

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1316

Short Title: N.C. Travel and Tourism Investment Act. (Public)

Sponsors: Representatives Earle, Miner, McComas (Primary Sponsors); B. Allen, G. Allen, Bell, Brubaker, Carney, Clary, Cole, Crawford, England, Gibson, Glazier, Haire, Hall, Harrell, Hunter, Lucas, McLawhorn, Nye, Rapp, Saunders, Sherrill, Sutton, Tolson, Wainwright, Warner, Warren, and A. Williams.

Referred to: Finance.

May 15, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A TRAVEL AND TOURISM CAPITAL INVESTMENT
3 PROGRAM.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part 2 of Article 10 of Chapter 143B of the General Statutes is
6 amended by adding a new section to read:

7 "**§ 143B-434.4. Travel and Tourism Capital Investment Program.**

8 (a) Program Established. – The Travel and Tourism Capital Investment Program
9 is established in the Department of Commerce. Under the program, the Travel and
10 Tourism Grant Committee established in subsection (d) of this section may award grants
11 to the owners of qualified projects for the purpose of inducing the creation of new or the
12 expansion or renovation of existing travel and tourism projects. Grant proceeds may not
13 be distributed to any private individual or entity. The Committee shall develop
14 guidelines to be used in determining whether the conditions in this section are satisfied
15 and whether the project described in the application is consistent with the program.

16 (b) Owner. – For the purpose of the Travel and Tourism Capital Investment
17 Program, the owner of a qualified project is the unit of local government that will own
18 the qualified project in whole or in partnership with a private individual or entity. If the
19 qualified project is located in an enterprise tier one, two, or three area, then the local
20 government must own at least twenty-five percent (25%) of the qualified project. If the
21 qualified project is located in an enterprise tier four or five area, then the local
22 government must own at least fifty percent (50%) of the qualified project.

23 (c) Unit of Local Government Defined. – For the purpose of the Travel and
24 Tourism Capital Investment Program, a unit of local government means a county or
25 municipality in the State.

1 (d) Committee. – The Travel and Tourism Grant Committee shall consist of the
2 Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State
3 Budget and Management, the Chair of the North Carolina Travel and Tourism Board,
4 and three elected local government officials. One elected local government official shall
5 represent the Piedmont and shall be appointed by the General Assembly upon the
6 recommendation of the Speaker of the House of Representatives. One elected local
7 government official shall represent the Mountains and shall be appointed by the
8 Governor. One elected local government official shall represent the Coastal Plain and
9 shall be appointed by the General Assembly upon the recommendation of the President
10 Pro Tempore of the Senate. The elected local government officials may not be
11 associated with or employed by the travel and tourism industry or an entertainment
12 enterprise or be in any contractual relationship regarding the qualified project. The
13 appointed members shall serve two-year terms. The Committee may act only upon a
14 majority vote of its members.

15 It is unlawful for a member of the Committee to provide, during or within two years
16 after the end of service on the Committee, services for compensation, as an employee,
17 consultant, or otherwise, to any project that was awarded a grant under this section
18 while the former member was serving on the Committee or to provide services for
19 compensation to any person or entity that contracts with the project. Violation of this
20 subsection is a Class 1 misdemeanor.

21 Meetings of the Committee are subject to the open meetings requirements of Article
22 33C of Chapter 143 of the General Statutes. All documents of the Committee, including
23 applications for grants, are public records governed by Chapter 132 of the General
24 Statutes, including applicable provisions of the General Statutes protecting confidential
25 information.

26 (e) Application and Fee. – The owner of a qualified project may apply for a grant
27 no later than one year after the qualified project is opened to the public. When filing an
28 application under this section, the applicant must pay the Committee a fee of five
29 thousand dollars (\$5,000). The fee is due at the time the application is filed. The
30 Committee shall determine the allocation of the fee imposed by this subsection among
31 the agencies whose heads are ex officio members of the Committee. The proceeds of the
32 fee are receipts of the agency to which they are credited.

33 The application must contain all information required by the Committee, including a
34 certification of the nature and cost of the tourism project, the estimated revenues to be
35 generated by the project, the estimated economic benefit to the community, and the
36 purposes for which the applicant will use the grant funds. If the tourism project is the
37 result of a public-private partnership, the grant application must set forth in detail the
38 respective rights and obligations of the parties and the specific terms of the agreement.
39 The application must be signed by the finance officer and the chair of the governing
40 body of the owner.

41 (f) Qualification. – A qualified project is a newly created travel and tourism
42 project or expansion or renovation of a travel and tourism project that the Committee
43 determines, pursuant to a feasibility study under this section, meets all of the following
44 conditions:

- 1 (1) At least twenty-five percent (25%) of the project will be financed and
 2 owned by a unit of local government in which it is located if the
 3 project is located in an enterprise tier one, two, or three area. At least
 4 fifty percent (50%) of the project will be financed and owned by a unit
 5 of local government in which it is located if the project is located in an
 6 enterprise tier four or five area.
- 7 (2) A project located in an enterprise tier one, two, or three area will target
 8 at least twenty-five percent (25%) of its visitors from among persons
 9 who reside outside the State or more than 50 miles from the project. A
 10 project located in an enterprise tier four or five area will target at least
 11 thirty-five percent (35%) of its visitors from among persons who
 12 reside outside the State or more than 50 miles from the project.
- 13 (3) The project has a business plan that demonstrates a positive economic
 14 impact on the community in which the project is located.
- 15 (4) The applicant has provided impact projections regarding estimated
 16 State and local tax revenues with respect to the project.
- 17 (5) The project will have a significant and positive economic impact on
 18 the community in which the project is located, considering among
 19 other factors the extent to which the tourism project will compete
 20 directly with existing tourism attractions in the area and the amount by
 21 which tax revenues from the tourism project will exceed the amount of
 22 the grant provided.
- 23 (6) The applicant has provided a cost-benefit analysis of the project.
- 24 (7) The applicant has provided an economic impact analysis, certified by a
 25 certified public accountant, which demonstrates the employment, gross
 26 State product, and personal income effects of the project over a
 27 10-year period.
- 28 (8) The project will be available to the public for a minimum of 100 days
 29 per year.
- 30 (9) The project will generate at least 10 new jobs in the community in
 31 which the project is located.
- 32 (10) The project will have the following minimum cost based on the
 33 enterprise tier in which it is located:
- 34 **Enterprise Tier** **Minimum Cost**
- 35 1 and 2 \$ 500,000
- 36 3 \$ 2,000,000
- 37 4 \$ 5,000,000
- 38 5 \$ 10,000,000
- 39 (11) The governing body of the unit of local government has passed a
 40 resolution stating the need for the project and the positive economic
 41 impact and enhancement of travel and tourism revenues from the
 42 project.
- 43 (12) The applicant has demonstrated by clear and convincing evidence the
 44 following:

1 a. The project will not result in unnecessary duplication of
 2 existing services.

3 b. The project will generate new visitors to the area rather than
 4 drawing visitors away from other existing tourism attractions.

5 (g) Feasibility Study. – The applicant must fund a feasibility study certified by a
 6 certified public accountant and coordinated solely by the Committee. The Committee
 7 shall develop a list of qualified firms to conduct the study. The Committee shall
 8 prescribe the scope of the study to cover all of the qualifications established in this
 9 section.

10 (h) Amount. – Subject to the maximums provided in this section, the amount of a
 11 grant with respect to a qualified project is calculated as a percentage of the total amount
 12 of the following taxes collected and retained by the State each year:

13 (1) The net State sales tax collected on sales by or within the qualified
 14 project, as determined by the Department of Revenue.

15 (2) The net privilege tax paid by the qualified project under G.S. 105-37.1,
 16 as determined by the Department of Revenue.

17 (i) Maximums. – The maximum term of a grant is 10 years. No project may
 18 receive any grant proceeds for a year that is more than 10 years beyond the date of the
 19 initial grant award.

20 The Committee shall set the grant percentage at the time it awards the grant. The
 21 percentage used to calculate a grant may not exceed the applicable percentage provided
 22 in the table below based on the enterprise tier, as defined in G.S. 105-129.3, in which
 23 the qualified project is located. In addition, the cumulative maximum amount of a grant
 24 may not exceed the applicable percentage of the total project cost provided in the table
 25 below based on the enterprise tier in which the qualified project is located.

<u>Enterprise Tier</u>	<u>Percentage</u>
<u>1 and 2</u>	<u>40</u>
<u>3 and 4</u>	<u>30</u>
<u>5</u>	<u>25</u>

30 (j) Use. – The proceeds of a grant may be used only for capital costs, including
 31 debt service, with respect to the qualified project for which the grant was awarded.

32 (k) Disbursement. – In order to receive grant disbursements under this section,
 33 the owner of the qualified project must provide the Department of Revenue with
 34 periodic, verified accountings of the tax collections provided in subsection (h) of this
 35 section. These reports must be made at the times and in the form prescribed by the
 36 Department of Revenue. Each report must include the name, address, and tax
 37 identification number of every taxpayer whose collections are included in the report and
 38 any other information required by the Department of Revenue.

39 The Department of Revenue must disburse grants awarded under this section in
 40 accordance with G.S. 105-269.16. Upon awarding a grant under this section, the
 41 Committee must provide the following information to the Department of Revenue:

42 (1) The name, address, and other identifying information of the owner to
 43 whom the grant was awarded.

- 1 (2) The name and address of any lessee or individual or entity who has
2 entered into a contract with the owner of the qualified project.
3 (3) The address and other identifying information of each facility that is
4 part of the qualified project for which the grant was awarded.
5 (4) The applicable percentage and the maximum cumulative amount of the
6 grant as determined in accordance with this section.
7 (5) Any other information included in the application, if required by the
8 Department of Revenue.

9 (1) Reports. – The Committee must report annually to the Revenue Laws Study
10 Committee concerning the applications made for grants, the grants awarded under this
11 section, and the division and use of the fee collected by the Committee under this
12 section.

13 (m) Cap. – The maximum number of projects that may be awarded grants each
14 fiscal year is 15. No more than twenty million dollars (\$20,000,000) in grants shall be
15 awarded each fiscal year. For the purpose of this maximum, the amount awarded is
16 calculated as the cumulative maximum amount of the grant divided by the number of
17 years in its term."

18 **SECTION 2.** Article 9 of Chapter 105 of the General Statutes is amended by
19 adding a new section to read:

20 "**§ 105-269.16. Travel and tourism grants.**

21 The Department must annually disburse the travel and tourism grants awarded under
22 G.S. 143B-434.4. Each annual disbursement must be made by October 1 for the
23 preceding fiscal year. The amount of each grant must be calculated in accordance with
24 G.S. 143B-434.4 based on information provided to the Department by the owner of the
25 qualified project. If information necessary to calculate a portion of a grant is not
26 available, the Department must disburse only that portion for which information is
27 available. To pay for this program, the Department must draw from State sales and use
28 tax collections under Article 5 of this Chapter an amount equal to the grant funds
29 disbursed and the Department's costs of administering the grants. The Department must
30 provide the Committee an annual accounting of grant funds disbursed under this
31 section."

32 **SECTION 3.** G.S. 150B-1(d) is amended by adding a new subdivision to
33 read:

34 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to
35 the following:

36 ...

- 37 (12) The Travel and Tourism Grant Committee in developing guidelines for
38 the Travel and Tourism Capital Investment Program under G.S.
39 143B-434.4 of the General Statutes."

40 **SECTION 4.** This act becomes effective January 1, 2004, and expires for
41 grant applications filed on or after July 1, 2006.