

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 96
PROPOSED COMMITTEE SUBSTITUTE H96-PCS50364-SVx-13

Short Title: Addl. Alleghany/Jackson OT.

(Local)

Sponsors:

Referred to:

February 16, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ALLEGHANY AND JACKSON COUNTIES TO LEVY AN
ADDITIONAL THREE PERCENT ROOM OCCUPANCY AND TOURISM
DEVELOPMENT TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

PART I: ALLEGHANY COUNTY OCCUPANCY TAX

SECTION 1. Chapter 162 of the 1991 Session Laws, as amended by S.L.
2004-106, reads as rewritten:

"**Section 1.** Occupancy tax. (a) ~~Authorization and scope.~~ Scope. – The Alleghany County Board of Commissioners may levy a room occupancy tax of three percent (3%) 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 county 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 a summer camp for minors, or by a nonprofit charitable, educational, or religious organization.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Alleghany County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) 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 shall be in accordance with the provisions of this section. Alleghany County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Repealed.

(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

(d) Repealed.

(e) ~~Distribution and use of tax revenue.~~ Use of Tax Revenue. – Except as otherwise provided in this act, Alleghany County shall, on a quarterly basis, remit one hundred percent (100%) of the net proceeds of the occupancy tax to the Alleghany County Chamber of Commerce. The chamber of commerce shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Alleghany County and shall use the remainder for tourism-related expenditures. The chamber of commerce shall report quarterly and at the close of the fiscal year to the Alleghany County Board of Commissioners on its



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1 receipts and expenditures for the preceding quarter and for the year in such detail as the board
2 may require.

3 When the Alleghany County Board of Commissioners adopts a resolution levying a room
4 occupancy tax under subsection (a1) of this act, the resolution shall require that the county
5 remit, on a quarterly basis, one hundred percent (100%) of the net proceeds of the occupancy
6 tax levied under this act to the Alleghany Tourism Development Authority. The Authority shall
7 use at least two-thirds of the funds remitted to it under this subsection to promote travel and
8 tourism in Alleghany County and shall use the remainder for tourism-related expenditures.

9 The following definitions apply in this subsection:

- 10 (1) Net proceeds. – Gross proceeds less the cost to the county of administering
11 and collecting the tax, as determined by the finance officer, not to exceed
12 three percent (3%) of the first five hundred thousand dollars (\$500,000) of
13 gross proceeds collected each year and one percent (1%) of the remaining
14 gross receipts collected each year.
- 15 (2) Promote travel and tourism. – To advertise or market an area or activity,
16 publish and distribute pamphlets and other materials, conduct market
17 research, or engage in similar promotional activities that attract tourists or
18 business travelers to the area. The term includes administrative expenses
19 incurred in engaging in the listed activities.
- 20 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
21 entity responsible for expending the net proceeds of the tax, are designed to
22 increase the use of lodging facilities, meeting facilities, or convention
23 facilities in a county or to attract tourists or business travelers to the county.
24 The term includes tourism-related capital expenditures.

25 (f) Repealed.

26 (g) Repealed.

27 "**Sec. 1.1.** Alleghany Tourism Development Authority. – (a) Appointment and
28 Membership. – When the ~~annual net proceeds of the occupancy tax exceed one hundred~~
29 ~~thousand dollars (\$100,000), the Alleghany Board of Commissioners adopts a resolution~~
30 levying a room occupancy tax under subsection (a1) of this section, it shall adopt a resolution
31 creating a county Tourism Development Authority, which shall be a public authority under the
32 Local Government Budget and Fiscal Control Act. The resolution shall provide for the
33 membership of the Authority, including the members' terms of office, and for the filing of
34 vacancies on the Authority. At least ~~one-third~~ one-third of the members must be individuals
35 who are affiliated with businesses that collect the tax in the county, and at least ~~three-fourths~~
36 one-half of the members must be individuals who are currently active in the promotion of travel
37 and tourism in the county. The board of commissioners shall designate one member of the
38 Authority as chair and shall determine the compensation, if any, to be paid to the members of
39 the Authority.

40 The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern
41 its meetings. The Finance Officer for Alleghany County shall be the ex officio finance officer
42 of the Authority.

43 "**Sec. 1.2.** Duties. – If the board of commissioners establishes a Tourism Development
44 Authority as provided in Section 1.1 of this act, then the Authority shall expend the net
45 proceeds of the tax levied under this Act for the purposes provided in this Act. The Authority
46 shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and
47 activities in the county, and finance tourist-related capital projects in the county.

48 "**Sec. 1.3.** Reports. – If the board of commissioners establishes a Tourism Development
49 Authority as provided in Section 1.1 of this act, then the Authority shall report quarterly and at
50 the close of the fiscal year to the Alleghany County Board of Commissioners on its receipts and
51 expenditures for the preceding quarter and for the year in such detail as the board may require.

1 "Sec. 2. This act is effective upon ratification."

2 **PART II: JACKSON COUNTY OCCUPANCY TAX**

3 **SECTION 2.1.** Chapter 969 of the 1985 Session Laws, as amended by Chapters
4 118 and 195 of the 1987 Session Laws and Section 21(k) of S.L. 2007-527, and only as it
5 applies to Jackson County, is rewritten and recodified as Part II of this act. Part II of this act
6 does not affect the rights or liabilities of the county, a taxpayer, or another person arising under
7 the law rewritten and recodified by this Part before the effective date of this Part, nor does it
8 affect the right to any refund or credit of a tax that accrued under the law rewritten and
9 recodified by this Part before the effective date of this Part.

10 **SECTION 2.2.** Occupancy tax. – (a) Authorization and Scope. – The Jackson
11 County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the
12 gross receipts derived from the rental of any room, lodging, or accommodation furnished by a
13 hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax
14 imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local
15 sales tax. This tax does not apply to accommodations furnished by nonprofit charitable,
16 educational, or religious organizations when furnished in furtherance of their nonprofit
17 purpose.

18 (a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection
19 (a) of this section, the Jackson County Board of Commissioners may levy an additional room
20 occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of
21 accommodations taxable under subsection (a) of this section. The levy, collection,
22 administration, and repeal of the tax authorized by this subsection shall be in accordance with
23 the provisions of this section. Jackson County may not levy a tax under this subsection unless it
24 also levies the tax authorized under subsection (a) of this section.

25 **SECTION 2.2.(b)** Administration. – A tax levied under this Part shall be levied,
26 administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in
27 G.S. 153A-155 apply to a tax levied under this Part.

28 **SECTION 2.2.(c)** Definitions. – The following definitions apply in this Part:

- 29 (1) Net proceeds. – Gross proceeds less the cost to the county of administering
30 and collecting the tax, as determined by the finance officer, not to exceed
31 three percent (3%) of the first five hundred thousand dollars (\$500,000) of
32 gross proceeds collected each year and one percent (1%) of the remaining
33 gross proceeds collected each year.
- 34 (2) Promote travel and tourism. – To advertise or market an area or activity,
35 publish and distribute pamphlets and other materials, conduct market
36 research, or engage in similar promotional activities that attract tourists or
37 business travelers to the area. The term includes administrative expenses
38 incurred in engaging in the listed activities.
- 39 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
40 Jackson County Tourism Development Authority, are designed to increase
41 the use of lodging facilities, meeting facilities, or convention facilities in the
42 county or to attract tourists or business travelers to the county. The term
43 includes tourism-related capital expenditures.

44 **SECTION 2.2.(d)** Distribution and Use of Tax Revenue. – Jackson County shall,
45 on a quarterly basis, remit the net proceeds of the occupancy tax levied under this Part to the
46 Jackson County Tourism Development Authority. The Authority shall use at least two-thirds
47 of the funds remitted to it under this subsection to promote travel and tourism in Jackson
48 County and shall use the remainder for tourism-related expenditures.

49 **SECTION 2.3.** Tourism Development Authority. – (a) Appointment and
50 Membership. – When the Board of Commissioners adopts a resolution levying a room
51 occupancy tax under this Part, it shall also adopt a resolution creating the Jackson County

1 Tourism Development Authority, which shall be a public authority under the Local
2 Government Budget and Fiscal Control Act. The resolution adopted by the Board of
3 Commissioners shall provide for the membership of the Authority, including the members'
4 terms of office, and for the filling of vacancies on the Authority. At least one-third of the
5 members shall be individuals who are affiliated with businesses that collect the tax in the
6 county, and at least one-half of the members shall be individuals who are currently active in the
7 promotion of travel and tourism in the county. The Board of Commissioners shall designate
8 one member of the Authority as chair and shall determine the compensation, if any, to be paid
9 to members of the Authority.

10 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
11 govern its meetings. The Finance Officer for Jackson County shall be the ex officio finance
12 officer of the Authority.

13 **SECTION 2.3.(b) Duties.** – The Authority shall expend the net proceeds of the tax
14 levied under this Part for the purposes provided in Section 2.2 of this Part. The Authority shall
15 promote travel, tourism, and conventions in the county, sponsor tourist-related events and
16 activities in the county, and finance tourist-related capital projects in the county.

17 **SECTION 2.3.(c) Reports.** – The Authority shall report quarterly and at the close
18 of the fiscal year to the Jackson County Board of Commissioners on its receipts and
19 expenditures for the preceding quarter and for the year in such detail as the Board of
20 Commissioners may require.

21 **SECTION 2.4.** Section 3 of Chapter 969 of the 1985 Session Laws reads as
22 rewritten:

23 "Sec. 3. This act applies only to the following counties: Graham, Clay, ~~Jackson~~, Durham,
24 Macon, Polk, and Transylvania."

25 **SECTION 2.5.** Section 3 of Chapter 118 of the 1987 Session Laws reads as
26 rewritten:

27 "Sec. 3. This act applies only to the following counties: Clay, Graham, ~~Jackson~~, and
28 Macon."

29 **SECTION 2.6.** Section 2 of Chapter 195 of the 1987 Session Laws reads as
30 rewritten:

31 "Sec. 2. This act applies only to the following counties: Clay, Graham, ~~Jackson~~, and
32 Macon."

33 **PART III: ADMINISTRATION AND EFFECTIVE DATE**

34 **SECTION 3.** G.S. 153A-155(g) reads as rewritten:

35 "(g) Applicability. – Subsection (c) of this section applies to all counties and county
36 districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of
37 a local act, subsection (c) supersedes that provision. The remainder of this section applies only
38 to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell,
39 Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin,
40 Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Jackson, Madison, Martin,
41 McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton,
42 Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan,
43 Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson
44 Counties, to Surry County District S, to Watauga County District U, to Wilkes County District
45 K, to Yadkin County District Y, and to the Township of Averagesboro in Harnett County and the
46 Ocracoke Township Taxing District."

47 **SECTION 4.** This act is effective when it becomes law.