

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 172
HOUSE BILL 626

AN ACT AUTHORIZING HENDERSON COUNTY TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1(a) of Chapter 929 of the 1985 Session Laws (Regular Session 1986) reads as rewritten:

"(a) The Cities of Hickory and Conover may by joint resolution, after not less than 10 days public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax. ~~The Cities—City~~ of Goldsboro ~~and Hendersonville~~ may by resolution, after not less than 10 days public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax."

Sec. 2. Section 7(a) of Chapter 929 of the 1985 Session Laws (Regular Session 1986) reads as rewritten:

"(a) When the Cities of Hickory, Goldsboro and Conover adopt a resolution levying a tax under this act, they shall also adopt a resolution creating a Tourism Development Advisory Council. When the City of Goldsboro ~~or Hendersonville~~ adopts a resolution levying a tax under this act, it shall adopt a resolution creating a Tourism Development Advisory Council. The membership of the Hickory/Conover Tourism Development Advisory Council, and the membership of the Goldsboro Tourism Development Advisory Council, ~~and the membership of the Hendersonville Tourism Development Advisory Council~~ are as follows:

- (1) Three owners/operators of hotels, motels, or other taxable accommodations in the Cities of Hickory and Conover; two of whom shall be appointed by the Hickory City Council and one appointed by Conover City Council. The City of Goldsboro shall appoint three owners/operators of hotels, motels, or other taxable tourism accommodations to its Tourism Development Advisory Council. ~~The City of Hendersonville shall appoint three owners/operators of hotels, motels, or other taxable tourism accommodations to its Tourism Development Advisory Council.~~
- (2) Three individuals who have demonstrated an interest in convention and tourism development and do not own or operate hotels, motels, or other taxable tourism accommodations, one of whom shall be appointed by the Catawba County Chamber of Commerce, one appointed by the Hickory City Council and one by the Conover City

Council. The City of Goldsboro shall appoint three individuals who have demonstrated an interest in conventions and tourism development in the Goldsboro area, and who do not own or operate hotels, motels, or other taxable tourism accommodations. ~~The City of Hendersonville shall appoint to its Tourism Development Advisory Council three individuals who have demonstrated an interest in conventions and tourism development in the Hendersonville area, and who do not own or operate hotels, motels, or other taxable tourism accommodations.~~

- (3) Three ex officio members shall be the City Managers of Hickory and Conover and Executive Vice President of the Catawba County Chamber of Commerce. If other municipal corporations levy the tax and allocate same to the Council, their chief appointed official, as defined in N.C. General Statutes, Chapter 160A, Article 7, Part 2, shall also serve as an ex officio member of the Council. The City of Goldsboro shall appoint three ex officio members which shall include the city manager, the executive vice-president of the Goldsboro Chamber of Commerce, and the mayor of the City of Goldsboro. ~~The City of Hendersonville shall appoint the following three ex officio members to its Tourism Development Advisory Council: a member of the Henderson County Board of Commissioners, the executive vice-president of The Greater Hendersonville Chamber of Commerce, and the mayor of the City of Hendersonville."~~

Sec. 3. Section 9(a) of Chapter 929 of the 1985 Session Laws (Regular Session 1986) reads as rewritten:

"(a) The Cities of Hickory and Conover may by joint resolution repeal the levy of the room occupancy tax levied by them. ~~The Cities—City of Goldsboro and Hendersonville—may by resolution repeal the levy of the room occupancy tax levied by them—it.~~ No repeal of taxes levied under this act shall be effective until the end of the fiscal year in which the repeal resolution was adopted."

Sec. 4. Chapter 962 of the 1985 Session Laws (Regular Session 1986) is repealed.

Sec. 5. Occupancy Tax. (a) Authorization and Scope. The Board of Commissioners of Henderson County may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of no less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(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.

(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid

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

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

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

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) Use of Tax Revenue. The county shall place the net proceeds collected from a tax levied under this act in a special Travel and Tourism Fund. Revenue in this fund may be used only to promote travel and tourism in the county. This fund will be administered by the Henderson Travel and Tourism Committee. As used in this subsection, "net proceeds" means gross proceeds less five percent (5%) of the gross proceeds which the county may retain to defray the cost of administering and collecting the tax.

The scope of promotion of travel and tourism in the county may include the following:

- (1) Contracting with any person, firm, or agency to advise and assist in travel and tourism promotion.
- (2) Advertising via appropriate media.
- (3) Assisting in the initial funding and possible annual subsidy of a fine arts center or other similar facility which could logically be expected to promote tourism in the county.
- (4) Promoting special events which would bring tourists to the county.

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

(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the board of commissioners of the county. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 6. Henderson Travel and Tourism Committee. When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Henderson Travel and Tourism Committee, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Committee shall consist of nine voting members as follows:

(1) Four members who are registered to vote in Henderson County, appointed by the Henderson County Board of Commissioners;

(2) Four members who are registered to vote in Henderson County, appointed by the Hendersonville City Council; and

(3) The President of the Greater Hendersonville Chamber of Commerce, or his designee, to serve ex officio.

The board of commissioners shall designate one member of the Committee as chair and shall determine the compensation, if any, to be paid to members of the Committee. The Committee shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for Henderson County shall be the ex officio finance officer of the Committee. The Committee shall administer the Travel and Tourism Fund as provided in Section 1(e) of this act. The Committee shall report quarterly and at the close of the fiscal year to the board of commissioners on its expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 7. Repeal of a tax levied under Chapter 929 or 962 of the 1985 Session Laws (Regular Session 1986) does not affect a liability for a tax that attached before the effective date of this act, nor does it affect a right to a refund that accrued before the effective date of this act.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of May, 1987.