a) Appointment and Membership. – If
26 the City of Conover levies a tax under Section 3 of this act, being the Conover Occupancy Tax,
27 and the City of Hickory has created a Tourism Development Authority pursuant to Section 2 of
28 this act, being the Hickory Occupancy Tax, then the proceeds of any tax levied under Section 3
29 of this act shall be remitted to that Authority in accordance with Section 3(d) of this act.

30 If the City of Conover levies a tax under Section 3 of this act, being the Conover
31 Occupancy Tax, and the City of Hickory has not created a Tourism Development Authority
32 pursuant to Section 2 of this act, being the Hickory Occupancy Tax, then when the City
33 Council of Conover adopts a resolution levying a room occupancy tax under this act, it shall
34 also adopt a resolution creating the Hickory-Conover Tourism Development Authority, which
35 shall be a public authority under the Local Government Budget and Fiscal Control Act. The
36 membership of the Hickory-Conover Tourism Development Authority is as follows:

37 (1) Three owners or operators of hotels, motels, or other taxable
38 accommodations in the Cities of Hickory and Conover, two of whom shall
39 be appointed by the Hickory City Council and one appointed by Conover
40 City Council.

41 (2) Three individuals who have demonstrated an interest in convention and
42 tourism development and do not own or operate hotels, motels, or other
43 taxable tourism accommodations, one of whom shall be appointed by the
44 Catawba County Chamber of Commerce, one appointed by the Hickory City
45 Council, and one by the Conover City Council.

46 (3) Three ex officio members shall be the City Managers of Hickory and
47 Conover and the Executive Vice President of the Catawba County Chamber
48 of Commerce.

49 All members of the Council shall serve without compensation. Vacancies in the Authority
50 shall be filled by the appointing authority of the member creating the vacancy. Members
51 appointed to fill vacancies shall serve for the remainder of the unexpired term for which they

1 are appointed to fill. Members shall serve three-year terms that will be staggered and serve no
2 more than two consecutive three-year terms. The members shall elect a chairperson and
3 treasurer, who shall serve for a term of two years.

4 The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern
5 its meetings. The Finance Officer for the City of Hickory shall be the ex officio finance officer
6 of the Authority.

7 "Section 4.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under
8 this act for the purposes provided in Section 3 of this act. The Authority shall promote travel,
9 tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and
10 finance tourist-related capital projects in the city.

11 "Section 4.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal
12 year to the Hickory and Conover City Councils on its receipts and expenditures for the
13 preceding quarter and for the year in such detail as the City Councils may require."

14 **SECTION 3.** The following acts, or portions of acts, having been revised and
15 consolidated into this act, are repealed:

- 16 (1) Chapter 929 of the 1985 Session Laws, as it relates to the Cities of Hickory
17 and Conover only.
- 18 (2) Chapter 319 of the 1987 Session Laws.
- 19 (3) Section 21(j) of S.L. 2007-527.

20 **SECTION 4.** All existing resolutions of the Cities of Hickory and Conover adopted
21 pursuant to any of the acts, or portions of acts, listed in Section 3 of this act and that are not
22 inconsistent with the provisions of this act continue in full force and effect until repealed,
23 modified, or amended. This act does not affect the rights or liabilities of a levying unit, a
24 taxpayer, or another person arising under the laws revised and consolidated by this act before
25 the effective date of this act; nor does it affect the right to any refund or credit of a tax that
26 accrued under the laws revised and consolidated by this act before the effective date of this act.

27 **SECTION 5.** Administrative provisions. – G.S. 160A-215(g) reads as rewritten:

28 "(g) This section applies only to Beech Mountain District W, to the Cities of Belmont,
29 Conover, Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Kings
30 Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke
31 Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech
32 Mountain, Benson, Blowing Rock, Boiling Springs, Burgaw, Carolina Beach, Carrboro, Dallas,
33 Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Leland, Mooresville, North Topsail
34 Beach, Pilot Mountain, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson,
35 Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in
36 Avery and Brunswick Counties."

37 **SECTION 6.** This act is effective when it becomes law.