

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-410
HOUSE BILL 418

AN ACT TO AUTHORIZE SCOTLAND COUNTY AND THE CITY OF MOUNT AIRY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX, TO MODIFY THE DISTRIBUTION OF THE AVERY COUNTY OCCUPANCY TAX, TO REQUIRE PAYMENT OF DELINQUENT TAXES FOR THE TOWNS OF NEWLAND AND SPRUCE PINE AND FOR THE COUNTY OF ALLEGHANY BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO THE DELINQUENT TAXES, AND TO VALIDATE BUDGET PROCEDURES OF THE TOWN OF NORWOOD IN STANLY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Mount Airy Occupancy Tax. (a) Authorization and scope. The Mount Airy Board of Commissioners may levy a room occupancy tax of up to three percent (3%) 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 city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations or by nonprofit summer camps when the accommodations are furnished in furtherance of their nonprofit purpose.

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 A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215.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

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

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed seven percent (7%) of the gross proceeds.
- (2) Promote travel and tourism. – Advertise and market activities, develop and distribute promotional materials, conduct market research, and engage in other similar promotional activities that attract tourists or business travelers to the area. The term also includes administration of the Mount Airy Tourism Development Authority.

Section 2. Mount Airy Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a Mount Airy Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The board of commissioners shall appoint the following eight members to the Authority:

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

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

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel and tourism in the Mount Airy area. In performing its duties, the Authority may contract with any person, firm, or agency to advise and assist it and may recommend to the board of commissioners that city staff be employed for this advice and assistance. Any city staff employed upon a recommendation of the Authority shall be hired and supervised by the Authority, which shall pay the salaries and expenses of this staff.

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

Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by ratified House Bill 859 and ratified Senate Bill 585, 1997 General Assembly, applies to the City of Mount Airy.

Section 4. Avery County Occupancy Tax. Section 1 of Chapter 472 of the 1993 Session Laws reads as rewritten:

"Section 1. Avery County Occupancy tax.

(a) Authorization and Scope.

The Avery County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp,

or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and is not subject to a room occupancy tax levied by a municipality. This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The occupancy tax rate payable on accommodations furnished within Avery County may not exceed six percent (6%).

(b) ~~Collection.~~ Administration.

A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

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

(c) ~~Administration.~~

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

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

(d) ~~Penalties.~~

~~A person, firm, corporation, or association who fails or refuses to file the return required by this section 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 board of commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(e) ~~Distribution and Use of Tax Revenue.~~

Avery County shall use at least shall, on a quarterly basis, distribute the net proceeds of the occupancy tax as follows: two-thirds to the Avery Tourism Development Authority created pursuant to Section 1.1 of this act and one-third to the Avery County Chamber of Commerce. The Tourism Development Authority shall use at least one-half of the proceeds distributed to it to promote travel and tourism and shall use the

remainder for tourism-related expenditures. The chamber of commerce shall use the proceeds distributed to it only to promote travel and tourism. ~~two-thirds of the net proceeds of the occupancy tax revenue to promote travel and tourism in Avery County and shall spend the remainder on tourism-related expenditures. The chamber of commerce shall comply with the same requirements for reporting and for submitting an annual budget for approval by the county commissioners as are established for the Avery Tourism Development Authority in Section 1.1 of this act. The Tourism Development Authority and the chamber of commerce may not spend any of the proceeds distributed to them under this section except in accordance with a proposed budget and work plan approved by the board of county commissioners as provided in Section 1.1 of this act.~~

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed seven percent (7%) of the amount collected.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in a county or to attract tourists or business travelers to the ~~county and expenditures incurred by the county in collecting the tax.~~ county. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the ~~board of commissioners,~~ entity making the expenditure, will facilitate and support tourism.

(f) ~~Effective Date of Levy.~~

~~A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

(g) ~~Repeal.~~

~~A tax levied under this section may be repealed by a resolution adopted by the Avery County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section 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."~~

Section 5. Avery Tourism Development Authority. Chapter 472 of the 1993 Session Laws is amended by adding a new section to read:

"Sec. 1.1. Avery Tourism Development Authority. (a) Appointment and membership. The board of commissioners of Avery County shall adopt a resolution

creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall have nine voting members appointed by the board of commissioners as follows:

- (1) Four individuals selected by the Avery County Lodging Association.
- (2) Two individuals selected by the Avery County Chamber of Commerce.
- (3) One member of the Avery County Board of Commissioners, to serve ex officio.
- (4) Two members of the public.

The resolution shall provide for four-year terms of office for the members other than the county commissioner, except that the initial terms of four members shall be set at three years to provide for staggered terms. The resolution shall also provide for the filling of vacancies on the Authority. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Avery County shall be the ex officio finance officer of the Authority and shall serve as an ex officio, nonvoting member of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel and tourism in the county and make tourism-related expenditures, as defined in Section 1 of this act.

(c) Annual Budget. On or before October 1, 1997, and by May 1 of each year thereafter, the Authority shall submit for approval by the board of commissioners a proposed budget and work plan for expenditure of the estimated tax revenues for the ensuing fiscal period. If the proposed budget is not approved, the Authority shall submit a revised proposed budget for approval. The Authority may not spend any of the proceeds distributed to it under Section 1 of this act except in accordance with a proposed budget and work plan approved by the board of county commissioners.

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

Section 6. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, and Section 3 of ratified House Bill 859, 1997 General Assembly, is further amended by adding the phrase "Avery," in its proper alphabetical order and by deleting the phrase "and Randolph" and substituting the phrase "Randolph, and Scotland".

Section 7. Section 1 of Chapter 305 of the 1963 Session Laws is rewritten to read:

"Section 1. The Register of Deeds of Avery County shall not receive for recordation any deed unless the following conditions are met:

- (1) The deed is accompanied by a certificate from the Avery County Tax Collector to the effect that all delinquent county taxes and all

delinquent taxes for municipalities for which the county collects taxes have been paid with respect to the property described in the deed.

- (2) If the property described in the deed is located in whole or in part in the Town of Newland, the deed is accompanied by a certificate from the tax collector for the town to the effect that all delinquent municipal taxes have been paid with respect to the property."

Section 8. Section 1 of Chapter 537 of the 1987 Session Laws is rewritten to read:

"Section 1. The Register of Deeds of Mitchell County shall not receive for recordation any deed unless the following conditions are met:

- (1) The deed is accompanied by a certificate from the Mitchell County Tax Collector to the effect that all delinquent county taxes and all delinquent taxes for municipalities for which the county collects taxes have been paid with respect to the property described in the deed.
- (2) If the property described in the deed is located in whole or in part in the Town of Spruce Pine, the deed is accompanied by a certificate from the tax collector for the town to the effect that all delinquent municipal taxes have been paid with respect to the property."

Section 9. Section 1 of Chapter 657 of the 1993 Session Laws reads as rewritten:

"Section 1. ~~The Register-Registers of Deeds of Ashe County-Alleghany and Ashe Counties~~ shall not receive for recordation any deed unless the deed is accompanied by a certificate from the ~~Ashe County~~ Tax Collector to the effect that all delinquent taxes upon the property described in the deed offered for recordation have been paid."

Section 10. For the 1986-87 through 1996-97 fiscal years, the Town of Norwood, through the budgetary procedures it adopted and followed, is deemed to have adopted a budget ordinance and to have complied with all the requirements of the Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes. Taxes levied and collected by the Town of Norwood for those fiscal years are in all respects validated and confirmed. Appropriations and expenditures by the Town of Norwood for those fiscal years are in all respects validated and confirmed.

Section 11. Scotland County occupancy tax. (a) Authorization and scope. The Scotland County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) 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 sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

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

(c) Distribution and use of tax revenue. Scotland County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Scotland Tourism Development

Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Scotland County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

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

Section 12. Scotland Tourism Development Authority. (a) Appointment and membership. When the Scotland County Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the members' qualifications and terms of office, and for the filling of vacancies on the Authority. The Authority shall be composed of seven members, five of whom must be currently active in the promotion of travel and tourism in the county and two of whom must be owners or operators of hotels, motels, or other taxable accommodations in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

(b) Duties. The Authority shall expend the net proceeds of the tax levied under Section 11 of this act for the purposes provided in Section 11 of this act. The Authority shall promote travel and tourism and make tourism-related expenditures.

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

Section 13. Sections 4, 5, and 6 of this act become effective September 1, 1997, and apply to taxes paid on or after that date. Sections 7, 8, and 9 of this act become effective October 1, 1997, and apply to deeds recorded on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of August, 1997.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives