

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1981
Committee Substitute Favorable 6/23/94
Senate Finance Committee Substitute Adopted 6/30/94

Short Title: Pamlico Local Changes.

(Local)

Sponsors:

Referred to:

June 2, 1994

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE TOWN OF ORIENTAL TO LEVY A ROOM
2 OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO PROVIDE
3 THAT PAMLICO COUNTY MAY JOIN THE GLOBAL TRANSPARK
4 DEVELOPMENT ZONE.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Occupancy Tax.

8 (a) Authorization and Scope.

9 The Board of Commissioners of the Town of Oriental may by resolution,
10 after not less than 10 days' public notice and after a public hearing held pursuant
11 thereto, levy a room occupancy tax of not more than three percent (3%) of the gross
12 receipts derived from the rental of any room, lodging, or similar accommodation
13 furnished by a hotel, motel, inn, or similar place within the town that is subject to sales
14 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State
15 or local sales tax. This tax does not apply to accommodations furnished by nonprofit
16 charitable, educational, or religious organizations. If Pamlico County is authorized to
17 levy a room occupancy tax, the combined room occupancy tax rates for Pamlico County
18 and any city or town located in that county may not exceed six percent (6%).

19 (b) Collection.

20 Every operator of a business subject to the tax levied under this section shall,
21 on and after the effective date of the tax, collect the tax. This tax shall be collected as
22 part of the charge for furnishing a taxable accommodation. The tax shall be stated and

1 charged separately from the sales records, and shall be paid by the purchaser to the
2 operator of the business as trustee for and on account of the town. The tax shall be
3 added to the sales price and shall be passed on to the purchaser instead of being borne
4 by the operator of the business. The town shall design, print, and furnish to all
5 appropriate businesses and persons in the town the necessary forms for filing returns
6 and instructions to ensure the full collection of the tax. An operator of a business who
7 collects the occupancy tax levied under this act may deduct from the amount remitted to
8 the town a discount equal to the discount the State allows the operator for State sales
9 and use tax.

10 (c) Administration.

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

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

20 (d) Penalties.

21 A person, firm, corporation, or association who fails or refuses to file the
22 return required by this section is subject to the civil and criminal penalties set by G.S.
23 105-236 for failure to pay or file a return for State sales and use taxes. The Board of
24 Commissioners of the Town of Oriental has the same authority to waive the penalties
25 for a room occupancy tax that the Secretary of Revenue has to waive the penalties for
26 State sales and use taxes.

27 (e) Use of Tax Revenue.

28 At least one-fourth of the proceeds of a tax levied under this section shall be
29 used only to promote travel and tourism in the town. The remaining proceeds of the tax
30 shall be used only for tourism-related expenditures.

31 The term "promote travel and tourism" means to advertise or market an area
32 or activity, publish and distribute pamphlets and other materials, conduct market
33 research, host and conduct tours for travel industry representatives and travel writers, or
34 engage in similar promotional activities that attract tourists or business travelers to the
35 town; the term includes administrative expenses of the town incurred in engaging in the
36 listed activities. The term "tourism-related expenditures" means expenditures that are
37 designed to increase the use of lodging facilities in the town or attract tourists or
38 business travelers to the town and the costs of administering and collecting the tax; the
39 term includes expenditures to construct, maintain, or repair a visitors' center, a
40 convention facility, a museum, an historic attraction, or a publicly owned waterfront
41 structure, but does not include other capital expenditures.

42 (f) Effective Date of Levy.

43 A tax levied under this section shall become effective on the date specified in
44 the resolution levying the tax. That date must be the first day of a calendar month,

1 however, and may not be earlier than the first day of the second month after the date the
2 resolution is adopted.

3 (g) Repeal.

4 A tax levied under this section may be repealed by a resolution adopted by
5 the Board of Commissioners of the Town of Oriental. Repeal of a tax levied under this
6 section shall become effective on the first day of a month and may not become effective
7 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a
8 tax levied under this section does not affect a liability for a tax that was attached before
9 the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued
10 before the effective date of the repeal.

11 Sec. 2. G.S. 158-31 reads as rewritten:

12 **"§ 158-31. Purpose.**

13 The purpose of this Article is to allow the following counties, which have the
14 potential to derive direct economic benefits from the North Carolina Global TransPark,
15 to create a special economic development district, to be known as the Global TransPark
16 Development Zone: Carteret, Craven, Duplin, Edgecombe, Greene, Jones, Lenoir, Nash,
17 ~~New Hanover~~, Onslow, Pamlico, Pitt, Wayne, and Wilson.

18 The purpose of the Global TransPark Development Zone is to promote the
19 development of the North Carolina Global TransPark and to promote and encourage
20 economic development within the territorial jurisdiction of the Zone by fostering or
21 sponsoring development projects to provide land, buildings, facilities, programs,
22 information and data systems, and infrastructure requirements for business and industry
23 in the North Carolina Global TransPark outside of the Global TransPark Complex, and
24 elsewhere in the Zone."

25 Sec. 3. Article 4 of Chapter 158 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 158-33.1. Addition of counties to Zone.**

28 (a) Authority. – The Zone shall allow an eligible county to participate in the
29 Zone as provided in this section. A county is eligible to participate in the Zone under
30 this section if G.S. 158-31 authorizes the county to create the Zone, but the county
31 failed to adopt a resolution stating its intent to create the Zone by the October 1, 1993,
32 deadline set in G.S. 158-33(b).

33 (b) Application. – The governing body of an eligible county may apply to
34 participate in the Zone under this section by adopting a resolution to participate in the
35 Zone. The resolution must comply with all the requirements of G.S. 158-33(a) and (b)
36 except that it may be adopted at any time before October 1, 1994. After adopting the
37 resolution, the county shall file a certified copy of the resolution with the Global
38 TransPark Development Commission.

39 (c) Approval of Application. – Within one month after receipt of an application
40 to join the Zone pursuant to this section, the Commission shall meet to consider the
41 application. At the meeting, the Commission shall approve the application if all of the
42 following conditions are met:

43 (1) The applicant is an eligible county and has adopted a resolution that
44 complies with subsection (b) of this section.

1 (2) The applicant agrees to pay a fee equal to the initiation fee paid by
2 each of the counties that originally created the Zone.

3 (3) The applicant agrees to make monthly payments in lieu of taxes as
4 provided in subsection (f) of this section.

5 (d) Commission Resolution. – After the Commission votes to add a county to the
6 Zone, the Commission shall adopt a resolution that states its intent to add the county and
7 includes amended articles of incorporation for the Zone which set forth the name of the
8 county to be added to the Zone. The Commission shall file certified copies of this
9 resolution with the Secretary of State.

10 (e) Effect of Amendment. – If the Secretary of State finds that the resolution
11 conforms to the requirements of this Article, the Secretary of State shall file the
12 resolution, issue an amended certificate of incorporation for the Zone including the
13 additional county, and record the amended certificate of incorporation. The amended
14 certificate of incorporation for the Zone shall become effective on the first day of the
15 second month after it is issued. Upon the effective date of the amended certificate of
16 incorporation for the Zone, the new county becomes a fully participating member of the
17 Zone. If the Commission has levied a tax in the Zone pursuant to G.S. 158-42, that tax
18 applies within the new county beginning on the date the amended certificate of
19 incorporation becomes effective.

20 (f) Payments in Lieu of Taxes. – A county that participates in the Zone under
21 this section is required to make monthly payments in lieu of taxes to the Zone after the
22 expiration of the tax levied pursuant to G.S. 158-42. Each payment shall be equal to the
23 estimated net amount of tax that would have been collected in the county under G.S.
24 158-42 for that month if the tax were still in effect. Each payment is due within fifteen
25 days after the end of the month in which it accrues. The county is required to make
26 monthly payments for a period equal to the number of months that the county was not
27 participating in the Zone while the tax was levied under G.S. 158-42. The requirement
28 that a county make payments in lieu of taxes expires, however, on the effective date of a
29 withdrawal from the Zone by the county. For the purposes of this Article, payments in
30 lieu of taxes shall be considered proceeds of the tax levied in G.S. 158-42 collected in
31 the county making the payment."

32 Sec. 4. G.S. 158-42(d) reads as rewritten:

33 "(d) Administration. – The Division of Motor Vehicles of the Department of
34 Transportation shall collect and administer a tax levied under this section. Immediately
35 after adopting a resolution levying or repealing a tax under this section, the Commission
36 shall deliver a certified copy of the resolution to the Division of Motor Vehicles. If the
37 Secretary of State issues an amended certificate of incorporation adding a county to the
38 Zone pursuant to G.S. 158-33.1, the Commission shall deliver a certified copy of the
39 amended certificate immediately to the Division of Motor Vehicles. If the Commission
40 receives a resolution from a county withdrawing from the Zone pursuant to G.S. 158-41,
41 the Commission shall deliver a certified copy of the resolution immediately to the
42 Division of Motor Vehicles.

43 ~~The tax~~ A tax levied under this section is due at the same time and subject to the
44 same restrictions as the tax levied in G.S. 20-87 and G.S. 20-88. The tax shall be

1 prorated in accordance with G.S. 20-66 and G.S. 20-95, as applicable. The
2 Commissioner of Motor Vehicles may adopt rules necessary to administer the tax."

3 Sec. 5. (a) G.S. 20-97(a) reads as rewritten:

4 "(a) All taxes levied under the provisions of this Article are intended as
5 compensatory taxes for the use and privileges of the public highways of this State, and
6 shall be paid by the Commissioner to the State Treasurer, to be credited by him to the
7 State Highway Fund; and no county or municipality shall levy any license or privilege
8 tax upon any motor vehicle licensed by the State of North Carolina, except that cities
9 and towns may levy not more than five dollars (\$5.00) per year upon any vehicle
10 resident therein. In addition, Pamlico County may levy a license or privilege tax of five
11 dollars (\$5.00) per year upon any vehicle resident in the county. This tax may be levied
12 only for a period of one year. Pamlico County shall use the net proceeds of the tax to
13 make required payments in lieu of taxes to the Global TransPark Development Zone
14 pursuant to G.S. 158-33.1. Pamlico County may use the remainder of the tax proceeds
15 not needed for payments required pursuant to G.S. 158-33.1 for any public purpose.
16 Provided, further, that cities and towns may levy, in addition to the amounts
17 hereinabove provided for, a sum not to exceed fifteen dollars (\$15.00) per year upon
18 each vehicle operated in such city or town as a taxicab."

19 (b) This section applies only to Pamlico County.

20 Sec. 6. This act is effective upon ratification.