

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-169
HOUSE BILL 533**

AN ACT TO AUTHORIZE THE CITIES OF HICKORY AND CONOVER TO LEVY AN
ADDITIONAL ONE PERCENT ROOM OCCUPANCY AND TOURISM
DEVELOPMENT TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

HICKORY OCCUPANCY TAX

SECTION 1.(a) Occupancy Tax. – Authorization and Scope. – The City of Hickory may, by joint resolution with the City of Conover, levy a room occupancy and tourism development tax of not less than three percent (3%) nor more than five percent (5%) 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 when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Authorization for Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the City of Hickory may, by joint resolution with the City of Conover, levy an additional room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection must be in accordance with the provisions of this section. The City of Hickory may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

SECTION 1.(c) Administration. – Except as otherwise provided in this subsection, a tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215.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. The City of Hickory may not repeal the levy of the room occupancy tax levied by it if, before the effective date of the repeal, either Hickory or Conover has outstanding indebtedness under Article 4, 5, 8, or 9 of Chapter 159 of the General Statutes for the provision of a convention center facility. A repeal of a tax levied under this section must be made by joint resolution with the City of Conover.

SECTION 1.(d) Distribution and Use of Tax Revenue. – The City of Hickory shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Hickory-Conover Tourism Development Authority. The funds remitted under this subsection must be used as follows:

- (1) Through December 31, 2019. – Prior to and through December 31, 2019, the Authority may use two-thirds of the funds remitted to it under this subsection for improving, leasing, constructing, financing, operating, or acquiring facilities and properties as needed to provide for a convention center facility, including parking facilities for the convention center. The remainder of the funds must be used to promote travel and tourism. Debt



issued to finance these improvements or facilities and that is secured by occupancy tax proceeds remitted under this subdivision must mature on or before December 31, 2019.

- (2) After December 31, 2019. – After December 31, 2019, the Authority must use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the area and must use the remainder for tourism-related expenditures.

SECTION 1.(e) 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 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 proceeds 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 Hickory-Conover Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

SECTION 2.(a) Tourism Development Authority. – Appointment and Membership. – If the City of Hickory levies a tax under Section 1 of this act, being the Hickory Occupancy Tax, and the City of Conover has created a Tourism Development Authority pursuant to Section 4 of this act, being the Conover Occupancy Tax, then the proceeds of any tax levied under Section 1 of this act shall be remitted to that Authority in accordance with subsection (d) of Section 1 of this act.

If the City of Hickory levies a tax under Section 1 of this act, being the Hickory Occupancy Tax, and the City of Conover has not created a Tourism Development Authority pursuant to Section 4 of this act, being the Conover Occupancy Tax, then when the City Council of Hickory adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Hickory-Conover Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The membership of the Hickory-Conover Tourism Development Authority is as follows:

- (1) Three owners or operators of hotels, motels, or other taxable accommodations in the Cities of Hickory and Conover, two of whom shall be appointed by the Hickory City Council and one appointed by the Conover City Council.
- (2) Three individuals who have demonstrated an interest in convention and tourism development and do not own or operate hotels, motels, or other taxable tourism accommodations, one of whom shall be appointed by the Catawba County Chamber of Commerce, one appointed by the Hickory City Council, and one by the Conover City Council.
- (3) Three ex officio members shall be the City Managers of Hickory and Conover and the Executive Vice President of the Catawba County Chamber of Commerce.

All members of the Council shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for

which they are appointed to fill. Members shall serve three-year terms that will be staggered and may serve no more than two consecutive three-year terms. The members shall elect a chairperson and treasurer who shall serve for a term of two years.

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

SECTION 2.(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, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Hickory and Conover City Councils on its receipts and expenditures for the preceding quarter and for the year in such detail as the City Councils may require.

CONOVER OCCUPANCY TAX

SECTION 3.(a) Occupancy Tax. – Authorization and Scope. – The City of Conover may, by joint resolution with the City of Hickory, levy a room occupancy and tourism development tax of not less than three percent (3%) nor more than five percent (5%) 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 when furnished in furtherance of their nonprofit purpose.

SECTION 3.(b) Authorization for Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the City of Conover may, by joint resolution with the City of Hickory, levy an additional room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection must be in accordance with the provisions of this section. The City of Conover may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

SECTION 3.(c) Administration. – Except as otherwise provided in this subsection, 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. The City of Conover may not repeal the levy of the room occupancy tax levied by it, before the effective date of the repeal, either Hickory or Conover has outstanding indebtedness under Article 4, 5, 8, or 9 of Chapter 159 of the General Statutes for the provision of a convention center facility. A repeal of a tax levied under this section must be made by joint resolution with the City of Hickory.

SECTION 3.(d) Distribution and Use of Tax Revenue. – The City of Conover shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Hickory-Conover Tourism Development Authority. The funds remitted under this subsection must be used as follows:

- (1) Through December 31, 2019. – Prior to and through December 31, 2019, the Authority may use two-thirds of the funds remitted to it under this subsection for improving, leasing, constructing, financing, operating, or acquiring facilities and properties as needed to provide for a convention center facility, including parking facilities for the convention center. The remainder of the funds must be used to promote travel and tourism. Debt issued to finance these improvements or facilities and that is secured by

occupancy tax proceeds remitted under this subdivision must mature on or before December 31, 2019.

- (2) After December 31, 2019. – After December 31, 2019, the Authority must use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the area and must use the remainder for tourism-related expenditures.

SECTION 3.(e) 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 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 proceeds 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 Hickory-Conover Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

SECTION 4.(a) Tourism Development Authority. – Appointment and Membership. – If the City of Conover levies a tax under Section 3 of this act, being the Conover Occupancy Tax, and the City of Hickory has created a Tourism Development Authority pursuant to Section 2 of this act, being the Hickory Occupancy Tax, then the proceeds of any tax levied under Section 3 of this act shall be remitted to that Authority in accordance with subsection (d) of Section 3 of this act.

If the City of Conover levies a tax under Section 3 of this act, being the Conover Occupancy Tax, and the City of Hickory has not created a Tourism Development Authority pursuant to Section 2 of this act, being the Hickory Occupancy Tax, then when the City Council of Conover adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Hickory-Conover Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The membership of the Hickory-Conover Tourism Development Authority is as follows:

- (1) Three owners or operators of hotels, motels, or other taxable accommodations in the Cities of Hickory and Conover, two of whom shall be appointed by the Hickory City Council and one appointed by the Conover City Council.
- (2) Three individuals who have demonstrated an interest in convention and tourism development and do not own or operate hotels, motels, or other taxable tourism accommodations, one of whom shall be appointed by the Catawba County Chamber of Commerce, one appointed by the Hickory City Council, and one by the Conover City Council.
- (3) Three ex officio members shall be the City Managers of Hickory and Conover and the Executive Vice President of the Catawba County Chamber of Commerce.

All members of the Council shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms that will be staggered

and serve no more than two consecutive three-year terms. The members shall elect a chairperson and treasurer, who shall serve for a term of two years.

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

SECTION 4.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 3 of this act. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

SECTION 4.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Hickory and Conover City Councils on its receipts and expenditures for the preceding quarter and for the year in such detail as the City Councils may require.

ADMINISTRATIVE PROVISIONS

SECTION 5.(a) The following acts, or portions of acts, having been revised and consolidated into this act, are repealed:

- (1) Chapter 929 of the 1985 Session Laws, as it relates to the Cities of Hickory and Conover only.
- (2) Chapter 319 of the 1987 Session Laws.
- (3) Section 21(j) of S.L. 2007-527.

SECTION 5.(b) With respect to the City of Hickory, this section is effective upon the date the City of Hickory acts to levy a tax under Section 1 of this act. With respect to the City of Conover, this section is effective upon the date the City of Conover acts to levy a tax under Section 3 of this act.

SECTION 6. This act does not affect the rights or liabilities of a levying unit, a taxpayer, or another person arising under the laws revised and consolidated by this act before the effective date of this act; nor does it affect the right to any refund or credit of a tax that accrued under the laws revised and consolidated by this act before the effective date of this act.

SECTION 7. The purpose of this act is to revise and consolidate certain acts that authorize the Cities of Hickory and Conover to levy a room occupancy and tourism development tax, to clarify the authority of Hickory and Conover to levy a room occupancy tax by establishing separate authorizing provisions for each city, and to authorize each city to levy an additional one percent (1%) room occupancy tax. No provision of this act is intended, nor shall be construed, to affect in any way the authority of any other municipality authorized under the acts listed in Section 5 of this act to levy a room occupancy and tourism development tax.

SECTION 8. Administrative Provisions. – G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, ~~Elizabeth City~~, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Burgaw, Carolina Beach, Carrboro, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Leland, Mooresville, North Topsail Beach, Pilot Mountain, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

SECTION 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of June, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives