

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**SESSION LAW 2005-197  
SENATE BILL 92**

AN ACT TO AUTHORIZE WATAUGA COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY AND TO INCREASE THE FORCE ACCOUNT LIMIT FOR WATAUGA COUNTY AND THE TOWN OF BOONE FOR DEVELOPMENT OF ANNE MARIE DRIVE PARK.

The General Assembly of North Carolina enacts:

**PART I. WATAUGA COUNTY DISTRICT U OCCUPANCY TAX.**

**SECTION 1.** Watauga County District U Created. – Watauga County District U is created as a taxing district. Its jurisdiction consists of that part of Watauga County that is located outside of incorporated areas within the county. Watauga County District U is a body politic and corporate and has the power to carry out the provisions of this act. The Watauga County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

**SECTION 2.** Authorization and Scope. – The governing body of Watauga County District U may 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 district 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 or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

**SECTION 3.** Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Watauga County District U were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

**SECTION 4.** Distribution and Use of Tax Revenue. – Watauga County District U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Watauga County District U Tourism Development Authority created pursuant to Section 5 of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina

Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Watauga County District U. None of the proceeds may be used to promote travel or tourism in areas within Watauga County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this act:

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

**SECTION 5.(a)** Watauga County District U Tourism Development Authority. – Appointment and Membership. – The Watauga County Board of Commissioners shall adopt a resolution creating the Watauga County District U Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the district. 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 Watauga County shall be the ex officio finance officer of the Authority.

**SECTION 5.(b)** Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 4 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

**SECTION 5.(c)** Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Watauga County 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.** G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Granville, Halifax, Madison, Montgomery, Nash, New Hanover, Pasquotank, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

**PART II. FORCE ACCOUNT LIMIT.**

**SECTION 7.** G.S. 143-135 reads as rewritten:

**"§ 143-135. Limitation of application of Article.**

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty five thousand dollars (\$125,000) or the total cost of labor on the project does not exceed fifty thousand dollars (\$50,000).~~ seven hundred fifty thousand dollars (\$750,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

**SECTION 8.** Section 7 of this act applies only to a joint project between Watauga County and the Town of Boone to develop Anne Marie Drive Park.

**SECTION 9.** Section 7 of this act applies to Watauga County and the Town of Boone only.

**PART III. EFFECTIVE DATE.**

**SECTION 10.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2005.

s/ Beverly E. Perdue  
President of the Senate

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