

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-36
SENATE BILL 1357**

**AN ACT TO MAKE CHANGES TO DURHAM COUNTY OCCUPANCY TAX
PROVISIONS.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 7(a) of S.L. 2001-480 reads as rewritten:

"SECTION 7.(a) If a plan for financing a Performing Arts Theater has not been approved by the Durham City Council and has been disapproved by the Durham County Commissioners within 42 months after the levy of the one percent (1%) tax authorized under Section 6(c) of this act, the county's authority to levy the one percent (1%) tax described under Section 6(c) of this act and the levy of the one percent (1%) tax described in this subsection are repealed on the first day of the second month following the 42-month period.

If construction on the Performing Arts Theater has not begun within 42 months after the levy of the one percent (1%) tax authorized under Section 6(c) of this act, the county's authority to levy the one percent (1%) tax described in Section 6(c) of this act and the levy of the one percent (1%) tax described in Section 6(c) of this act are repealed on the first day of the second month following the 42-month period.

It is the goal of the General Assembly that a plan for financing the Performing Arts Theater shall be adopted within 12 months after the levy of the one percent (1%) tax authorized under Section 6(c) of this act, and construction of the Performing Arts Theater shall begin within 24 months of the levy of the one percent (1%) tax described in Section 6(c) of this act.

Any funds collected but not spent before the repeal date shall be redistributed to the Durham ~~Tourism Development Authority~~Convention and Visitors Bureau to promote travel and tourism."

SECTION 2. Section 9(c) of S.L. 2001-480 reads as rewritten:

"SECTION 9.(c) Use of Proceeds From Additional Two Percent (2%) Tax. – Durham County shall, on a monthly basis, remit the net proceeds of the tax levied under Section 6(b) of this act to the Durham ~~Tourism Development Authority~~created by Convention and Visitors Bureau as set out in Section 10 of this act.

The ~~Authority~~Bureau may use the funds remitted to it under this subsection only to promote travel, tourism, and conventions in Durham County.

SECTION 3. Section 9(d) of S.L. 2001-480 reads as rewritten:

"SECTION 9.(d) Use of Proceeds From Additional One Percent (1%) Tax During First 24 Months. – Durham County shall, on a monthly basis, remit the net proceeds of the occupancy tax levied under Section 6(c) of this act to the Durham ~~Tourism Development Authority~~created by Convention and Visitors Bureau as set out in Section 10 of this act. During the first 24 months that the tax is levied under Section 6(c) of this act, the ~~Authority~~Bureau shall distribute and use these net proceeds in the following priority order:

- (1) To Durham County, up to the first two hundred thousand dollars (\$200,000) collected to fund the development of a Cultural Arts Master Plan.

- (2) The ~~Authority-Bureau~~ shall use the next seven hundred thousand dollars (\$700,000) collected to promote travel, tourism, and conventions in Durham County.
- (3) To the City of Durham, the next two hundred forty-eight thousand dollars (\$248,000) collected. The city shall use these funds for the design and engineering costs associated with the construction of a Performing Arts Theater.
- (4) To Durham County, the next four hundred thousand dollars (\$400,000) collected for improvements to the Museum of Life and Science. This may include the financing of debt service.
- (5) To Durham County, the next five hundred thousand dollars (\$500,000) collected. These funds shall be credited into an Arts Reserve Fund and used to implement the Cultural Arts Master Plan developed under subdivision (1) of this subsection.
- (6) The ~~Authority-Bureau~~ shall use any net proceeds collected in excess of two million forty-eight thousand dollars (\$2,048,000) to promote travel, tourism, and conventions in Durham County."

SECTION 4. Section 9(e) of S.L. 2001-480 reads as rewritten:

"SECTION 9.(e) Use of Proceeds From Additional One Percent (1%) Tax After First 24 Months. – The net proceeds of the tax collected under Section 6(c) of this act after the first 24 months that the tax is levied shall be remitted monthly to the Durham ~~Tourism Development Authority created by~~Convention and Visitors Bureau as set out in Section 10 of this act. The ~~Authority-Bureau~~ shall use and distribute these net proceeds in the following priority order:

- (1) To the City of Durham, the first one million four hundred thousand dollars (\$1,400,000) collected annually to finance the debt service associated with the construction of the Performing Arts Theater. Until those funds are distributed to the City of Durham for that purpose, they shall be held by the Durham ~~Tourism Development Authority~~Convention and Visitors Bureau in a capital reserve fund as provided by Part 2 of Article 3 of Chapter 159 of the General Statutes except they may be expended as provided by the last sentence of Section 7(a) of this act if the tax is repealed as provided by Section 7(a) of this act. Any interest earned by that fund shall be credited to the fund.
- (2) Thirty-two years after the levy of the tax authorized under Section 6(c) of this act, instead of the allocation under subdivision (1) of this subsection, the first one million four hundred thousand dollars (\$1,400,000) collected annually shall be used by the ~~Authority-Bureau~~ to promote travel and tourism or for tourism related expenditures.
- (3) To Durham County, the next five hundred thousand dollars (\$500,000) collected annually to be used for improvements to the Museum of Life and Science. This may include the financing of debt service. Any of these funds that are not needed for this purpose shall be returned to the ~~Authority-Bureau~~ and used to promote travel and tourism.
- (4) The ~~Authority-Bureau~~ shall use any net proceeds in excess of that provided by subdivisions (1), (2), and (3) of this subsection to promote travel, tourism, and conventions in Durham County.

As used in this subsection, "annually" means the 12-month period beginning after the first 24 months that the tax authorized under Section 6(c) of this act is levied."

SECTION 5. Section 9(f) of S.L. 2001-480 reads as rewritten:

"SECTION 9.(f) Definitions. – For the purpose of this Part:

- (1) "Promote travel and tourism" means to advertise or market an area or activity, to publish and distribute pamphlets and other materials, to conduct market research, and to engage in similar promotional

activities that attract tourists or business travelers to the area, and also includes administrative expenses incurred in engaging in these activities.

- (2) "Promote travel, tourism, and conventions" means to advertise or market an area or activity, to publish and distribute pamphlets and other materials, to conduct market research, and to engage in similar promotional activities that attract tourists, business travelers, or conventioners to the area, and also includes administrative expenses incurred in engaging in these activities.
- (3) "Tourism related expenditures" are those that, in the judgment of the Durham Tourism Development Authority, Convention and Visitors Bureau, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the county by attracting tourists or business travelers to the county, and includes capital expenditures related to that purpose."

SECTION 6. Section 10(a) of S.L. 2001-480 reads as rewritten:

"SECTION 10.(a) Establishment and Membership of the Durham Convention and Visitors Bureau as a Tourism Development Authority. – ~~There is created the Durham Tourism Development Authority, which shall be a The Durham Convention and Visitors Bureau, created on January 17, 1989, in an interlocal agreement between Durham County and the City of Durham to meet provisions of Chapter 969 of the 1985 Session Laws, shall act as a tourism development authority, which is a public authority under the Local Government Budget and Fiscal Control Act.~~"

SECTION 7. Section 10(b) of S.L. 2001-480 reads as rewritten:

"SECTION 10.(b) ~~From March 1, 2002, through June 30, 2004, the~~The members of the board of directors of the Durham Convention and Visitors Bureau and the members of the advisory board of the Durham Convention and Visitors Bureau shall together be ~~ex officio~~the board of directors of the Authority-Durham Convention and Visitors Bureau. The transition to a board membership which meets the criteria established in Section 10.(c) of this act shall be completed prior to July 1, 2004."

SECTION 8. Section 10(c) of S.L. 2001-480 reads as rewritten:

"SECTION 10.(c) ~~Beginning July 1, 2004, the~~The membership of the Durham Tourism Development Authorityboard of directors of the Durham Convention and Visitors Bureau shall be as specified in an interlocal cooperation agreement between Durham County and the City of Durham. The agreement shall provide for the number of members, terms of office, who shall appoint the membership, and such other provisions as may reasonably be necessary. The interlocal agreement ~~must be entered into prior to May 1, 2002, but may thereafter~~ be amended as provided by its terms.

At least three-fourths of the membership of the Durham Tourism Development Authority-Durham Convention and Visitors Bureau must be, at the time of appointment, active in the promotion of travel, tourism, or conventions in Durham County. One-third of the membership must be affiliated with organizations that collect the tax imposed by Section 6 of this act. If the interlocal cooperation agreement is terminated, the directors of the Durham Convention and Visitors Bureau shall continue to serve until the appointment of their successors pursuant to further action by the City of Durham and the County of Durham or by the General Assembly."

SECTION 9. Section 10(d) of S.L. 2001-480 reads as rewritten:

"SECTION 10.(d) Duties. – The Authority-Durham Convention and Visitors Bureau shall expend the net proceeds of the taxes levied under Section 6 of this act only for the purposes provided in this act. The Authority-Bureau shall promote travel, tourism, and conventions in the county."

SECTION 10. Section 10(e) of S.L. 2001-480 reads as rewritten:

"SECTION 10.(e) Reports. – ~~The Authority shall report quarterly and at the close of the fiscal year to the 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. Durham Convention and Visitors Bureau shall file a copy of its audit report with the Durham County Board of Commissioners and the Durham City Council following the close of each fiscal year."

SECTION 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of July, 2002.

s/ Beverly E. Perdue
President of the Senate

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