

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1991**

**H**

**2**

HOUSE BILL 726  
Committee Substitute Favorable 5/22/91

Short Title: Goldsboro Finance Changes.

(Local)

---

Sponsors:

---

Referred to:

---

April 11, 1991

A BILL TO BE ENTITLED

1 AN ACT TO MODIFY THE CONDITIONS ON USE OF PROCEEDS OF A  
2 GOLDSBORO OCCUPANCY TAX AND TO RAISE THE FORCE ACCOUNT  
3 CONSTRUCTION LIMIT FOR CERTAIN STORM DRAINAGE PROJECTS IN  
4 GOLDSBORO.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 929 of the 1985 Session Laws, as amended by Chapters  
8 172 and 319 of the 1987 Session Laws, is further amended by repealing all references to  
9 the City of Goldsboro.

10 Sec. 2. Levy of Tax. The City of Goldsboro may by resolution, after not less  
11 than 10 days public notice and after a public hearing held pursuant thereto, levy a room  
12 occupancy and tourism development tax. Collection of the tax, and liability, therefore,  
13 shall begin and continue only on and after the first day of a calendar month set in the  
14 resolution levying the tax, which in no case may be earlier than the first day of the  
15 second succeeding calendar month after the date of adoption of the resolution.

16 Sec. 3. Rate; Scope. The room occupancy and tourism development tax that  
17 may be levied under this act shall not be less than three percent (3%) nor more than five  
18 percent (5%) of the gross receipts derived from the rental of any room, lodging, or  
19 similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar  
20 place within the levying unit now subject to the three percent (3%) sales tax imposed by  
21 the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales  
22 tax.

1           Sec. 4. Exemptions. The tax authorized by this act does not apply to gross  
2 receipts derived by the following entities from accommodations furnished by them:

- 3           (1) Religious organizations;
- 4           (2) A business that offers to rent fewer than five units;
- 5           (3) Educational organizations;
- 6           (4) Summer camps; and
- 7           (5) Charitable, benevolent, and other nonprofit organizations.

8           Sec. 5. Administration of Tax. (a) A tax levied under this act is due and payable  
9 to the city in monthly installments on or before the 25th day of the month following the  
10 month in which the tax accrues. Every person, firm, corporation, or association liable  
11 for the tax shall, on or before the 25th day of each month, prepare and render a return on  
12 a form prescribed by the city. The return shall state the total gross receipts derived in  
13 the preceding month from rentals upon which the tax is levied. A return filed under this  
14 section is not a public record as defined by G.S. 132-1 and may not be disclosed except  
15 as required by law.

16           (b) Any person, firm, corporation, or association who fails or refuses to file  
17 the return required by this act shall pay a penalty of fifty dollars (\$50.00) for each day's  
18 omission as provided under G.S. 160A-175.

19           (c) Any person who willfully attempts in any manner to evade the occupancy  
20 tax imposed by this act or to make a return or who willfully fails to pay the tax or make  
21 and file a return shall, in addition to all other penalties provided by law, be guilty of a  
22 misdemeanor and shall be punishable by a fine not to exceed one thousand dollars  
23 (\$1,000), imprisonment not to exceed six months, or both.

24           Sec. 6. Collection of Tax. Every operator of a business subject to the tax  
25 levied by this act shall, on and after the effective date of the tax, collect the tax. The tax  
26 shall be collected as part of the charge for the furnishing of any taxable  
27 accommodations. The tax shall be stated and charged separately from the sales records,  
28 and shall be paid by the purchaser to the operator of the business as trustee for and on  
29 account of the governing bodies. The room occupancy tax levied pursuant to this act  
30 shall be added to the sales price and shall be passed on to the purchaser instead of being  
31 borne by the operator of the business. The city shall design, print, and furnish to all  
32 appropriate businesses in the city the necessary forms for filing returns and instructions  
33 to ensure the full collection of the tax.

34           Sec. 7. Disposition of Taxes Collected. (a) Feasibility Study. After levying  
35 a tax under this act, the City of Goldsboro shall place the net proceeds of the tax in a  
36 special fund. "Net proceeds" means gross proceeds less the cost to the city of collecting  
37 and administering the tax. When sufficient proceeds have been accumulated in the  
38 special fund, the city council shall create a citizens' advisory committee to conduct a  
39 study of the feasibility of the construction of a civic center in Goldsboro. The citizens'  
40 advisory committee shall be composed of either five or seven members, as determined  
41 by the city council. If the committee is composed of five members, three shall be  
42 appointed by the city council and two shall be appointed by the Chamber of Commerce  
43 of Wayne County. If the committee is composed of seven members, four shall be  
44 appointed by the city council and three shall be appointed by the Chamber of Commerce

1 of Wayne County. The citizens' advisory committee shall use the net proceeds of the  
2 tax levied under this act for a study of the feasibility of the construction of a civic center  
3 in Goldsboro.

4 (b) If Civic Center Feasible. If the Goldsboro City Council determines that the  
5 results of the feasibility study indicate that a civic center would be a viable alternative  
6 for the city, the proceeds of the tax levied under this act shall thereafter be used as  
7 provided in this subsection. The citizens' advisory committee created pursuant to  
8 subsection (a) of this section shall continue to serve in an advisory capacity to the  
9 Goldsboro City Council. The city shall use no more than twenty percent (20%) of the  
10 net proceeds of the tax levied under this act for development of tourism, support  
11 services, and tourist-related events and attractions. The city shall use the remainder of  
12 the net proceeds for improving, leasing, constructing, financing, operating, or acquiring  
13 facilities and properties as needed to provide for a civic center facility for Goldsboro.  
14 The city may contract with any person, firm, or agency to assist it in carrying out the  
15 purposes provided in this subsection.

16 (c) If Civic Center Not Feasible at Present. If the Goldsboro City Council  
17 determines that the results of the feasibility study indicate that a civic center would not  
18 be a viable alternative for the city at present or without the participation of other  
19 governmental, educational, or non-profit entities, then the city may, on a monthly basis,  
20 remit up to fifty percent (50%) of the net proceeds of the tax to the Goldsboro Tourism  
21 Council created in Section 8 of this act. The remaining net proceeds of the tax shall be  
22 invested in a special interest bearing fund and held by the city for improving, leasing,  
23 constructing, financing, operating, or acquiring facilities and properties, either by the  
24 city or in conjunction with other governmental, educational, or non-profit entities.  
25 Thereafter, if the Goldsboro City Council determines that a civic center would be a  
26 viable alternative for the city, then a citizens' advisory committee shall be again created,  
27 if it has been disbanded, pursuant to subsection (a) of this section, and the provisions of  
28 subsection (b) of this section shall apply. Further, the citizens' advisory committee may  
29 conduct additional feasibility studies as it deems necessary. If the Goldsboro City  
30 Council later determines that a civic center would not be a viable alternative for the city,  
31 then the provisions of subsection (d) of this section shall apply.

32 (d) If Civic Center Not Feasible. If the Goldsboro City Council determines  
33 that the results of the feasibility study indicate that a civic center would not be a viable  
34 alternative for the city, the proceeds of the tax levied under this act shall thereafter be  
35 used as provided in this subsection. The citizens' advisory committee created pursuant  
36 to subsection (a) of this section shall be disbanded. The city shall, on a monthly basis,  
37 remit the net proceeds of the tax to the Goldsboro Tourism Council created in Section 8  
38 of this act. The Council shall use the proceeds to develop tourism, support services, and  
39 tourist-related events, and for any other appropriate activities to provide tourism-related  
40 facilities and attractions.

41 Sec. 8. Goldsboro Tourism Council. (a) If the Goldsboro City Council  
42 determines that the results of the feasibility study indicate that a civic center would not  
43 be a viable alternative for the city, as provided in Section 7, it shall adopt a resolution

1 creating a Goldsboro Tourism Council. The membership of the Goldsboro Tourism  
2 Council shall be appointed by the Goldsboro City Council as follows:

- 3 (1) Three owners or operators of hotels, motels, or other taxable  
4 accommodations in the City of Goldsboro.
- 5 (2) Three individuals who have demonstrated an interest in conventions  
6 and tourism development in the Goldsboro area, and who do not own  
7 or operate hotels, motels, or other taxable tourism accommodations.
- 8 (3) Three ex officio members: the city manager, the executive vice-  
9 president of the Chamber of Commerce of Wayne County, and the  
10 mayor of the City of Goldsboro.

11 (b) All members of the Council shall serve without compensation. Travel  
12 expenses, as approved in the annual budget, may be provided by the Goldsboro Tourism  
13 Council. Vacancies in the Council shall be filled in the same manner as the original  
14 appointments. Members appointed to fill vacancies shall serve for the remainder of the  
15 unexpired term for which they are appointed to fill. Members shall serve three-year  
16 terms which will be staggered as provided by the city council; members may serve no  
17 more than two consecutive three-year terms. The members shall elect a chairperson and  
18 treasurer, who shall serve for a term of two years. The Council shall meet at the call of  
19 the chairperson and shall adopt rules of procedure to govern its meeting as provided by  
20 Robert's Rules of Order.

21 (c) The Goldsboro Tourism Council may contract with any person, firm, or  
22 agency to assist it in carrying out the purposes provided in this act. The Council shall  
23 prepare an annual budget and shall report quarterly and at the close of the fiscal year to  
24 the Goldsboro City Council on its receipts and expenditures for the preceding quarter  
25 and year in such detail as the city may require. An audit will be conducted as part of the  
26 city's audit contract.

27 Sec. 9. Repeal. A tax levied under this section may be repealed by a  
28 resolution adopted by the Goldsboro City Council. Repeal of a tax levied under this  
29 section shall become effective on the first day of a month and may not become effective  
30 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a  
31 tax levied under this section does not affect a liability for a tax that was attached before  
32 the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued  
33 before the effective date of the repeal.

34 Sec. 10. Force Account Modification.

35 (a) G.S. 143-135 reads as rewritten:

36 **"§ 143-135. Limitation of application of Article.**

37 Except for the provisions of G.S. 143-129 requiring bids for the purchase of  
38 apparatus, supplies, materials or equipment, this Article shall not apply to construction  
39 or repair work undertaken by the State or by subdivisions of the State of North Carolina

40 (i) when the work is performed by duly elected officers or agents using force  
41 account qualified labor on the permanent payroll of the agency concerned and (ii) when  
42 the total cost of the project, including without limitation all direct and indirect costs of  
43 labor, services, materials, supplies and equipment, does not exceed seventy-five  
44 thousand dollars (\$75,000). In addition, except for the provisions of G.S. 143-129

1 requiring bids for the purchase of apparatus, supplies, materials, or equipment, this  
2 Article shall not apply to work undertaken by the City of Goldsboro to enclose or  
3 encase an open storm drainage ditch when (i) the work is performed by duly elected  
4 officers or agents using force account qualified labor on the permanent payroll of the  
5 agency concerned, (ii) the total cost of the materials for the project does not exceed one  
6 hundred thousand dollars (\$100,000) per drainage ditch, and (iii) the total remaining  
7 cost of the project, including without limitation all direct and indirect costs of labor and  
8 services, does not exceed seventy-five thousand dollars (\$75,000). Such force account  
9 work shall be subject to the approval of the Director of the Budget in the case of State  
10 agencies, of the responsible commission, council, or board in the case of subdivisions of  
11 the State. Complete and accurate records of the entire cost of such work, including  
12 without limitation, all direct and indirect costs of labor, services, materials, supplies and  
13 equipment performed and furnished in the prosecution and completion thereof, shall be  
14 maintained by such agency, commission, council or board for the inspection by the  
15 general public. Construction or repair work undertaken pursuant to this section shall not  
16 be divided for the purposes of evading the provisions of this Article."

17 (b) This section applies only to the City of Goldsboro.

18 Sec. 11. This act is effective upon ratification.