

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-402
HOUSE BILL 715**

AN ACT TO PROVIDE FOR AN ADDITIONAL DISTRIBUTION OF THE PROCEEDS OF THE MECKLENBURG OCCUPANCY TAX AMONG THE TOWNS OF MECKLENBURG COUNTY, TO SUNSET THE MECKLENBURG MEALS TAX AND THE ADDITIONAL DISTRIBUTION, AND TO MODIFY THE MEMBERSHIP OF THE CHARLOTTE COLISEUM AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5(b) of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws, is amended by adding a new subdivision to read:

"(b) Definitions. = The definitions in G.S. 105-164.3 apply to this Part insofar as they are not inconsistent with the provisions of this Part. In addition, the following definitions apply in this Part.

...
(3a) Mecklenburg towns. – The towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville."

SECTION 2. Section 9 of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws, reads as rewritten:

"Sec. 9. (a) Distribution and Use of Proceeds. = The local administrative authority, acting on its own behalf or as agent for each taxing entity, shall distribute the proceeds of the taxes levied in this Part as provided in this subsection. The distribution shall be made by the 20th day of each month following the month in which the tax is collected.

(1) Deduction of Administrative Expense. = The local administrative authority may deduct from the gross proceeds of the taxes collected under this Part an amount not to exceed three percent (3%) of the amount collected to pay for the direct cost it has incurred in administering and collecting the taxes authorized by this Part.

(2) Distribution to Charlotte for Convention Center Facilities. = After deducting the amount provided above, the local administrative authority shall transfer an amount equal to three percent (3%) of the gross occupancy receipts and the entire net proceeds of the prepared food and beverage tax to the City of Charlotte. The net proceeds transferred to the City of Charlotte pursuant to this subdivision shall be applied in accordance with the following priorities. No application of any net proceeds to any class of the priorities set forth below in this subdivision shall be made until, with respect to each preceding class of priorities, either all payments for the current fiscal year have been provided for in full or no such payments are required for the current fiscal year.

a. To provide for when due payments for the current fiscal year with respect to any financing for new convention center facilities or for the expansion of existing convention center facilities, which may include off-street parking for use in conjunction with the facilities.

- b. To pay costs incurred in an aggregate amount not greater than equal to the sum of one million five hundred thousand dollars (\$1,500,000) plus the total current fiscal year distributions to the Mecklenburg towns pursuant to sub-subdivision (a)(4)b. of this section in each fiscal year for marketing and promoting new or expanded convention center facilities, facilities and for activities and programs aiding and encouraging convention and visitor promotion.
 - c. To pay other costs of acquiring, constructing, maintaining, operating, marketing, and promoting new or expanded convention center facilities, facilities and of activities and programs aiding and encouraging convention and visitor promotion.
- (3) Distribution to Other Municipalities. – After deducting the amounts provided above, the local administrative authority shall determine the amount of the remaining occupancy tax net proceeds that were collected from taxable establishments located in each municipality, other than the City of Charlotte. The local administrative authority shall then distribute to each municipality, other than the City of Charlotte, an amount equal to one hundred twenty percent (120%) of the amount of the remaining occupancy tax net proceeds collected in that municipality. These funds may be expended only for acquiring, constructing, financing, maintaining, operating, marketing, and promoting convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums, for off-street parking for use in conjunction with these facilities, and for tourism and tourism-related programs and activities including art and cultural programs, events, and festivals.
- (4) Distribution to Charlotte for Convention and Visitor Promotion. Promotion and Other Tourism-Related Purposes. –
- a. Of the occupancy tax net proceeds remaining after deducting the amounts provided in subsections (a)(1) and (a)(2) above, at least fifty percent (50%) of the first one million dollars (\$1,000,000) in each fiscal year, at least thirty-five percent (35%) of the second one million dollars (\$1,000,000) in each fiscal year, and at least twenty-five percent (25%) of the amount in excess of two million dollars (\$2,000,000) in each fiscal year shall be transferred by the local administrative authority to the City of ~~Charlotte~~ Charlotte.
 - b. From these funds, during any fiscal year that the county prepared food and beverage tax authorized by Section 7(a) of this Part is in effect for the entire fiscal year, the City of Charlotte shall make the distributions provided in this sub-subdivision to the Mecklenburg towns. The Mecklenburg towns may use the funds distributed to them under this sub-subdivision only for acquiring, constructing, financing, maintaining, operating, marketing, and promoting convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums, for off-street parking for use in conjunction with these facilities, and for tourism and tourism-related programs and activities including art and cultural programs, events, and festivals.
- During each of the five fiscal years beginning with the 2001-2002 fiscal year, the City of Charlotte shall transfer from these funds to each Mecklenburg town an amount equal to fifty

percent (50%) of the county prepared food and beverage tax net proceeds that were collected in that town during the preceding fiscal year, except that the total amount to be transferred to all of the towns each fiscal year may not exceed the applicable annual cap. Half of the amount to be transferred to each town each fiscal year shall be distributed on October 1 and the remaining half shall be distributed on April 1. The annual cap for the 2001-2002 fiscal year is one million fifty thousand dollars (\$1,050,000). The cap for the 2002-2003 fiscal year is one million one hundred forty thousand dollars (\$1,140,000) increased or decreased by the percentage by which the proceeds of the county prepared food and beverage tax levied under Section 7(a) of this Part increased or decreased during the preceding fiscal year. The annual cap for each fiscal year thereafter is the annual cap for the preceding fiscal year increased or decreased by the percentage by which the proceeds of the county prepared food and beverage tax levied under Section 7(a) of this Part increased or decreased during the preceding fiscal year. If fifty percent (50%) of the total county prepared food and beverage tax collected in the Mecklenburg towns during the preceding fiscal year exceeds the applicable cap, the amount to be transferred to each town shall be reduced in proportion to the amount of county prepared food and beverage tax collected in each town until the total amount to be transferred equals the cap.

During the five fiscal years beginning with the 2001-2002 fiscal year, the City of Charlotte and each of the Mecklenburg towns shall in good faith work to execute an interlocal agreement that may increase the amount to be distributed to the town thereafter.

During the 2006-2007 fiscal year and each fiscal year thereafter, the City of Charlotte shall transfer to each Mecklenburg town an amount equal to the greater of (i) fifty percent (50%) of the county prepared food and beverage tax net proceeds that were collected in that town during the preceding fiscal year and (ii) an amount agreed to by interlocal agreement between the Mecklenburg town and the City of Charlotte. Half of the amount to be transferred to each town each fiscal year shall be distributed on October 1, and the remaining half shall be distributed April 1.

For the purpose of this subdivision, net tax proceeds collected in a town include proceeds attributable to establishments that have locations in the town but are part of multilocation businesses that report proceeds on a countywide basis.

c. Except as provided in sub-subdivision b. of this subdivision, the City of Charlotte may use the funds distributed to it under this subdivision only for activities and programs aiding and encouraging convention and visitor promotion. The City of Charlotte shall be acting as agent for each occupancy taxing entity.

(5) Distribution of Remainder between Charlotte and Mecklenburg County. = The amount of occupancy tax net proceeds remaining after deducting the amounts provided above shall be allocated by the local administrative authority between Mecklenburg County and the City of

Charlotte using the following formula: the ratio of expenditures by each of Mecklenburg County and the City of Charlotte for acquiring, constructing, financing, maintaining, operating, marketing, and promoting convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums, for off-street parking for use in conjunction with these facilities, and for tourism and tourism-related programs and activities including art and cultural programs, events, and festivals to total expenditures by both Mecklenburg County and the City of Charlotte for such purposes. There shall be excluded from expenditures by the City of Charlotte for purposes of computing this ratio all expenditures for acquiring, constructing, financing, maintaining, operating, marketing, and promoting the new or expanded convention center facilities in the City of Charlotte for which net proceeds are allocated pursuant to subdivision (2) of this subsection. The ratio shall be computed annually on the basis of the prior fiscal year's expenditures. However, no amount shall be allocated to Mecklenburg County if it has not levied an occupancy tax and a prepared food and beverage tax for the current period. These funds may be expended only for acquiring, constructing, financing, maintaining, operating, marketing, and promoting convention centers, civic centers, performing arts centers, coliseums, auditoriums, museums, for off-street parking for use in conjunction with these facilities, and for tourism and tourism-related programs and activities including art and cultural programs, events, and festivals.

(b) Authority to Contract. – Mecklenburg County and each municipality located within Mecklenburg County may contract with any person, agency, association, or nonprofit corporation to undertake or carry out the activities and programs for which the proceeds may be expended. All contracts entered into pursuant to this subsection shall require an annual financial audit of any funds expended and a performance audit of contractual obligations."

SECTION 3. Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws, is amended by adding a new section to read:

"Sec. 9.1. Sunset of Certain Provisions. – Effective on the latest of the three dates listed below, Section 7 of this act and Section 9(a)(4)b. of this act are repealed:

- (1) July 1 following the date of final satisfaction, by payment or other irrevocable defeasance, of any debt instruments or obligations that meet both of the following conditions:
 - a. They were issued by the City of Charlotte or by a related special purpose entity in connection with the financing of the Charlotte Convention Center or of any hotel or parking facility constructed or participated in by the city to support or serve the convention center.
 - b. They were issued and outstanding on or before July 1, 2001.
- (2) July 1 following the date of final satisfaction, by payment or other irrevocable defeasance, of any debt instruments or obligations that were issued by the City of Charlotte or by a related special purpose entity in connection with a construction contract for expansion of the existing convention center that meets both of the following conditions:
 - a. The expansion contracted for will encompass at least 100,000 square feet of additional exhibit and meeting space and related support facilities.
 - b. The design contract for the expansion contracted for was awarded by January 1, 2011.
- (3) July 1, 2031."

SECTION 4. Section 5.21 of the Charter of the City of Charlotte, being S.L. 2000-26, as amended, reads as rewritten:

"Section 5.21. **Continuation.** (a) The control, management, and operation of the property and improvements now or hereafter made or acquired by the City for auditorium, coliseum, civic center, and baseball stadium purposes shall continue to be vested in the authority to be known as the auditorium-coliseum-convention center authority. The authority shall ~~continue to be composed of at least seven and not more than nine members, as determined jointly by the Mayor and the City Council. If the authority has nine members, three shall be appointed by the Mayor and six shall be appointed by the City Council. If the authority has seven or eight members, two shall be appointed by the Mayor and the remainder shall be appointed by the City Council. five members to be appointed by the Council and two members to be appointed by the Mayor.~~ One member of the authority must be an individual who is not an elected official and who is jointly nominated by the towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville and confirmed by the City's appointing authority. The City may, for good cause shown, reject the individual nominated by the towns. The City must appoint or reject the individual nominated by the towns in a timely manner. If the City rejects the nominee, the towns must jointly nominate a different individual. If the authority has nine members, one member must be an individual who is affiliated with the hotel, motel, or restaurant business in the City. The Council and the Mayor shall jointly determine which of the seats are subject to these conditions.

Each member shall serve a term of three years. No member shall serve more than two consecutive terms. ~~In case~~ If any vacancy shall be is created on said the authority, the Council or the Mayor, as the case may be, shall appoint a member to fill the unexpired term. The members of the authority shall receive no compensation.

(b) Attendance of meetings and continued service on the authority shall be governed by the attendance policies established by the Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided herein."

SECTION 5. Section 4 of this act is effective on the first day of the second month after it becomes law. The remainder of this act becomes effective July 1, 2001, and applies to taxes collected on or after that date.

In the General Assembly read three times and ratified this the 6th day of September, 2001.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives