

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 706  
Committee Substitute Favorable 7/19/95

Short Title: Various Occupancy Tax Changes.

(Local)

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Sponsors:

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Referred to:

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March 30, 1995

A BILL TO BE ENTITLED

AN ACT AUTHORIZING VARIOUS LOCAL GOVERNMENTS TO LEVY OR INCREASE A ROOM OCCUPANCY TAX SUBJECT TO APPROVAL BY THE VOTERS AND MODIFYING THE METHOD OF APPOINTMENT OF MEMBERS TO THE HAYWOOD COUNTY TOURISM DEVELOPMENT AUTHORITY.

The General Assembly of North Carolina enacts:

**PART I.**

**AUTHORIZATION FOR ADDITIONAL CRAVEN COUNTY ROOM OCCUPANCY TAX**

Section 1. Levy of Additional Occupancy Tax. (a) **Authorization.** The Craven County Board of Commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether the county room occupancy tax shall be increased from three percent (3%) to a maximum of six percent (6%). The election shall be held on a date jointly agreed upon by the two boards and shall be held in accordance with the procedures of G.S. 163-287. The form of the question to be presented in a special election concerning the increase of the room occupancy tax shall be:

**"[ ] FOR [ ] AGAINST**

Increase of the existing three percent (3%) Craven County room occupancy tax to a maximum of six percent (6%)."

1 If the majority of those voting in a referendum held pursuant to this section  
2 vote for the increase of the tax, the Craven County Board of Commissioners may by  
3 resolution, after not less than 10 days' public notice and after a public hearing held  
4 pursuant thereto, levy a room occupancy tax of up to three percent (3%) of the gross  
5 receipts derived from the rental of accommodations taxable under Chapter 980 of the  
6 1983 Session Laws. This tax shall be in addition to the tax authorized by that Chapter.  
7 Except as provided in this section, the levy, collection, administration, and repeal of the  
8 tax authorized by this act shall be in accordance with the provisions of Sections 1 through  
9 5 of Chapter 980 of the 1983 Session Laws. Craven County may not levy a tax under this  
10 act unless it also levies the tax authorized under Chapter 980 of the 1983 Session Laws.

11 (b) **Use of Proceeds of Additional Tax.** Craven County shall, on a monthly basis,  
12 remit to the Craven County Tourism Development Authority the net proceeds, as defined  
13 in Section 6 of Chapter 980 of the 1983 Session Laws, of the tax levied under this act.

14 The Authority shall use the proceeds to pay the construction, debt service, and  
15 operations of a convention center. The Authority shall distribute any proceeds not  
16 needed for these purposes as follows:

- 17 (1) Proceeds collected from a business located in a municipality shall be  
18 distributed to that municipality.
- 19 (2) Proceeds collected from a business not located in a municipality shall be  
20 distributed to Craven County.

21 Craven County and the municipalities in Craven County shall use the proceeds  
22 distributed to them under this section only to promote tourism and for tourism-related  
23 expenditures as defined in Section 6 of Chapter 980 of the 1983 Session Laws.

24 Sec. 2. Reduction of Tax. The Craven County Board of Commissioners may  
25 adopt a resolution to reduce the tax levied pursuant to this Part. Reduction of the tax  
26 shall be subject to the provisions governing repeal of the tax in Section 8 of Chapter 980  
27 of the 1983 Session Laws.

## 28 PART II.

### 29 MODIFICATIONS TO EXISTING CRAVEN COUNTY 30 ROOM OCCUPANCY TAX

31 Sec. 3. Section 4 of Chapter 980 of the 1983 Session Laws reads as rewritten:

32 "Sec. 4. Administration of Tax. (a) Any tax levied under this act is due and payable  
33 to the county in monthly installments on or before the 15th day of the month following  
34 the month in which the tax accrues. Every person, firm, corporation, or association liable  
35 for the tax shall, on or before the 15th day of each month, prepare and render a return on  
36 a form prescribed by Craven County. The return shall state the total gross receipts  
37 derived in the preceding month from rentals upon which the tax is levied.

