

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 458
SENATE BILL 606

AN ACT TO PROVIDE FOR THE CREATION OF FACILITY AUTHORITIES AND
TO ESTABLISH THE CENTENNIAL AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 160A of the General Statutes is amended by adding a new Part to read:

"Part 4. Facility Authorities.

"§ 160A-480.1. Short title.

This Part is the 'Facility Authority Act' and may be cited by that name.

"§ 160A-480.2. Definitions.

The following definitions apply in this Part:

- (1) Authority. – A Facility Authority.
- (2) Credit facility. – An agreement with a banking institution, an insurance institution, an investment institution, or other financial institution located inside or outside the United States of America that provides for prompt payment, whether at maturity, presentment, or tender for purchase, redemption, or acceleration, of part or all of the principal or purchase price, redemption premium, if any, and interest on a bond or note issued by the Authority and for repayment of the institution.
- (3) Member. – A person appointed to a facility authority.
- (4) Par formula. – A provision or formula to make periodic adjustments in the interest rate of a bond or note, including:
 - a. A provision for an adjustment to keep the purchase price of the bond or note in the open market as close to par as possible.
 - b. A provision for an adjustment based on one or more percentages of a prime rate or base rate that may vary or apply for specified periods of time.
 - c. Any other provision that does not materially and adversely affect the financial position of the Authority and the marketing of the bonds or notes at a reasonable interest cost to the Authority.
- (5) Regional facility. – A facility consisting of an arena, coliseum, or other buildings or both, or areas where sports, fitness, health, recreational, entertainment, or cultural activities can be conducted. The facility may be composed of buildings grouped into complexes or separated from each other and may include ancillary support facilities, such as

those for administration, sports science, sports medicine, training, museums, meeting rooms and conference centers, accommodations, parking, and food services. The facility should be designed to attract to the State as many major regional, national, and international tournaments, events, championships, training centers, training camps, and headquarters for the governance of various sports, associations, and events as possible. The regional facility shall be constructed on land owned by the State.

"§ 160A-480.3. Creation of Authority; additional membership.

(a) Creation. – An authority may be created only by act of the General Assembly. An authority so created shall be a political subdivision of the State. The territorial jurisdiction of the authority shall be a county authorized by the General Assembly to levy a room occupancy tax and a prepared food and beverage tax, and where both those taxes have been levied.

(b) Membership. – An authority shall have eight or 13 members. Members shall be chosen for terms as follows:

- (1) Four shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, at least one of whom shall be a resident of the territorial jurisdiction of the authority;
- (2) Four shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, at least one of whom shall be a resident of the territorial jurisdiction of the authority; and
- (3) If the territorial jurisdiction of the authority is a county where the main campus of a constituent institution of The University of North Carolina is located, then:
 - a. Two members shall be appointed by the board of commissioners of that county;
 - b. Two members shall be appointed by the city council of the city with the largest population in the county, according to the most recent decennial federal census; and
 - c. One member shall be appointed jointly by the mayors of all the cities in that county.

The board of commissioners may not appoint a member of its board to serve on the authority.

Two of the initial appointments under subdivision (1) of this subsection, two of the initial appointments under subdivision (2) of this subsection, one of the initial appointments under subdivision (3)a. of this subsection, and one of the initial appointments under subdivision (3)b. of this section shall be for terms expiring July 1 of the second year after the year in which the authority is created. The remaining initial appointments shall be for terms expiring July 1 of the fourth year after the year in which the authority is created. Successors shall be appointed in the same manner for four-year

terms. A member may be removed by the appointing authority for cause. Vacancies occurring in the membership of the authority shall be filled by the remaining members.

(c) Purpose. – The purpose of an authority is to study, design, plan, construct, own, promote, finance, and operate a regional facility.

(d) Charter and Bylaws. – The act creating an authority and any amendments to it is the Authority's charter. The charter of an authority shall include the name of the Authority. An authority may adopt bylaws which may do any one or more of the following:

- (1) Limit the powers, duties, and functions that the Authority may exercise and perform.
- (2) Prescribe the compensation and allowances not to exceed those provided by G.S. 93B-5, if any, to be paid to the members of the Authority.
- (3) Contain rules for the conduct of Authority business and any other matter pertaining to the organization, powers, and functioning of the Authority that the members consider appropriate.

(e) Meetings. – An authority shall meet at a time and place agreed upon by its members. The initial meeting may be called by any four members. At its first meeting, the members shall elect a chairperson and any other officers that the charter may specify or the members may consider advisable. The Authority shall then adopt bylaws for the conduct of its business.

(f) Fiscal Accountability. – An authority is a public authority subject to the provisions of Article 3 of Chapter 159 of the General Statutes.

(g) Conflicts. – If any member, officer, or employee of an Authority shall be:

- (1) Interested either directly or indirectly; or
- (2) An officer or employee of or have an ownership interest in any firm or corporation, not including units of local government, interested directly or indirectly,

in any contract with that Authority, the interest shall be disclosed to the Authority and shall be set forth in the minutes of the Authority. The member, officer, or employee having an interest shall not participate on behalf of the Authority in the authorization of such contract. Other provisions of law notwithstanding, failure to take any or all actions necessary to carry out the purposes of this subsection do not affect the validity of any bonds or notes issued under this Chapter.

"§ 160A-480.4. Powers of an Authority.

An Authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Part. These powers may include any one or more of the following:

- (1) To apply for, accept, receive, and dispense funds and grants made available to it by the State or any of its agencies or political subdivisions, the United States, any member unit, or any private entity.
- (2) To study, design, plan, construct, own, and operate a regional facility.
- (3) To employ consultants and employees as may be required in the judgment of the Authority, to fix and pay their compensation from

- funds available to the Authority. In employing consultants, the Authority shall promote participation by minority businesses.
- (4) To contract with any public or private entity, and The University of North Carolina or any constituent institution of The University of North Carolina may enter into any such contract if the function is one The University of North Carolina or any constituent institution of The University of North Carolina could undertake separately.
 - (5) To adopt bylaws for the regulation of its affairs and the conduct of its business, and to adopt rules in connection with the performance of its functions and duties.
 - (6) To adopt an official seal.
 - (7) To acquire and maintain administrative offices.
 - (8) To sue and be sued in its own name, and to plead and be impleaded.
 - (9) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money.
 - (10) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any real or personal property or interest therein.
 - (11) To sell, lease, exchange, transfer, or otherwise dispose of, or to grant options for any of these purposes with respect to, any real or personal property or interest therein.
 - (12) Subject to the provisions of this Part, to pledge, assign, mortgage, or otherwise grant a security interest in any real or personal property or interest therein, including a leasehold interest, including the right and power to pledge, assign, or otherwise grant a security interest in any money, rents, charges, or other revenues and any proceeds derived by the Authority from any and all sources.
 - (13) Subject to the provisions of this Part, to borrow money to finance part or all of a regional facility, to issue revenue bonds or notes, to refund any revenue bonds or notes issued by the Authority, or to provide funds for other corporate purposes of the Authority.
 - (14) To use officers, employees, agents, and facilities of units of local government or constituent institutions of The University of North Carolina for purposes and upon the terms that are mutually agreeable between the Authority and the unit or institution.
 - (15) To develop and make data, plans, information, surveys, and studies of public facilities within the area where constituent institutions of The University of North Carolina are located, and to prepare and make recommendations in regard thereto.
 - (16) To set and collect fees and charges for the use of the regional facility.
 - (17) To pay for services rendered by underwriters, financial consultants, or bond attorneys in connection with the issuance of revenue bonds or notes of the Authority out of the proceeds of the bonds or notes. In

employing consultants, underwriters, attorneys, and others, the Authority shall promote participation by minority businesses.

- (18) To purchase or finance real or personal property in the manner provided for cities and counties under G.S. 160A-20.

"§ 160A-480.5. Dissolution of Authority.

The General Assembly may dissolve an authority if all bonds or notes issued by the Authority and all other obligations incurred by the Authority have been fully paid or satisfied. In such event any assets of the Authority shall become the property of the county authorized to levy a room occupancy and prepared food and beverage tax to be distributed to the Authority.

"§ 160A-480.6. Construction contracts.

Article 8 of Chapter 143 of the General Statutes applies to a construction contract of an Authority. An Authority may solicit bids on the basis of separate specifications for the branches or work described in G.S. 143-128(a) and on a single-prime contract basis and accept the lowest bid.

"§ 160A-480.7. Seating at regional facility arena.

The Authority shall ensure that at least fifty percent (50%) of the seats for an athletic event that is sponsored by a constituent institution of The University of North Carolina whose principal campus is in the territorial jurisdiction of the authority and is held at the arena of the regional facility are made available to students at that constituent institution and members of the general public.

"§ 160A-480.8. Bonds.

(a) Terms. – An Authority may provide for the issuance, at one time or from time to time, of bonds or notes to carry out its corporate purposes. The principal of, the interest on, and any premium payable upon the redemption of the bonds or notes shall be payable from the proceeds of bonds or renewal notes, or, in the event bond or renewal note proceeds are not available, from any available revenues or other funds provided for this purpose. The bonds or notes of each issue shall be dated and may be made redeemable prior to maturity at the option of the Authority or otherwise, at one or more prices, on one or more dates, and upon the terms and conditions set by the Authority. The bonds or notes may also be made payable from time to time on demand or tender for purchase by the owner upon terms and conditions set by the Authority. Notes and bonds shall mature at times determined by the Authority, not exceeding 40 years from the date of issue. The Authority shall determine the form and the manner of execution of the bonds or notes, and shall fix the denomination of the bonds or notes and the place of payment of principal and interest. In case an officer whose signature or a facsimile of whose signature appears on any bonds or notes ceases to be an officer before the delivery of the bond or note, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until delivery. The Authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent.

Bonds or notes may be issued under this Part without obtaining, except as otherwise expressly provided in this Part, the consent of any department, division, commission, board, body, bureau, or other agency of the State or of a political subdivision of the

State, and without any other proceedings or conditions except as specifically required by this Part or the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds or notes.

Prior to the preparation of definitive bonds, the Authority may issue interim receipts or temporary bonds exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds or notes which have been mutilated, destroyed, or lost.

(b) Use of Proceeds. – The proceeds of a bond or note shall be used solely for the purposes for which the bond or note was issued and shall be disbursed in accordance with the resolution authorizing the issuance of a bond or note and with any trust agreement securing the bond or note. If the proceeds of a bond or note of any issue, by reason of increased construction costs or error in estimates or otherwise, is less than the cost, additional bonds or notes may in like manner be issued to provide the amount of the deficiency.

(c) Security. – Bonds or notes issued by an Authority may be secured in one or more of the following ways:

- (1) By the revenues of the regional facility.
- (2) By security interests in real or personal property or interest therein, including a leasehold interest, acquired with the proceeds of the bonds or notes or improved with the proceeds of the bonds or notes as described in subsection (e) of this section.
- (3) With the approval of the county levying the tax, by receipts, if any, from a room occupancy and prepared food and beverage tax levied by a county and distributed to the Authority; provided, however, that any agreement or undertaking by a county to distribute receipts, if any, from the tax to the Authority may not obligate the county to exercise any power of taxation, or restrict the ability of the county to repeal the tax.

The security for the bonds or notes shall be specified in the resolution or trust instrument authorizing the bonds or notes.

(d) Revenues. – The Authority may pledge to the payment of its revenue bonds or notes the revenues from the regional facility, including revenues from improvements, betterments, or extensions to the facility. The Authority may establish, maintain, revise, charge, and collect such rates, fees, rentals, or other charges for the use, services, and facilities of or furnished by a regional facility and provide methods of collection of and penalties for nonpayment of these rates, fees, rentals, or other charges. Except as otherwise permitted, the rates, fees, rentals, and charges fixed and charged shall be in an amount that will produce sufficient revenues, with any other available funds, to meet the maintenance and operation expenses of the regional facility as well as any improvements and renewals and replacements to the facility, including reserves to pay the principal, interest, and redemption premium due, if any, on any bonds or notes secured by the facility, and to fulfill the terms of any agreements made by the Authority with the holders of bonds or notes secured by revenues of the facility.

(e) Security Interests. – Bonds or notes may be secured by security interests in any real or personal property or interest therein, including a leasehold interest, either acquired with the proceeds of bonds or notes, or upon which improvements are provided from the proceeds of bonds or notes. The security interest may cover all real and personal property acquired or improved or any portion of the property, except that if the property subject to the security interest is a leasehold interest, the security interest is not to the fee simple title. The Authority is authorized to enter into deeds of trust, mortgages, security agreements, and similar instruments as shall be necessary to carry out the powers in this subsection. Bonds or notes may also be secured by security interests in any real or personal property conveyed to the Authority.

In the event the Authority fails to perform its obligations with respect to the bonds or notes and foreclosure or similar sale of property subject to a security interest occurs, a deficiency judgment may not be rendered against the Authority except to the extent that the deficiency is payable from either revenues from the regional facility or from any revenues dedicated by act of the General Assembly to the Authority.

(f) Issuance. – The issuance of bonds or notes of the Authority is subject to the approval of the Local Government Commission. Upon the filing with the Local Government Commission of a resolution of the Authority requesting that its bonds or notes be sold, the Commission shall determine the manner in which the bonds or notes will be sold and the price or prices at which the bonds or notes will be sold. In determining whether to approve a proposed bond or note issue of the Authority, the Local Government Commission shall consider the criteria for approval of revenue bonds under G.S. 159-86. The Local Government Commission shall approve the proposed issue if it determines the bond or note issue will meet such criteria and will effect the purposes of this Part. With the approval of the Authority, the Local Government Commission shall sell the bonds or notes either at public or private sale in the manner and at the prices determined to be in the best interests of the Authority and to effect the purposes of this Part.

(g) Certification of Approval. – Each bond or note that is represented by an instrument shall contain a statement signed by the Secretary of the Local Government Commission, or an assistant designated by the Secretary, certifying that the issuance of the bond or note has been approved under this Part. The signature may be a manual signature or a facsimile signature, as determined by the Local Government Commission. Each bond or note that is not represented by an instrument shall be evidenced by a writing relating to the obligation that identifies the obligation or the issue of which it is a part, contains the signed statement certifying approval of the Local Government Commission that is required on an instrument, and is filed with the Local Government Commission. A certification of approval by the Local Government Commission is conclusive evidence that a bond or note complies with this Part.

(h) State Pledge. – The State pledges to the holder of a bond or note issued under this Part that, as long as the bond or note is outstanding and unpaid, the State will not limit or alter the power the Authority had when the bond or note was issued in a way that impairs the ability of the Authority to produce revenues sufficient with other available funds to do all of the following:

- (1) Maintain and operate the facility for which the bond or note was issued.
- (2) Pay the principal of, interest on, and redemption premium, if any, of the bond or note.
- (3) Fulfill the terms of an agreement with the holder.

The State further pledges to the holder of a bond or note issued under this Part that the State will not impair the rights and remedies of the holder concerning the bond or note.

(i) Investment Securities. – All bonds and notes and interest coupons, if any, issued under this Part are made investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code, as enacted in Chapter 25 of the General Statutes.

(j) Details of Bonds or Notes. – In fixing the details of bonds or notes, the Authority may provide that the bonds or notes may:

- (1) Be payable from time to time on demand or tender for purchase by the owner of the bond or note if a credit facility supports the bond or note, unless the Local Government Commission specifically determines that a credit facility is not required because the absence of a credit facility will not materially and adversely affect the financial position of the Authority and the marketing of the bonds or notes at a reasonable interest cost to the Authority.
- (2) Be additionally supported by a credit facility.
- (3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.
- (4) Be capital appreciation bonds.
- (5) Bear interest at a rate or rates that may vary, including variations permitted pursuant to a par formula.
- (6) Be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the Authority.

(k) Basis of Investment. – In connection with or incidental to the acquisition or carrying of any investment relating to bonds, program of investment relating to bonds, or carrying of bonds, the Authority may, with the approval of the Local Government Commission, enter into a contract to place the investment or obligation of the Authority, as represented by the bonds, investment, or program of investment and the contract or contracts, in whole or in part, on an interest rate, currency, cash flow, or other basis, including the following:

- (1) Interest rate swap agreements, currency swap agreements, insurance agreements, forward payment conversion agreements, and futures.
- (2) Contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates, or stock or other indices.
- (3) Contracts to exchange cash flows or a series of payments.

- (4) Contracts to hedge payment, currency, rate, spread, or similar exposure, including interest rate floors or caps, options, puts, and calls.

The Authority may enter a contract of this type in connection with, or incidental to, entering into or maintaining any agreement that secures bonds. A contract shall contain the payment, security, term, default, remedy, and other terms and conditions the Board considers appropriate. The Authority may enter a contract of this type with any person after giving due consideration, where applicable, of the person's creditworthiness as determined by a rating by a nationally recognized rating agency or any other criteria the Board considers appropriate. In connection with, or incidental to, the issuance or carrying of bonds, or the entering of any contract described in this subsection, the Authority may enter into credit enhancement or liquidity agreements, with payment, interest rate, termination date, currency, security, default, remedy, and other terms and conditions as the Authority determines. Proceeds of bonds and any moneys set aside and pledged to secure payment of bonds or any of the contracts entered into under this subsection may be pledged to and used to service any of the contracts entered into under this section.

"§ 160A-480.9. Trust agreement or resolution.

In the discretion of the Authority, any bonds or notes issued under this Part may be secured by a trust instrument between the Authority and a bank or trust company or individual within the State, or a bank or a trust company outside the State, as trustee. The trust instrument or the resolution of the Authority authorizing the issuance of bonds or notes may pledge and assign all or any part of the revenues, funds, and other property provided for the security of the bonds, including proceeds from the sale of any project, or part thereof, insurance proceeds, and condemnation awards, and may convey or mortgage property to secure a bond issue as provided in this Part.

