

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 533
Committee Substitute Favorable 4/6/09
Committee Substitute #2 Favorable 5/20/09
Senate Finance Committee Substitute Adopted 6/18/09

Short Title: Modify Hickory and Conover Occupancy Tax.

(Local)

Sponsors:

Referred to:

March 12, 2009

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:

HICKORY OCCUPANCY TAX

SECTION 1.(a) Occupancy Tax. – 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as otherwise provided in this subsection, a tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215.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, before the effective date of the repeal, either Hickory or Conover has outstanding indebtedness under Article 4, 5, 8, or 9 of Chapter 159 of the General Statutes for the provision of a convention center facility. A repeal of a tax levied under this section must be made by joint resolution with the City of Conover.

SECTION 1.(d) Distribution and Use of Tax Revenue. – The City of Hickory shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Hickory-Conover Tourism Development Authority. The funds remitted under this subsection must be used as follows:



- 1 (1) Through December 31, 2019. – Prior to and through December 31, 2019, the
2 Authority may use two-thirds of the funds remitted to it under this
3 subsection for improving, leasing, constructing, financing, operating, or
4 acquiring facilities and properties as needed to provide for a convention
5 center facility, including parking facilities for the convention center. The
6 remainder of the funds must be used to promote travel and tourism. Debt
7 issued to finance these improvements or facilities and that is secured by
8 occupancy tax proceeds remitted under this subdivision must mature on or
9 before December 31, 2019.
- 10 (2) After December 31, 2019. – After December 31, 2019, the Authority must
11 use at least two-thirds of the funds remitted to it under this subsection to
12 promote travel and tourism in the area and must use the remainder for
13 tourism-related expenditures.

14 **SECTION 1.(e)** The following definitions apply in this section:

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

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

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

- 43 (1) Three owners or operators of hotels, motels, or other taxable
44 accommodations in the Cities of Hickory and Conover, two of whom shall
45 be appointed by the Hickory City Council and one appointed by the Conover
46 City Council.
- 47 (2) Three individuals who have demonstrated an interest in convention and
48 tourism development and do not own or operate hotels, motels, or other
49 taxable tourism accommodations, one of whom shall be appointed by the
50 Catawba County Chamber of Commerce, one appointed by the Hickory City
51 Council, and one by the Conover City Council.

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

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

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

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

17 **SECTION 2.(c) Reports.** – The Authority shall report quarterly and at the close of
18 the fiscal year to the Hickory and Conover City Councils on its receipts and expenditures for
19 the preceding quarter and for the year in such detail as the City Councils may require.

20 **CONOVER OCCUPANCY TAX**

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

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

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

46 **SECTION 3.(d) Distribution and Use of Tax Revenue.** – The City of Conover
47 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Hickory-Conover
48 Tourism Development Authority. The funds remitted under this subsection must be used as
49 follows:

- 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. Debt
5 issued to finance these improvements or facilities and that is secured by
6 occupancy tax proceeds remitted under this subdivision must mature on or
7 before December 31, 2019.

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

12 **SECTION 3.(e)** The following definitions apply in this section:

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

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

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

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

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

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

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

13 **SECTION 4.(b) Duties.** – The Authority shall expend the net proceeds of the tax
14 levied under this act for the purposes provided in Section 3 of this act. The Authority shall
15 promote travel, tourism, and conventions in the city, sponsor tourist-related events and
16 activities in the city, and finance tourist-related capital projects in the city.

17 **SECTION 4.(c) Reports.** – The Authority shall report quarterly and at the close of
18 the fiscal year to the Hickory and Conover City Councils on its receipts and expenditures for
19 the preceding quarter and for the year in such detail as the City Councils may require.

20 **ADMINISTRATIVE PROVISIONS**

21 **SECTION 5.(a)** The following acts, or portions of acts, having been revised and
22 consolidated into this act, are repealed:

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

27 **SECTION 5.(b)** With respect to the City of Hickory, this section is effective upon
28 the date the City of Hickory acts to levy a tax under Section 1 of this act. With respect to the
29 City of Conover, this section is effective upon the date the City of Conover acts to levy a tax
30 under Section 3 of this act.

31 **SECTION 6.** This act does not affect the rights or liabilities of a levying unit, a
32 taxpayer, or another person arising under the laws revised and consolidated by this act before
33 the effective date of this act; nor does it affect the right to any refund or credit of a tax that
34 accrued under the laws revised and consolidated by this act before the effective date of this act.

35 **SECTION 7.** The purpose of this act is to revise and consolidate certain acts that
36 authorize the Cities of Hickory and Conover to levy a room occupancy and tourism
37 development tax, to clarify the authority of Hickory and Conover to levy a room occupancy tax
38 by establishing separate authorizing provisions for each city, and to authorize each city to levy
39 an additional one percent (1%) room occupancy tax. No provision of this act is intended, nor
40 shall be construed, to affect in any way the authority of any other municipality authorized under
41 the acts listed in Section 5 of this act to levy a room occupancy and tourism development tax.

42 **SECTION 8. Administrative Provisions.** – G.S. 160A-215(g) reads as rewritten:

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

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SECTION 9. This act is effective when it becomes law.