

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 534

Local Government and Regional Affairs Committee Substitute Adopted 5/15/91

Short Title: Iredell Local Act-1.

(Local)

Sponsors:

Referred to:

April 10, 1991

1 A BILL TO BE ENTITLED
2 AN ACT CONCERNING IREDELL COUNTY AND THE MUNICIPALITIES
3 THEREIN, RELATING TO SOLID WASTE FEES, MOORESVILLE
4 OCCUPANCY TAX, AND MOORESVILLE ZONING JURISDICTION.

5 The General Assembly of North Carolina enacts:

6 **PART I. IREDELL COUNTY SOLID WASTE FEES.**

7 Section 1. G.S. 153A-293 reads as rewritten:

8 **"§ 153A-293. Collection of fees in certain counties.**

9 (a) A county may provide that any fee imposed under G.S. 153A-292 may be
10 billed with the ad valorem taxes, may be payable in the same manner as ad valorem
11 taxes, and, in the case of nonpayment, may result in the imposition of a lien on the
12 property owner's real property in the same manner as ad valorem taxes.

13 (b) This section applies to Alleghany, Anson, Ashe, Burke, Caswell, Cleveland,
14 Duplin, Gaston, Iredell, Lee, Lenoir, Montgomery, Polk, Richmond, Robeson,
15 Transylvania, Washington, Watauga, and Wayne Counties only."

16 Sec. 2. Section 1 of Chapter 1007 of the 1989 Session Laws reads as
17 rewritten:

18 "Section 1. (a) A county may provide that any fee imposed under G.S. 153A-292
19 may be billed with the ad valorem taxes, may be payable in the same manner as ad
20 valorem taxes, and, in the case of nonpayment, the same remedies may be used by a
21 county to collect such fees as are used to collect delinquent ad valorem taxes.

22 (b) This section applies to ~~Haywood~~ Haywood, Iredell, and Pender Counties
23 only."

PART II. MOORESVILLE OCCUPANCY TAX.

1 **PART II. MOORESVILLE OCCUPANCY TAX.**
2 Sec. 4. Occupancy tax. (a) Authorization and scope. If at any time Iredell
3 County has not levied a room occupancy tax, or has levied the tax at a rate less than
4 three percent (3%), then the Mooresville Town Board of Commissioners may by
5 resolution, after not less than 10 days' public notice and after a public hearing held
6 pursuant thereto, levy a room occupancy tax of up to two percent (2%) of the gross
7 receipts derived from the rental of any room, lodging, or accommodation furnished by a
8 hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales
9 tax imposed by the State under G.S. 105-164.4(a)(3) except that no levy under this
10 section may cause the combined Town of Mooresville and Iredell County rate to exceed
11 three percent (3%) in any part of the town. This tax is in addition to any State or local
12 sales tax. This tax does not apply to accommodations furnished by nonprofit charitable,
13 educational, or religious organizations.

14 (b) Collection. Every operator of a business subject to the tax levied under this
15 section shall, on and after the effective date of the levy of the tax, collect the tax. This
16 tax shall be collected as part of the charge for furnishing a taxable accommodation. The
17 tax shall be stated and charged separately from the sales records, and shall be paid by
18 the purchaser to the operator of the business as trustee for and on account of the town.
19 The tax shall be added to the sales price and shall be passed on to the purchaser instead
20 of being borne by the operator of the business. The town shall design, print, and furnish
21 to all appropriate businesses and persons in the town the necessary forms for filing
22 returns and instructions to ensure the full collection of the tax. An operator of a
23 business who collects the occupancy tax levied under this section may deduct from the
24 amount remitted to the town a discount of three percent (3%) of the amount collected.

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

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

34 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
35 file the return required by this section shall pay a penalty of ten dollars (\$10.00) for
36 each day's omission. In case of failure or refusal to file the return or pay the tax for a
37 period of 30 days after the time required for filing the return or for paying the tax, there
38 shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to
39 any other penalty, with an additional tax of five percent (5%) for each additional month
40 or fraction thereof until the tax is paid. The board of commissioners may, for good
41 cause shown, compromise or forgive the additional tax penalties imposed by this
42 subsection.

43 Any person who willfully attempts in any manner to evade a tax imposed
44 under this section or who willfully fails to pay the tax or make and file a return shall, in

1 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be
2 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to
3 exceed six months, or both.

4 (e) Disposition of tax proceeds. The Town of Mooresville shall set aside in a
5 special account fifty percent (50%) of the net proceeds of the occupancy tax and may
6 spend these funds to promote commerce, economic development, and travel and
7 tourism. The Town of Mooresville shall remit the remaining proceeds of the tax to its
8 general fund and may use these funds for any lawful purpose. As used in this
9 subsection, "net proceeds" means gross proceeds less the cost to the town of
10 administering and collecting the tax, as determined by the finance officer.

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

15 (g) Effect of county occupancy tax on town occupancy tax. The Town of
16 Mooresville may not levy an occupancy tax under this section that would cause the
17 county rate under this Article combined with the town rate to exceed three percent (3%)
18 in any part of the town. If the town levies an occupancy tax under this section, and the
19 Iredell County Board of Commissioners subsequently adopts a resolution levying an
20 occupancy tax in the county, the Town of Mooresville's authority to levy the occupancy
21 tax is repealed as of the effective date of the county levy if the county levies at the rate
22 of three percent (3%), and is limited to the difference between the county occupancy tax
23 rate and three percent (3%) if the county levies at a rate less than three percent (3%),
24 except that the town's occupancy tax may not exceed two percent (2%).

25 (h) Repeal. A tax levied under this section may be repealed by a resolution
26 adopted by the Mooresville Town Board of Commissioners. Repeal of a tax levied
27 under this section shall become effective on the first day of a month and may not
28 become effective until the end of the fiscal year in which the repeal resolution was
29 adopted. Repeal of a tax levied under this section does not affect a liability for a tax
30 that was attached before the effective date of the repeal, nor does it affect a right to a
31 refund of a tax that accrued before the effective date of the repeal.

32 Sec. 3. Commerce and Tourism Authority. (a) Appointment and membership.
33 After the Town of Mooresville adopts a resolution levying an occupancy tax under this
34 act, it may also adopt a resolution creating a Commerce and Tourism Authority, which
35 shall be a public authority under the Local Government Budget and Fiscal Control Act.
36 The membership of the Authority shall consist of: two members representing the
37 Mooresville-South Iredell Chamber of Commerce; two members representing the motel
38 or travel and tourism industry; and one member of the Mooresville Town Board. The
39 resolution shall provide for terms of office, and for the filling of vacancies on the
40 Authority. The Mooresville Town Board shall designate one member of the Authority
41 as chair and shall determine the compensation, if any, to be paid to members of the
42 Authority. Members shall serve at the pleasure of the Mooresville Town Board.

1 The Authority shall meet at the call of the chair and shall adopt rules of
2 procedure to govern its meetings. The Finance Officer for the Town of Mooresville
3 shall be the ex officio finance officer of the Authority.

4 (b) Duties. The Authority may promote commerce, economic development,
5 travel, tourism, and conventions in the Greater Mooresville area; sponsor tourism
6 related events and activities; and finance economic development and tourism related
7 capital projects in the Greater Mooresville area with the fifty percent (50%) of the net
8 proceeds set aside by the Town of Mooresville, all disbursements from which shall be
9 subject to approval by the Mooresville Town Board.

10 (c) Reports. The Authority shall report at the close of the fiscal year to the
11 Mooresville Town Board, or more often is required by said Board, on its receipts and
12 expenditures for the preceding year in such detail as the Board may require.

13 PART III. MOORESVILLE ZONING JURISDICTION.

14 Sec. 5. G.S. 160A-58.4 reads as rewritten:

15 "§ 160A-58.4. Extraterritorial powers.

16 Satellite corporate limits shall ~~not~~ be considered a part of the city's corporate limits
17 for the purposes of extraterritorial land-use regulation pursuant to G.S. 160A-360, ~~or~~ but
18 not for purposes of abatement of public health nuisances pursuant to G.S. 160A-193.
19 However, a city's power to regulate land use pursuant to Chapter 160A, Article 19, or to
20 abate public health nuisances pursuant to G.S. 160A-193, shall be the same within
21 satellite corporate limits as within its primary corporate limits."

22 Sec. 6. Notwithstanding G.S. 160A-360, no approval from or agreement with
23 Iredell County shall be required prior to the exercise of authority under G.S. 160A-360
24 by the Town of Mooresville in an area not to exceed one mile from the Town's satellite
25 corporate limits.

26 Sec. 7. Sections 5 and 6 of this act apply only to the Town of Mooresville.

27 Sec. 8. Sections 1 and 2 of this act are effective upon ratification and apply to
28 fees due on or after July 1, 1991. The remainder of this act is effective upon
29 ratification.