The revenues and other funds derived from the project, except any part thereof that may be necessary to provide reserves therefor, if any, shall be set aside at regular intervals as may be provided in the resolution or trust instrument in a sinking fund which may be thereby pledged to, and charged with, the payment of the principal of and the interest on the bonds or notes as they become due and of the redemption price or the purchase price of bonds retired by call or purchase as therein provided. This pledge shall be valid and binding from the time the pledge is made. The revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether the parties have notice of the pledge. The use and disposition of money to the credit of such sinking fund shall be subject to the provisions of the resolution or trust instrument. The resolution or trust instrument may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limitation, any one or more of the following:

- (1) Acceleration of all amounts payable under the resolution or trust instrument.

- (2) Appointment of a receiver to manage the project and any other property mortgaged or assigned as security for the bonds.
- (3) Foreclosure and sale of the project and any other property mortgaged or assigned as security for the bonds.
- (4) Rights to bring and maintain other actions at law or in equity as may appear necessary or desirable to collect the amounts payable under, or to enforce the covenants made in, the security document.

It shall be lawful for any bank or trust company incorporated under the laws of this State which may act as depository of the proceeds of bonds, revenues, or other funds provided under this Part to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. All expenses incurred in carrying out the provisions of the resolution or trust instrument may be treated as a part of the cost of the project in connection with which bonds or notes are issued or as an expense of administration of the project.

The Authority may subordinate bonds or notes to any prior, contemporaneous, or future securities or obligations or lien, mortgage, or other security interest securing bonds or notes.

Any owner of bonds or notes issued under the provisions of this Part or any coupons appertaining thereto, and the trustee under any trust agreement securing or resolution authorizing the issuance of such bonds or notes, except to the extent the rights given may be restricted by the trust agreement or resolution, may either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under the trust agreement or resolution, or under any other contract executed by the Authority pursuant to this Chapter; and may enforce and compel the performance of all duties required by this Part or by the trust agreement or resolution by the Authority or by any officer of the Authority.

"§ 160A-480.10. Trust funds.

Notwithstanding any other provision of law to the contrary, all money received pursuant to the authority of this Part, whether as proceeds from the sale of bonds or notes or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Part. The resolution authorizing the issuance of, or the trust agreement securing, any bonds or notes may provide that any of these moneys may be temporarily invested and reinvested pending their disbursement and shall provide that any officer with whom, or any bank or trust company with which, the moneys shall be deposited shall act as trustee of the moneys and shall hold and apply the moneys for the purpose hereof, subject to any regulations this Part and the resolution or trust agreement may provide. Any of these moneys may be invested as provided in G.S. 159-30, as it may be amended from time to time.

"§ 160A-480.11. Faith and credit of State and units of local government not pledged.

Bonds or notes issued under this Part shall not constitute a debt secured by a pledge of the faith and credit of the State or a political subdivision of the State and shall be payable solely from the revenues, property, and other funds pledged for their payment.

The bonds or notes issued by an Authority shall contain a statement that the Authority is obligated to pay the bond or note or the interest on the bond or note only from the revenues, property, or other funds pledged for their payment and that neither the faith and credit nor the taxing power of the State or any political subdivision of the State is pledged as security for the payment of the principal of or the interest or premium on the bonds or notes.

"§ 160A-480.12. Revenue refunding bonds.

The Authority may issue refunding bonds or notes for one or more of the following purposes:

- (1) Refunding any outstanding bonds or notes issued under this Part, including any redemption premium on the bonds or notes and any interest accrued or to accrue to the date of redemption.
- (2) Constructing improvements, additions, extensions or enlargements of the project, or projects in connection with which the bonds or notes to be refunded have been issued.
- (3) Paying all or any part of the cost of any additional project or projects.

Refunding bonds or notes shall be issued in accordance with the same procedures and requirements as bonds or notes. Refunding bonds issued under this section may be sold or exchanged for outstanding bonds or notes issued under this Part and, if sold, the proceeds of the refunding bonds may be applied, in addition to any authorized purposes, to the purchase, redemption, or payment of outstanding bonds or notes.

Pending the application of the proceeds of refunding bonds, with any other available funds, to the payment of the principal of and accrued interest and any redemption premium on the bonds or notes being refunded, and, if so provided or permitted in securing the same, to the payment of any interest on such refunding bonds and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

"§ 160A-480.13. Bonds eligible for investment.

Bonds and notes issued under this Part are hereby made securities in which all public officers, agencies, and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, building and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds or notes are hereby made securities that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision of the State is authorized by law. This section does not apply to any State pension or retirement fund or a pension or retirement fund of a political subdivision of the State.

"§ 160A-480.14. Taxation of revenue bonds.

Any bonds and notes issued by the Authority under the provisions of this Part shall be exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes. The interest on bonds and notes issued by an Authority under the provisions of this Part shall not be subject to taxation as to income.

"§ 160A-480.15. Members and officers not liable.

No member or officer of an Authority shall be subject to any personal liability or accountability by reason of the execution of any bonds or notes or the issuance of any bonds or notes."

Sec. 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(64) A facility authority established under Part 4 of Article 20 of Chapter 160A of the General Statutes."

Sec. 3. G.S. 160A-460(2) reads as rewritten:

"(2) 'Unit,' or 'unit of local government' means a county, city, consolidated city-county, local board of education, sanitary district, facility authority created under Part 4 of this Article, or other local political subdivision, authority, or agency of local government."

Sec. 3.1. The Director of the Budget may allocate to the Centennial Authority any funds appropriated for the Centennial Center which have not been expended or obligated.

Sec. 3.2. Upon application of the Centennial Authority, with the approval only of the Governor, the State may lease to the Centennial Authority for a term of 99 years sufficient land for construction of the Centennial Center and employee and event parking on or adjacent to the site, at a rent of one dollar (\$1.00) per year.

Sec. 4. There is hereby established the Centennial Authority, which is a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes. The territorial jurisdiction of the Centennial Authority, as provided by G.S. 160A-480.3(a), is Wake County.

Sec. 5. Chapter 594 of the 1991 Session Laws reads as rewritten:

"AN ACT TO AUTHORIZE WAKE COUNTY TO LEVY A ROOM OCCUPANCY TAX AND A PREPARED FOOD AND BEVERAGE TAX.

"Section 1. Intent. — This act authorizes Wake County to levy a room occupancy tax and a prepared food and beverage tax.

"Sec. 2. Definitions. — The definitions in G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the provisions of this act. The following definitions also apply in this act:

(1) Centennial Authority. – The Centennial Authority created by the General Assembly under Part 4 of Article 20 of Chapter 160A of the General Statutes.

- (1a) Financing. —Debt service, lease payments, or any other obligations or means of supporting capital costs, together with any related reserve requirements.
- (2) Net proceeds. —The gross proceeds of the taxes levied pursuant to this act less any refunds and the cost to the county of administering and collecting the taxes as provided in Sections 10 and 11 of this act.
- (3) Prepared food and beverage. —Any food or beverage to which a retailer has added value or has altered its state (other than by cooling alone) by preparing, combining, dividing, heating, or serving, in order to make the food or beverage available for immediate human consumption.
- (3a) Regional facility. – Defined in G.S. 160A-480.2.
- (4) Retailer. —A caterer or a retailer as defined in G.S. 105-164.3 as in effect on the effective date of this act.
- (5) Taxable establishment. —A hotel, motel, inn, tourist camp, or similar place that is subject to a room occupancy tax levied pursuant to this act and a retailer that sells prepared food or beverages and is subject to the prepared food and beverage tax levied pursuant to this act.
- (6) Undesignated proceeds. – Net proceeds distributed to the City of Raleigh and to Wake County and designated for use pursuant to Sections 10(b)(1)b., 10(b)(3), 11(1)b., 11(2), 12(1)a., 12(2)c. and d., 12(3)c. and d., and 13 of this act.

"Sec. 3. Sales and Use Tax Statutes. —The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to this act to the extent they are not inconsistent with the provisions of this act.

"Sec. 4. Occupancy Tax. —The Wake County Board of Commissioners may, by resolution, levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to the State sales tax imposed under G.S. 105-164.4(a)(3). This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations when furnished in furtherance of their nonprofit purpose or to accommodations furnished to the same person for at least 90 consecutive days. Before levying the tax authorized in this section, the board of commissioners must hold a public hearing on the tax. Notice of the public hearing shall be advertised at least 10 days, but not more than 25 days, before the scheduled date of the hearing. The revision of this act by AN ACT TO PROVIDE FOR THE CREATION OF FACILITY AUTHORITIES AND TO ESTABLISH THE CENTENNIAL AUTHORITY does not affect the previous levying of the tax under this section, and no new hearings or resolutions are required.

Before a tax may be enacted pursuant to this section, Wake County and the City of Raleigh must enter into an interlocal agreement pursuant to Article 20 of Chapter 160A of the General Statutes. The agreement shall contain, at the minimum, the type and general location of all capital projects to be funded in any way by the proceeds of the

tax levied under this section. The agreement shall also contain a preliminary schedule for the completion of any projects to be so funded. If the city and the county are unable to approve and execute the required agreement within three years after the effective date of this act, this section is repealed.

"Sec. 5. Prepared Food and Beverage Tax. — The Wake County Board of Commissioners may, by resolution, levy a prepared food and beverage tax of up to one percent (1%) of the sales price of prepared food and beverages sold at retail for consumption on or off the premises by any retailer within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(1). Before levying the tax authorized in this section, the board of commissioners must hold a public hearing on the tax. Notice of the public hearing shall be advertised at least 10 days, but not more than 25 days, before the scheduled date of the hearing. The revision of this act by AN ACT TO PROVIDE FOR THE CREATION OF FACILITY AUTHORITIES AND TO ESTABLISH THE CENTENNIAL AUTHORITY does not affect the previous levying of the tax under this section, and no new hearings or resolutions are required.

Before a tax may be enacted pursuant to this section, Wake County and the City of Raleigh must enter into an interlocal agreement pursuant to Article 20 of Chapter 160A of the General Statutes. The agreement shall contain, at the minimum, the type and general location of all capital projects to be funded in any way by the proceeds of the tax levied under this section. The agreement shall also contain a preliminary schedule for the completion of any projects to be so funded. If the city and the county are unable to approve and execute the required agreement within three years after the effective date of this act, this section is repealed.

"Sec. 6. ~~Exemptions.~~ Exemptions and Refunds. — (a) Exemptions. — The prepared food and beverage tax does not apply to the following sales of prepared food and beverages:

- (1) Prepared food and beverages served to residents in boarding houses and sold together on a periodic basis with rental of any sleeping room or lodging.
- (2) Retail sales exempt from taxation under G.S. 105-614.13 on the effective date of this act.
- (3) Retail sales through or by means of vending machines.
- (4) Prepared food and beverages served by any taxable establishment subject to the occupancy tax levied pursuant to this act if the charge for the prepared food or beverages is included in a single, nonitemized sales price together with the charge for rental of a room, lodging, or accommodation furnished by the taxable establishment.
- (5) Prepared food and beverages furnished without charge by an employer to any employee.
- (6) Retail sales by grocers or by grocery sections of supermarkets or other diversified retail establishments other than sales of prepared food and beverages in the delicatessen or similar department of the grocer or grocery section.

(b) Refunds. – The county shall refund to a nonprofit or governmental entity the prepared food and beverage tax paid by the entity on eligible purchases of prepared food and beverages. A nonprofit or governmental entity's purchase of prepared food and beverages is eligible for a refund under this subsection if the entity is entitled to a refund under G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase. The time limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(b) and (d) apply to refunds to nonprofit entities; the time limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(c) and (d) apply to refunds to governmental entities. When an entity applies for a refund of the prepared food and beverage tax paid by it on purchases, it shall attach to its application a copy of the application submitted to the Department of Revenue under G.S. 105-164.14 for a refund of the sales and use tax on the same purchases. An applicant for a refund under this subsection shall provide any information required by the county to substantiate the claim.

"Sec. 7. Date of Levy. – A tax levied under this act shall become effective on the date specified in the resolution or ordinance levying the tax. The levy of the prepared food and beverage tax may not become effective before January 1, 1993.

"Sec. 8. Collection. – Every operator of a taxable establishment shall, on and after the effective date of the levy of a tax under this act, collect the tax. The tax shall be stated and charged separately from the rental charge or sales price, shall be shown separately on the taxable establishment's sales records, and shall be paid by the purchaser to the taxable establishment as trustee for and on account of the county. The tax shall be added to the rental charge or sales price and shall be passed on to and collected from the purchaser instead of being borne by the taxable establishment.

For the convenience of each retailer and to facilitate the administration of this act, the county shall determine the amount to be added to the sales price of all sales subject to the prepared food and beverage tax. The amounts shall be set forth in a bracket system and distributed to each retailer responsible for collecting the prepared food and beverage tax. The use of the bracket system does not relieve the retailer from the duty and liability of collecting and remitting to the local administrative authority an amount equal to the prepared food and beverage tax levied by the county.

"Sec. 9. Administration. – The county shall administer and collect the taxes levied pursuant to this act. Wake County may contract with the City of Raleigh to perform these functions.

The taxes levied pursuant to this act are due and payable to the county in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every taxable establishment liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return to the county. The county shall design, print, and furnish on request to all taxable establishments the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Returns filed with the county pursuant to this act are not public records ~~as defined by G.S. 132-1~~ and may not be disclosed except ~~as required by law~~. in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

"Sec. 10. Distribution and Use of Proceeds of Occupancy Tax. —(a) Initial Deductions. —It is anticipated for allocation purposes that the annual net proceeds realized from the levy of the tax authorized by Section 4 of this act will be at least three million eight hundred fifteen thousand dollars (\$3,815,000). The county shall distribute the first three million eight hundred fifteen thousand dollars (\$3,815,000) of the net proceeds of the tax levied under Section 4 of this act as provided in this section; the county shall distribute any proceeds in excess of this amount as provided in Section 12 of this act. The county may deduct from the gross proceeds of the taxes collected pursuant to Section 4 of this act an amount not to exceed three percent (3%) of the gross proceeds to pay for the direct cost of administering and collecting the taxes. ~~For the first two years the tax levied under Section 4 of this act is in effect, before making the distributions provided in subsection (b), the county shall deduct from the net proceeds of the tax the sum of one hundred thousand dollars (\$100,000) in each fiscal year and shall remit this sum to Wake Technical Community College. After the first two years the tax levied under Section 4 of this act is in effect, before~~ Before making the distributions provided in subsection (b), the Board of Commissioners of Wake County may, in its discretion, deduct from the net proceeds of the tax the sum of one hundred thousand dollars (\$100,000) in each fiscal year and remit this sum to Wake Technical Community College. Wake Technical Community College must use funds remitted to it under this subsection only to support its ongoing program of training individuals in hotel and motel management and in food service. Funds received by Wake Technical Community College under this subsection that have not been expended for this purpose at the end of each fiscal year shall revert to Wake County for distribution in the following fiscal year pursuant to this section and Section 12 of this act.

(b) Monthly Distributions; Use. —The county shall make the distributions provided in this subsection by the twentieth day of the month following the month in which the tax is collected.

(1) Distribution to Raleigh. After deducting the amounts provided in subsection (a), the county shall transfer to the City of Raleigh an amount equal to forty-five and twenty-five one hundredths percent (45.25%) of the remaining net proceeds of each monthly collection. The net proceeds received by Raleigh shall be applied in accordance with the following priorities.

a. The city may use the first six hundred eighty thousand dollars (\$680,000) of the net proceeds of the taxes levied under this act to fund the acquisition, construction, financing, debt servicing, maintenance, or operation of convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums; to provide off-street parking facilities for use in conjunction with such facilities; and to fund visitor-related programs and activities, including cultural programs, events or festivals, and convention and visitor programs and activities of the Greater Raleigh Convention and Visitor Bureau.

- b. The city shall use any additional net tax proceeds received only for (i) the acquisition, construction, renovation, financing, debt service, maintenance, and operation of expansions and additions to the Raleigh Civic Center Complex or similar facilities, and (ii) the construction of sports, cultural, and arts facilities, including a coliseum to be built in conjunction with North Carolina State University at Raleigh, a performing arts theater, a visual arts program, and a children's museum. Any funds not spent in a fiscal year may be held in one or more reserve accounts by the city for future use in the range of activities allowed by this subsection. The city may make expenditures pursuant to this subdivision b. only after the city and county have agreed on the amount and purpose of the expenditure. The county's approval of an expenditure must be evidenced by a resolution adopted by the board of commissioners.
- (2) Distribution to Cary. After deducting the amount provided in subsection (a), the county shall transfer to the Town of Cary an amount equal to five percent (5%) of the remaining net proceeds of the tax levied under Section 4 of this act. The Town of Cary shall expend these proceeds for public relations and promotional activities for the town and for visitor-related programs and activities, including cultural programs, events, festivals, and other visitor-related programs.
- (3) Distribution to Wake County. After deducting the amount provided in subsection (a), the county shall retain an amount equal to thirty-four and seventy-five one hundredths percent (34.75%) of the remaining net proceeds of the tax levied under Section 4 of this act. Wake County may expend these proceeds only for the Raleigh Civic Center Complex or similar facilities or for construction of sports, cultural, and arts facilities, including a coliseum to be built in conjunction with North Carolina State University at Raleigh, a performing arts theater, a visual arts program, and a children's museum. Any funds not spent in a fiscal year may be held in reserve accounts by the county for future use in the range of activities allowed by this subsection. The county may make expenditures pursuant to this subdivision only after the city and county have agreed on the amount and purpose of the expenditure. The city's approval of an expenditure must be evidenced by a resolution adopted by the city council.
- (4) Distribution to Greater Raleigh Convention and Visitor Bureau. After deducting the amounts provided in subsection (a), the county shall remit fifteen percent (15%) of the remaining net proceeds to the Greater Raleigh Convention and Visitor Bureau. The Greater Raleigh Convention and Visitor Bureau may expend these funds pursuant to the provisions of Section 15 of this act.

In the event that the amount distributed to the Greater Raleigh Convention and Visitor Bureau under this act is less than one million dollars (\$1,000,000) in a fiscal year, the city and the county shall each pay to the Greater Raleigh Convention and Visitor Bureau a sum, derived from its expected portion of the proceeds of the taxes authorized in this act, equal to one-half of the difference between one million dollars (\$1,000,000) and the amount received by the Bureau, so that the total revenue received by the Bureau equals at least one million dollars (\$1,000,000) in each fiscal year.

"Sec. 11. Distribution of Prepared Food and Beverage Tax. —It is anticipated for allocation purposes that the annual net proceeds realized from the levy of the tax authorized by Section 5 of this act will be at least four million five hundred thousand dollars (\$4,500,000). The county shall distribute the first four million five hundred thousand dollars (\$4,500,000) of the net proceeds of the taxes levied under Section 5 of this act as provided in this section; the county shall distribute any proceeds in excess of this amount as provided in Section 13 of this act.

The county may deduct from the gross proceeds of the taxes collected pursuant to Section 5 of this act an amount not to exceed three percent (3%) of the gross proceeds to pay for the direct cost of administering and collecting the taxes. The county shall make the distributions provided in this section by the twentieth day of the month following the month in which the tax is collected.

- (1) Distribution to Raleigh. After deducting the amount provided above, the county shall transfer to the City of Raleigh an amount equal to forty-seven and seventy-five one hundredths percent (47.75%) of the net proceeds of each monthly collection. The net proceeds received by Raleigh shall be applied in accordance with the following priorities.
 - a. The city may use the first six hundred eighty thousand dollars (\$680,000) of the net proceeds of the taxes levied under this act to fund the acquisition, construction, financing, debt servicing, renovation, maintenance, or operation of convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums; to provide off-street parking facilities for use in conjunction with such facilities; and to fund visitor-related programs and activities, including cultural programs, events or festivals, and convention and visitor programs and activities of the Convention and Visitor Bureau.
 - b. The city shall use any additional net tax proceeds received only for (i) the acquisition, construction, renovation, financing, debt service, maintenance, and operation of expansions and additions to the Raleigh Civic Center Complex, and (ii) the construction of sports, cultural, and arts facilities, including a coliseum to be built in conjunction with North Carolina State University at Raleigh, a performing arts theater, a visual arts program, and a children's museum. Any funds not spent in a fiscal year may be

held in one or more reserve accounts by the city for future use in the range of activities allowed by this subsection. The city may make expenditures pursuant to this section only after the city and county have agreed on the amount and purpose of the expenditure. The county's approval of an expenditure must be evidenced by a resolution adopted by the board of commissioners.

- (2) Distribution to Wake County. The county shall retain an amount equal to thirty-seven and twenty-five one hundredths percent (37.25%) of the net proceeds of the tax levied under Section 5 of this act. Wake County may expend these proceeds only for the planning, acquisition, renovation, or construction of the Raleigh Civic Center Complex or similar facilities or for construction of sports, cultural, and arts facilities, including a coliseum to be built in conjunction with North Carolina State University at Raleigh, a performing arts theater, a visual arts program, and a children's museum. Any funds not spent in a fiscal year may be held in reserve accounts by the county for future use in the range of activities allowed by this subsection. The county may make expenditures pursuant to this subdivision only after the city and county have agreed on the amount and purpose of the expenditure. The city's approval of an expenditure must be evidenced by a resolution adopted by the city council.
- (3) Distribution to Greater Raleigh Convention and Visitor Bureau. The county shall remit fifteen percent (15%) of the net proceeds of the tax levied under Section 5 of this act to the Greater Raleigh Convention and Visitor Bureau. The Greater Raleigh Convention and Visitor Bureau may expend these funds pursuant to the provisions of Section 15 of this act.

"Sec. 12. Future Revenue Allocations of the Occupancy Tax. —In the event that the annual net proceeds of the tax levied under Section 4 of this act exceed three million eight hundred fifteen thousand dollars (\$3,815,000) in a fiscal year, the additional proceeds will be distributed as follows:

- (1) Any net proceeds in excess of three million eight hundred fifteen thousand dollars (\$3,815,000) but less than four million one dollars (\$4,000,001) shall be allocated on the following basis:
 - a. Ninety-five percent (95%) to the City of Raleigh for the purposes set out in Section 10 herein.
 - b. Five percent (5%) to the Town of Cary for the purposes set out in Section 10 of this act.
- (2) Any net proceeds above four million dollars (\$4,000,000) and up to four million five hundred thousand dollars (\$4,500,000) shall be distributed monthly on the following basis:
 - a. Twenty-five percent (25%) to the Raleigh Regional Convention and Visitor Bureau.

- b. Five percent (5%) to the Town of Cary, at least one-half of which shall be used only for capital projects authorized under Section 10 or 11 of this act and the remainder of which shall be used for the purposes authorized in Section 10(b)(2) of this act.
 - c. Forty-seven and five-tenths percent (47.5%) to the City of Raleigh to be used for the purposes set out in Section 10 of this act.
 - d. Twenty-two and five-tenths percent (22.5%) to Wake County for any use related to any of the purposes for which any local government is authorized by this act to expend tax proceeds.
- (3) Any net proceeds above four million five hundred thousand dollars (\$4,500,000) shall be distributed monthly on the following basis:
- a. Twenty-five percent (25%) to the Raleigh Regional Convention and Visitor Bureau.
 - b. Five percent (5%) to the Town of Cary, at least one-half of which shall be used only for capital projects authorized under Section 10 or 11 of this act and the remainder of which shall be used for the purposes authorized in Section 10(b)(2) of this act.
 - c. Thirty-five percent (35%) to the City of Raleigh for any lawful purpose authorized by this act.
 - d. Thirty-five percent (35%) to Wake County for any lawful purpose authorized by this act.

"Sec. 13. Future Revenue Allocations of the Prepared Food and Beverage Tax. — In the event that the annual net proceeds of the tax levied under Section 5 of this act exceed four million five hundred thousand dollars (\$4,500,000) in a tax year, the additional proceeds will be allocated according to the following schedule:

- (1) Any additional net proceeds up to six million five hundred thousand dollars (\$6,500,000) shall be divided between the City of Raleigh and Wake County. The city shall receive seventy-five percent (75%) of the additional net proceeds for use in activities allowed under Section 10 of this act while the county will receive twenty-five percent (25%) of the net proceeds for use in any lawful activity authorized by this act.
- (2) Any net proceeds in excess of six million five hundred thousand dollars (\$6,500,000) shall be divided between the City of Raleigh and Wake County. The city shall receive sixty percent (60%) of the additional net proceeds for use in any lawful purpose authorized by this act while the county shall receive the remaining forty percent (40%) of the additional net proceeds for use in any lawful purpose authorized by this act.

~~"Sec. 14. Restrictions on Certain Capital Projects. This section expires the earlier of (i) three years after the effective date of the first tax levied under this act or (ii) three and one half years after the date this act is ratified. Notwithstanding any other provision of this act, the proceeds of the taxes levied under this act may not be expended for the cost of any capital project other than (i) a coliseum to be built in~~

~~conjunction with North Carolina State University at Raleigh, (ii) a civic center complex, (iii) a visual or performing arts center, or (iv) a children's museum, and off-street parking associated with these four projects. As used in this section, the term "cost" includes the cost of construction of a capital facility; planning, engineering, as well as architectural and consulting services, and any other expenses and charges relating to a new capital project.~~ Transfers to Centennial Authority. – (a) Construction of Regional Facility. – On or before June 30, 1996, the City of Raleigh and Wake County shall jointly transfer eleven million dollars (\$11,000,000) from undesignated proceeds to the Centennial Authority, and on or before June 30, 1997, the City of Raleigh and Wake County shall jointly transfer an additional eleven million dollars (\$11,000,000) from undesignated proceeds to the Centennial Authority. The proportions of this sum to be drawn from undesignated proceeds distributed to the City of Raleigh and from undesignated proceeds distributed to Wake County shall be determined by the city and the county by interlocal agreement entered into pursuant to Article 20 of Chapter 160A of the General Statutes. If the city and the county are unable to agree on the relative proportions to be drawn from net proceeds distributed to each of them, each shall transfer from undesignated proceeds distributed to it its proportional share based on the total undesignated proceeds distributed to it during the preceding 36-month period. The Centennial Authority shall use the funds distributed to it pursuant to this subsection only to fund all or part of the acquisition, construction, financing, and debt servicing of a regional facility to be located in the general vicinity of the Carter-Finley Stadium.

(b) Operation, Renovation, Maintenance, and Repair of Regional Facility. – During July of 1995, and each July thereafter, the City of Raleigh and Wake County shall each transfer to the Centennial Authority seven percent (7%) of the total undesignated proceeds distributed to it during the preceding fiscal year. The Centennial Authority shall use the funds transferred to it pursuant to this subsection only for enhancement of operating revenues of a regional facility and for planning, design, renovations, maintenance, and repairs to a regional facility.

"Sec. 15. Greater Raleigh Convention and Visitor Bureau.

- (1) When the board of county commissioners adopts a resolution levying the tax, the City of Raleigh shall take immediate action to adopt an ordinance establishing the Greater Raleigh Convention and Visitor Bureau. The Bureau shall be governed by a Board of Directors consisting of 12 members. This Bureau shall be the continuation of the existing Raleigh Convention and Visitor Bureau established pursuant to Chapter 850 of the Session Laws of 1985. At least three of the county's appointees shall reside in Raleigh and at least one of the county's appointees shall reside in Cary. The appointments shall be made as follows:
 - a. Five owners or operators of hotels, motels, or other taxable establishments, three of whom shall be elected by the Raleigh City Council and two of whom shall be elected by the Board of Commissioners of Wake County from a list of at least 10

nominees furnished by the Raleigh Hotel and Motel Association. The list of nominees shall include the names of at least three restaurant owners or operators.

- b. Two representatives of tourist or convention related businesses, one appointed by the Raleigh City Council and one by the Wake County Board of Commissioners.
- c. One member nominated by the Greater Raleigh Chamber of Commerce and appointed by the Wake County Board of Commissioners.
- d. Four at-large members, two appointed by the City of Raleigh and two appointed by Wake County.

Members shall serve according to the ordinances and regulations of the city concerning service on city boards and commissions, except that members appointed by Wake County shall serve according to the ordinances and regulations of Wake County concerning service on county boards and commissions.

- (2) Powers and Duties of Bureau. The Greater Raleigh Convention and Visitor Bureau may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions. The Bureau shall prepare an annual budget based on anticipated revenues and shall submit the budget to the Raleigh City Manager and Wake County Manager for processing and approval through the regular budget procedures of the city and the county. The Bureau shall make quarterly reports to the Raleigh City Council and the Wake County Board of Commissioners detailing its revenues, expenditures, and activities. The city or the county may audit the Bureau's financial records upon reasonable notice to the Bureau. At the end of each fiscal year, any funds of the Bureau not expended, or obligated or reserved as approved by the Raleigh City Council and the Wake County Board of Commissioners, shall be remitted equally to the City of Raleigh and Wake County for use in accordance with Section 10 of this act.

"Sec. 16. Penalties. ~~—A person, firm, corporation, or association who fails or refuses to file a return and pay the tax due under this Part shall pay a penalty of ten dollars (\$10.00) for each day's omission up to a maximum of two thousand dollars (\$2,000) for each return. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The Wake County Board of Commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this section. act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Wake County Board of Commissioners has the~~

same authority to waive the penalties for a tax levied under this act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

"Sec. 17. Authority to Contract. — Wake County and each municipality located in Wake 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~~section shall require an annual financial audit of any funds expended and a performance audit of contractual obligations.

"Sec. 18. Effect on existing taxes. —The levy of a tax pursuant to this act repeals the authority of the county or a unit of local government in Wake County to enact an occupancy tax under any other local act.

"Sec. 19. Repeal. —The taxes levied pursuant to this authority may be repealed by the county by enacting an ordinance of repeal. No such repeal shall be effective until at least 180 days after the passage of the repeal ordinance. Repeal of a tax levied under this act does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

"Sec. 20. This act is effective upon ratification."

Sec. 6. The provisions of this act are severable. If any provision of this act is declared invalid by a court, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application.

Sec. 7. G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter 160A of the General Statutes."

Sec. 8. G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. — No permit for the sale of malt beverages, unfortified wine, or fortified wine shall be issued to a business on the campus or property of a public school or ~~college~~college, other than at a regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes except for a public school or college function, unless that business is a hotel or a nonprofit alumni organization with a mixed beverages permit or a special occasion permit."

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives