

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 369
Finance Committee Substitute Adopted 6/1/05
House Committee Substitute Favorable 7/7/05

Short Title: Omnibus Occupancy Taxes.

(Local)

Sponsors:

Referred to:

March 3, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE FRANKLIN COUNTY AND THE CITIES OF EDEN
2 AND REIDSVILLE TO LEVY A ROOM OCCUPANCY AND TOURISM
3 DEVELOPMENT TAX AND TO AMEND THE DURHAM OCCUPANCY TAX.
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5 The General Assembly of North Carolina enacts:

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7 **PART I. FRANKLIN COUNTY OCCUPANCY TAX.**

8 **SECTION 1.1.** Occupancy Tax. – (a) Authorization and Scope. – The
9 Franklin County Board of Commissioners may levy a room occupancy tax of up to six
10 percent (6%) of the gross receipts derived from the rental of any room, lodging, or
11 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
12 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
13 This tax is in addition to any State or local sales tax. This tax does not apply to
14 accommodations furnished by nonprofit charitable, educational, or religious
15 organizations when furnished in furtherance of their nonprofit purpose.

16 **SECTION 1.1.(b)** Administration. – A tax levied under this section shall be
17 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
18 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

19 **SECTION 1.1.(c)** Distribution and Use of Tax Revenue. – Franklin County
20 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Franklin
21 County Tourism Development Authority. The Authority shall use at least two-thirds of
22 the funds remitted to it under this subsection to promote travel and tourism in Franklin
23 County and shall use the remainder for tourism-related expenditures.

24 The following definitions apply in this subsection:

- 25 (1) Net proceeds. – Gross proceeds less the cost to the county of
26 administering and collecting the tax, as determined by the finance
27 officer, not to exceed three percent (3%) of the first five hundred

1 thousand dollars (\$500,000) of gross proceeds collected each year and
2 one percent (1%) of the remaining gross receipts collected each year.

3 (2) Promote travel and tourism. – To advertise or market an area or
4 activity, publish, and distribute pamphlets and other materials, conduct
5 market research, or engage in similar promotional activities that attract
6 tourists or business travelers to the area. The term includes
7 administrative expenses incurred in engaging in the listed activities.

8 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
9 the Tourism Development Authority, are designed to increase the use
10 of lodging facilities, meeting facilities, or convention facilities in a
11 county or to attract tourists or business travelers to the county. The
12 term includes tourism-related capital expenditures.

13 **SECTION 1.2.** Franklin County Tourism Development Authority. – (a)
14 Appointment and Membership. – When the Franklin County Board of Commissioners
15 adopts a resolution levying a room occupancy tax under this act, it shall also adopt a
16 resolution creating a county Tourism Development Authority, which shall be a public
17 authority under the Local Government Budget and Fiscal Control Act. The resolution
18 shall provide for the membership of the Authority, including the members' terms of
19 office, and for the filling of vacancies on the Authority. At least one-third of the
20 members must be individuals who are affiliated with businesses that collect the tax in
21 the county, and at least one-half of the members must be individuals who are currently
22 active in the promotion of travel and tourism in the county. The board of commissioners
23 shall designate one member of the Authority as chair and shall determine the
24 compensation, if any, to be paid to members of the Authority.

25 The Authority shall meet at the call of the chair and shall adopt rules of
26 procedure to govern its meetings. The Finance Officer for Franklin County shall be the
27 ex officio finance officer of the Authority.

28 **SECTION 1.2.(b)** Duties. – The Authority shall expend the net proceeds of
29 the tax levied under this act for the purposes provided in this act. The Authority shall
30 promote travel, tourism, and conventions in the county, sponsor tourist-related events
31 and activities in the county, and finance tourist-related capital projects in the county.

32 **SECTION 1.2.(c)** Reports. – The Authority shall report quarterly and at the
33 close of the fiscal year to the Franklin County Board of Commissioners on its receipts
34 and expenditures for the preceding quarter and for the year in such detail as the board
35 may require.

36 **PART II. EDEN OCCUPANCY TAX.**

37 **SECTION 2.1.** Occupancy Tax. – (a) Authorization and Scope. – The Eden
38 City Council may levy a room occupancy tax of up to three percent (3%) of the gross
39 receipts derived from the rental of any room, lodging, or accommodation furnished by a
40 hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax
41 imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or
42 local sales tax. This tax does not apply to accommodations furnished by nonprofit
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1 charitable, educational, or religious organizations when furnished in furtherance of their
2 nonprofit purpose.

3 **SECTION 2.1.(b)** Administration. – A tax levied under this section shall be
4 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
5 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

6 **SECTION 2.1.(c)** Distribution and Use of Tax Revenue. – The City of Eden
7 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Eden
8 Tourism Development Authority. The Authority shall use at least two-thirds of the
9 funds remitted to it under this subsection to promote travel and tourism in Eden and
10 shall use the remainder for tourism-related expenditures.

11 The following definitions apply in this subsection:

- 12 (1) Net proceeds. – Gross proceeds less the cost to the city of
13 administering and collecting the tax, as determined by the finance
14 officer, not to exceed three percent (3%) of the first five hundred
15 thousand dollars (\$500,000) of gross proceeds collected each year and
16 one percent (1%) of the remaining gross receipts collected each year.
- 17 (2) Promote travel and tourism. – To advertise or market an area or
18 activity, publish and distribute pamphlets and other materials, conduct
19 market research, or engage in similar promotional activities that attract
20 tourists or business travelers to the area. The term includes
21 administrative expenses incurred in engaging in the listed activities.
- 22 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
23 the Tourism Development Authority, are designed to increase the use
24 of lodging facilities, meeting facilities, or convention facilities in a city
25 or to attract tourists or business travelers to the city. The term includes
26 tourism-related capital expenditures.

27 **SECTION 2.2.** Eden Tourism Development Authority. – (a) Appointment
28 and Membership. – When the Eden City Council adopts a resolution levying a room
29 occupancy tax under this act, it shall also adopt a resolution creating a city Tourism
30 Development Authority, which shall be a public authority under the Local Government
31 Budget and Fiscal Control Act. The resolution shall provide for the membership of the
32 Authority, including the members' terms of office, and for the filling of vacancies on the
33 Authority. At least one-third of the members must be individuals who are affiliated
34 with businesses that collect the tax in the city, and at least one-half of the members must
35 be individuals who are currently active in the promotion of travel and tourism in the
36 city. The city council shall designate one member of the Authority as chair and shall
37 determine the compensation, if any, to be paid to members of the Authority.

38 The Authority shall meet at the call of the chair and shall adopt rules of
39 procedure to govern its meetings. The Finance Officer for Eden shall be the ex officio
40 finance officer of the Authority.

41 **SECTION 2.2.(b)** Duties. – The Authority shall expend the net proceeds of
42 the tax levied under this act for the purposes provided in this act. The Authority shall
43 promote travel, tourism, and conventions in the city, sponsor tourist-related events and
44 activities in the city, and finance tourist-related capital projects in the city.

1 **SECTION 2.2.(c)** Reports. – The Authority shall report quarterly and at the
2 close of the fiscal year to the Eden City Council on its receipts and expenditures for the
3 preceding quarter and for the year in such detail as the city council may require.
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5 **PART III. REIDSVILLE OCCUPANCY TAX.**

6 **SECTION 3.1.** Occupancy Tax. – (a) Authorization and Scope. – The
7 Reidsville City Council may levy a room occupancy tax of up to three percent (3%) of
8 the gross receipts derived from the rental of any room, lodging, or accommodation
9 furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is
10 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
11 addition to any State or local sales tax. This tax does not apply to accommodations
12 furnished by nonprofit charitable, educational, or religious organizations when
13 furnished in furtherance of their nonprofit purpose.

14 **SECTION 3.1.(b)** Administration. – A tax levied under this section shall be
15 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
16 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

17 **SECTION 3.1.(c)** Distribution and Use of Tax Revenue. – The City of
18 Reidsville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
19 Reidsville Tourism Development Authority. The Authority shall use at least two-thirds
20 of the funds remitted to it under this subsection to promote travel and tourism in
21 Reidsville and shall use the remainder for tourism-related expenditures.

22 The following definitions apply in this subsection:

- 23 (1) Net proceeds. – Gross proceeds less the cost to the city of
24 administering and collecting the tax, as determined by the finance
25 officer, not to exceed three percent (3%) of the first five hundred
26 thousand dollars (\$500,000) of gross proceeds collected each year and
27 one percent (1%) of the remaining gross receipts collected each year.
- 28 (2) Promote travel and tourism. – To advertise or market an area or
29 activity, publish and distribute pamphlets and other materials, conduct
30 market research, or engage in similar promotional activities that attract
31 tourists or business travelers to the area. The term includes
32 administrative expenses incurred in engaging in the listed activities.
- 33 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
34 the Tourism Development Authority, are designed to increase the use
35 of lodging facilities, meeting facilities, or convention facilities in a city
36 or to attract tourists or business travelers to the city. The term includes
37 tourism-related capital expenditures.

38 **SECTION 3.2.** Reidsville Tourism Development Authority. – (a)
39 Appointment and Membership. – When the Reidsville City Council adopts a resolution
40 levying a room occupancy tax under this act, it shall also adopt a resolution creating a
41 city Tourism Development Authority, which shall be a public authority under the Local
42 Government Budget and Fiscal Control Act. The resolution shall provide for the
43 membership of the Authority, including the members' terms of office, and for the filling
44 of vacancies on the Authority. At least one-third of the members must be individuals

1 who are affiliated with businesses that collect the tax in the city, and at least one-half of
2 the members must be individuals who are currently active in the promotion of travel and
3 tourism in the city. The city council shall designate one member of the Authority as
4 chair and shall determine the compensation, if any, to be paid to members of the
5 Authority.

6 The Authority shall meet at the call of the chair and shall adopt rules of
7 procedure to govern its meetings. The Finance Officer for Reidsville shall be the ex
8 officio finance officer of the Authority.

9 **SECTION 3.2.(b) Duties.** – The Authority shall expend the net proceeds of
10 the tax levied under this act for the purposes provided in this act. The Authority shall
11 promote travel, tourism, and conventions in the city, sponsor tourist-related events and
12 activities in the city, and finance tourist-related capital projects in the city.

13 **SECTION 3.2.(c) Reports.** – The Authority shall report quarterly and at the
14 close of the fiscal year to the Reidsville City Council on its receipts and expenditures
15 for the preceding quarter and for the year in such detail as the city council may require.
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17 **PART IV. DURHAM OCCUPANCY TAX.**

18 **SECTION 4.1.** Section 7(a) of S.L. 2001-480, as amended by Section 1 of
19 S.L. 2002-36, reads as rewritten:

20 "**SECTION 7.(a)** If a plan for financing a Performing Arts Theater has not been
21 approved by the Durham City Council and has been disapproved by the Durham County
22 Commissioners within ~~42~~54 months after the levy of the one percent (1%) tax
23 authorized under Section 6(c) of this act, the county's authority to levy the one percent
24 (1%) tax described under Section 6(c) of this act and the levy of the one percent (1%)
25 tax described in this subsection are repealed on the first day of the second month
26 following the ~~42-month~~54-month period.

27 If construction on the Performing Arts Theater has not begun within ~~42~~54 months
28 after the levy of the one percent (1%) tax authorized under Section 6(c) of this act, the
29 county's authority to levy the one percent (1%) tax described in Section 6(c) of this act
30 and the levy of the one percent (1%) tax described in Section 6(c) of this act are
31 repealed on the first day of the second month following the ~~42-month~~54-month period.

32 It is the goal of the General Assembly that a plan for financing the Performing Arts
33 Theater shall be adopted within ~~42~~54 months after the levy of the one percent (1%) tax
34 authorized under Section 6(c) of this act, and construction of the Performing Arts
35 Theater shall begin within ~~24~~54 months of the levy of the one percent (1%) tax
36 described in Section 6(c) of this act.

37 Any funds collected but not spent before the repeal date shall be redistributed to the
38 Durham Convention and Visitors Bureau to promote travel and tourism."

39 **SECTION 4.2.** Section 9(e) of S.L. 2001-480, as amended by Section 4 of
40 S.L. 2002-36, reads as rewritten:

41 "**SECTION 9.(e)** Use of Proceeds From Additional One Percent (1%) Tax After
42 First 24 Months. – The net proceeds of the tax collected under Section 6(c) of this act
43 after the first 24 months that the tax is levied shall be remitted monthly to the Durham

1 Convention and Visitors Bureau as set out in Section 10 of this act. The Bureau shall
2 use and distribute these net proceeds in the following priority order:

- 3 (1) To the City of Durham, the first one million four hundred thousand
4 dollars (\$1,400,000) collected annually to finance the debt service
5 associated with the construction of the Performing Arts
6 ~~Theater~~. Theater and for the design and engineering costs associated
7 with the construction of the Theater. But no more than two million
8 seven hundred fifty-two thousand dollars (\$2,752,000) of those
9 proceeds may be used for design and engineering costs associated with
10 the construction of the Theater. Until those funds are distributed to the
11 City of Durham for that purpose, they shall be held by the Durham
12 Convention and Visitors Bureau in a capital reserve fund as provided
13 by Part 2 of Article 3 of Chapter 159 of the General Statutes except
14 they may be expended as provided by the last sentence of Section 7(a)
15 of this act if the tax is repealed as provided by Section 7(a) of this act.
16 Any interest earned by that fund shall be credited to the fund.
- 17 (2) Thirty-two years after the levy of the tax authorized under Section 6(c)
18 of this act, instead of the allocation under subdivision (1) of this
19 subsection, the first one million four hundred thousand dollars
20 (\$1,400,000) collected annually shall be used by the Bureau to
21 promote travel and tourism or for tourism related expenditures.
- 22 (3) To Durham County, the next five hundred thousand dollars (\$500,000)
23 collected annually to be used for improvements to the Museum of Life
24 and Science. This may include the financing of debt service. Any of
25 these funds that are not needed for this purpose shall be returned to the
26 Bureau and used to promote travel and tourism.
- 27 (4) The Bureau shall use any net proceeds in excess of that provided by
28 subdivisions (1), (2), and (3) of this subsection to promote travel,
29 tourism, and conventions in Durham County.

30 As used in this subsection, "annually" means the 12-month period beginning after
31 the first 24 months that the tax authorized under Section 6(c) of this act is levied."
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33 PART V. UNIFORM PROVISIONS.

34 **SECTION 5.1.** G.S. 153A-155(g) reads as rewritten:

35 "(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe,
36 Cabarrus, Camden, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Duplin,
37 Durham, Franklin, Granville, Halifax, Madison, Montgomery, Nash, New Hanover,
38 Pasquotank, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly,
39 Transylvania, Tyrrell, Vance, and Washington Counties, and to the Township of
40 Averagesboro in Harnett County."

41 **SECTION 5.2.** G.S. 160A-215(g) reads as rewritten:

42 "(g) This section applies only to Beech Mountain District W, to the Cities of
43 Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain,
44 Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke Rapids,

1 Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain,
2 Blowing Rock, Carolina Beach, Carrboro, Franklin, Kure Beach, Jonesville,
3 Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, West Jefferson,
4 Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick
5 Counties."

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7 **PART VI. EFFECTIVE DATE.**

8 **SECTION 6.** This act is effective when it becomes law.