38 (b) Any person, firm, corporation, or association ~~failing or refusing to file the~~  
39 ~~return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's~~  
40 ~~omission.~~

41 (c) ~~In case of failure or refusal to file the return or pay the tax for a period of 30~~  
42 ~~days after the time required for filing the return or for paying the tax, there shall be an~~  
43 ~~additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty~~

1 ~~prescribed in subsection (b), with an additional tax of five percent (5%) for each~~  
2 ~~additional month or fraction thereof until the occupancy tax is paid.~~

3 (d) ~~Any person who willfully attempts in any manner to evade the tax imposed by~~  
4 ~~this act or to make a return or who willfully fails to pay the tax or make and file a return~~  
5 ~~shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and~~  
6 ~~shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment~~  
7 ~~not to exceed six months, or both, who fails or refuses to file the return required by this~~  
8 ~~act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or~~  
9 ~~file a return for State sales and use taxes. The board of commissioners has the same~~  
10 ~~authority to waive the penalties for a room occupancy tax that the Secretary of Revenue~~  
11 ~~has to waive the penalties for State sales and use taxes."~~

12 Sec. 4. Section 6 of Chapter 980 of the 1983 Session Laws reads as rewritten:

13 "Sec. 6. Disposition of Taxes Collected. (a) Craven County shall remit the net  
14 proceeds of the occupancy tax to the Craven County Tourism Development Authority.  
15 The Authority shall use the net proceeds only to promote travel and tourism in Craven  
16 County and for tourism-related expenditures. The following definitions apply in this  
17 subsection:

18 (1) Net proceeds. – ~~Gross~~ "Net proceeds" ~~means gross proceeds less the cost~~  
19 ~~to the county of administering and collecting the tax, not to exceed three~~  
20 ~~percent (3%) of the gross proceeds of the tax. The County Tourism~~  
21 ~~Development Authority shall allocate the occupancy tax revenue remitted to it~~  
22 ~~for the following purposes:~~

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

28 (3) Tourism-related expenditures. – Expenditures that are designed to  
29 increase the use of lodging facilities in a county or to attract tourists or  
30 business travelers to the county. The term includes expenditures to  
31 construct, maintain, operate, or market a convention center and any of  
32 the following expenditures:

33 (4) ~~Direct advertising costs for visitor promotions, conventions, or tourism,~~  
34 ~~including outdoor advertising, print media, broadcast media, and~~  
35 ~~brochures;~~

36 (2) a. Marketing and promotions expenses, including test  
37 market programs, consultant fees, entertainment, housing  
38 expenses, travel expenses, and registration fees;

39 (3) b. Operating expenses for the Visitor Information Center,  
40 including postage, telephone, supplies, dues,  
41 subscriptions, equipment, rent, and overhead allocation;

42 (4) c. Salaries, benefits, and expenses for Visitor Information  
43 Center personnel; and

1                   (5) d. Other expenses that aid and encourage visitor promotions,  
2   conventions, or tourism.

3           ~~Thirty five percent (35%) of the net proceeds in excess of one hundred thousand~~  
4 ~~dollars (\$100,000) remitted to the Authority in a calendar year shall be allocated to the~~  
5 ~~funding of museums, meeting facilities, civic centers, parking facilities, or other projects~~  
6 ~~specifically intended primarily for visitor, tourist, or convention programs, projects, and~~  
7 ~~activities.~~

8           (b) The County Tourism Development Authority may contract with appropriate  
9 organizations or agencies to assist it in carrying out the above purposes."

10   **PART III.**

11   **AUTHORIZATION FOR COLUMBUS COUNTY**  
12   **ROOM OCCUPANCY TAX**

13           Sec. 5. Occupancy Tax. (a) **Authorization and scope.** The Columbus County  
14 Board of Commissioners may direct the county board of elections to conduct an advisory  
15 referendum on the question of whether a three percent (3%) room occupancy tax shall be  
16 levied in the county. The election shall be held on a date jointly agreed upon by the two  
17 boards and shall be held in accordance with the procedures of G.S. 163-287. The form of  
18 the question to be presented in a special election concerning the levy of the room  
19 occupancy tax shall be:

20   " **FOR**  **AGAINST**

21 Levy of a three percent (3%) county room occupancy tax."

22           If the majority of those voting in a referendum held pursuant to this section  
23 vote for the levy of the tax, the Columbus County Board of Commissioners may by  
24 resolution, after not less than 10 days' public notice and after a public hearing held  
25 pursuant thereto, levy a room occupancy tax of up to three percent (3%) of the gross  
26 receipts derived from the rental of any room, lodging, or accommodation furnished by a  
27 hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales  
28 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State  
29 or local sales tax. This tax does not apply to accommodations furnished by nonprofit  
30 charitable, educational, or religious organizations.

31           (b) **Collection.** Every operator of a business subject to the tax levied under this  
32 section shall, on and after the effective date of the levy of the tax, collect the tax. This  
33 tax shall be collected as part of the charge for furnishing a taxable accommodation. The  
34 tax shall be stated and charged separately from the sales records, and shall be paid by the  
35 purchaser to the operator of the business as trustee for and on account of the county. The  
36 tax shall be added to the sales price and shall be passed on to the purchaser instead of  
37 being borne by the operator of the business. The county shall design, print, and furnish to  
38 all appropriate businesses and persons in the county the necessary forms for filing returns  
39 and instructions to ensure the full collection of the tax. An operator of a business who  
40 collects the occupancy tax levied under this section may deduct from the amount remitted  
41 to the county a discount equal to the discount the State allows the operator for State sales  
42 and use tax.

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

8 A return filed with the county finance officer under this section is not a public  
9 record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S.  
10 160A-208.1.

11 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to  
12 file the return or pay the tax required by this section is subject to the civil and criminal  
13 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use  
14 taxes. The Columbus County Board of Commissioners has the same authority to waive  
15 the penalties for a room occupancy tax that the Secretary of Revenue has to waive the  
16 penalties for State sales and use taxes.

17 (e) **Distribution and use of tax revenue.** Columbus County shall, on a  
18 quarterly basis, remit the net proceeds of the occupancy tax to the Columbus County  
19 Tourism Board. The Board shall use the funds remitted to it under this subsection to  
20 promote travel and tourism in Columbus County and for tourism-related expenditures.

21 The following definitions apply in this subsection:

22 (1) Net proceeds. – Gross proceeds less the cost to the county of  
23 administering and collecting the tax, as determined by the finance  
24 officer, not to exceed seven percent (7%) of the gross proceeds.

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

30 (3) Tourism-related expenditures. – Expenditures that are designed to  
31 increase the use of lodging facilities in a county or to attract tourists or  
32 business travelers to the county. The term includes expenditures to  
33 construct, maintain, operate, or market a convention or meeting facility,  
34 a visitors' center, or a coliseum and other expenditures that, in the  
35 judgment of the Authority, will facilitate and promote tourism.

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

40 (g) **Repeal.** A tax levied under this section may be repealed by a resolution  
41 adopted by the Columbus County Board of Commissioners. Repeal of a tax levied under  
42 this section shall become effective on the first day of a month and may not become  
43 effective until the end of the fiscal year in which the repeal resolution was adopted.

1 Repeal of a tax levied under this section does not affect a liability for a tax that was  
2 attached before the effective date of the repeal, nor does it affect a right to a refund of a  
3 tax that accrued before the effective date of the repeal.

4 Sec. 6. Tourism Board. (a) **Appointment.** When the board of commissioners  
5 adopts a resolution levying a room occupancy tax under this act, if it has not already  
6 created a county Tourism Board under Chapter 706 of the 1993 Session Laws, it shall  
7 adopt a resolution creating that Board, which shall be a public authority under the Local  
8 Government Budget and Fiscal Control Act. The resolution shall provide for the  
9 membership of the Board including the members' qualifications and terms of office, and  
10 for the filling of vacancies on the Board. The board of commissioners may designate one  
11 member of the Board as chair and shall determine the compensation, if any, to be paid to  
12 members of the Board.

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

16 (b) **Duties.** The Board shall expend the net proceeds of the tax levied under this  
17 act for the purposes provided in this Part. The Board shall promote travel, tourism, and  
18 conventions in the county, sponsor tourist-related events and activities in the county, and  
19 finance tourist-related capital projects in the county.

20 (c) **Reports.** The Board shall report quarterly and at the close of the fiscal year to  
21 the board of commissioners on its receipts and expenditures for the preceding quarter and  
22 for the year in such detail as the board may require.

#### 23 PART IV.

### 24 AUTHORIZATION FOR CITY OF MOUNT AIRY 25 ROOM OCCUPANCY TAX

26 Sec. 7. Occupancy Tax. (a) **Authorization and scope.** The Mount Airy Board of  
27 Commissioners may direct the county board of elections to conduct an advisory  
28 referendum within the city on the question of whether a three percent (3%) room  
29 occupancy tax shall be levied in the city. The election shall be held on a date jointly  
30 agreed upon by the two boards and shall be held in accordance with the procedures of  
31 G.S. 163-287. The form of the question to be presented in a special election concerning  
32 the levy of the room occupancy tax shall be:

33 "[ ] FOR [ ] AGAINST

34 Levy of a three percent (3%) city room occupancy tax."

35 If the majority of those voting in a referendum held pursuant to this section  
36 vote for the levy of the tax, the Mount Airy Board of Commissioners may by resolution,  
37 after not less than 10 days' public notice and after a public hearing held pursuant thereto,  
38 levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from  
39 the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn,  
40 tourist camp, or similar place within the city that is subject to sales tax imposed by the  
41 State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.  
42 This tax does not apply to accommodations furnished by nonprofit charitable,

1 educational, or religious organizations or by nonprofit summer camps when the  
2 accommodations are furnished in furtherance of their nonprofit purpose.

3 (b) **Collection.** Every operator of a business subject to the tax levied under this  
4 section shall, on and after the effective date of the levy of the tax, collect the tax. This  
5 tax shall be collected as part of the charge for furnishing a taxable accommodation. The  
6 tax shall be stated and charged separately from the sales records, and shall be paid by the  
7 purchaser to the operator of the business as trustee for and on account of the city. The tax  
8 shall be added to the sales price and shall be passed on to the purchaser instead of being  
9 borne by the operator of the business. The city shall design, print, and furnish to all  
10 appropriate businesses and persons in the city the necessary forms for filing returns and  
11 instructions to ensure the full collection of the tax. An operator of a business who  
12 collects the occupancy tax levied under this section may deduct from the amount remitted  
13 to the city a discount equal to the discount the State allows the operator for State sales  
14 and use tax.

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

22 A return filed with the city finance officer under this section is not a public  
23 record and may not be disclosed except in accordance with G.S. 160A-208.1.

24 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to  
25 file the return or pay the tax required by this section is subject to the civil and criminal  
26 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use  
27 taxes. The Mount Airy Board of Commissioners has the same authority to waive the  
28 penalties for a room occupancy tax that the Secretary of Revenue has to waive the  
29 penalties for State sales and use taxes.

30 (e) **Distribution and use of tax revenue.** The City of Mount Airy shall, on a  
31 quarterly basis, remit the net proceeds of the occupancy tax to the Mount Airy Tourism  
32 Development Authority. The Authority shall use the funds remitted to it under this  
33 subsection only to promote travel and tourism in Mount Airy. The following definitions  
34 apply in this section:

35 (1) Net proceeds. – Gross proceeds less the cost to the city of administering  
36 and collecting the tax, as determined by the finance officer, not to  
37 exceed seven percent (7%) of the gross proceeds.

38 (2) Promote travel and tourism. – Advertise and market activities, develop  
39 and distribute promotional materials, conduct market research, and  
40 engage in other similar promotional activities that attract tourists or  
41 business travelers to the area. The term also includes administration of  
42 the Mount Airy Tourism Development Authority.

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

5 (g) **Repeal.** A tax levied under this section may be repealed by a resolution  
6 adopted by the Mount Airy Board of Commissioners. Repeal of a tax levied under this  
7 section shall become effective on the first day of a month and may not become effective  
8 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a  
9 tax levied under this section does not affect a liability for a tax that was attached before  
10 the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued  
11 before the effective date of the repeal.

12 Sec. 8. Tourism Development Authority. (a) **Appointment and membership.**  
13 When the board of commissioners adopts a resolution levying a room occupancy tax  
14 under this act, it shall also adopt a resolution creating a Mount Airy Tourism  
15 Development Authority, which shall be a public authority under the Local Government  
16 Budget and Fiscal Control Act. The board of commissioners shall appoint the following  
17 eight members to the Authority:

- 18 (1) Two individuals who are owners or operators of taxable tourist  
19 accommodations in the city.
- 20 (2) Two residents of the city who have experience in the promotion of  
21 travel and tourism.
- 22 (3) Two residents of the city who are members of the Mount Airy Chamber  
23 of Commerce, selected by the Mount Airy Chamber of Commerce.
- 24 (4) One member of the board of commissioners.
- 25 (5) The city finance officer, who shall serve as an ex officio, nonvoting  
26 member.

27 Members of the Authority shall serve without compensation and shall serve for  
28 a term of three years. Vacancies shall be filled in the same manner as the original  
29 appointment. Members appointed to fill vacancies shall serve for the remainder of the  
30 unexpired term. An individual may serve as a member for no more than two consecutive  
31 terms. The members shall elect a chair from among the membership, who shall serve for  
32 three years. The Authority shall meet at the call of the chair and shall adopt rules of  
33 procedure to govern its meetings.

34 (b) **Duties.** The Authority shall expend the net proceeds of the tax levied under  
35 this act for the purposes provided in this Part. The Authority shall promote travel and  
36 tourism in the city. In performing its duties, the Authority may contract with any person,  
37 firm, or agency to advise and assist it, and may recommend to the board of  
38 commissioners that city staff be employed for this advice and assistance. Any city staff  
39 employed upon a recommendation of the Authority shall be hired and supervised by the  
40 Authority, which shall pay the salaries and expenses of this staff.

41 (c) **Reports.** The Authority shall report quarterly and at the close of the fiscal  
42 year to the board of commissioners on its receipts and expenditures for the preceding  
43 quarter and for the year in such detail as the board may require.



**PART V.**  
**AUTHORIZATION FOR ADDITIONAL LINCOLN COUNTY**  
**ROOM OCCUPANCY TAX**

Sec. 9. Levy of Additional Occupancy Tax. (a) Authorization. The Lincoln County Board of Commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether the county room occupancy tax shall be increased from three percent (3%) to a maximum of six percent (6%). The election shall be held on a date jointly agreed upon by the two boards and shall be held in accordance with the procedures of G.S. 163-287. The form of the question to be presented in a special election concerning the increase of the room occupancy tax shall be:

" FOR  AGAINST

Increase of the existing three percent (3%) Lincoln County room occupancy tax to a maximum of six percent (6%)."

If the majority of those voting in a referendum held pursuant to this section vote for the increase of the tax, the Lincoln County Board of Commissioners 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 up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under Chapter 549 of the 1993 Session Laws. This tax shall be in addition to the tax authorized by that Chapter. Except as provided in this section, the levy, collection, administration, use, and repeal of the tax authorized by this act shall be in accordance with the provisions of Section 1 of Chapter 549 of the 1993 Session Laws. Lincoln County may not levy a tax under this act unless it also levies the tax authorized under Chapter 549 of the 1993 Session Laws. As provided in Chapter 549 of the 1993 Session Laws, the combined occupancy tax rates for Lincoln County and any city or town that is located in Lincoln County and is authorized to levy a room occupancy tax may not exceed six percent (6%).

(b) Reduction of Tax. The Lincoln County Board of Commissioners may adopt a resolution to reduce the tax levied pursuant to this section. Reduction of the tax shall be subject to the provisions governing repeal of the tax in Section 1 of Chapter 549 of the 1993 Session Laws.

**PART VI.**  
**HAYWOOD COUNTY TOURISM DEVELOPMENT AUTHORITY**

Sec. 10. Section 15 of Chapter 908 of the 1983 Session Laws reads as rewritten:

"Sec. 15. Appointments, Duties of Tourism Development Authority. (a) When the Haywood County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a County Tourism Development Authority composed of nine voting members appointed as follows:

- (1) ~~three tourist-oriented business members appointed by the Board of Directors of the Maggie Valley Chamber of Commerce;~~ Three members who own or operate hotels, motels, or other accommodations with more than 20 rental units.

