

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 233
Feb 28, 2023
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40114-NIxf-58

Short Title: Avery County Occupancy Tax Modification. (Local)

Sponsors: Representative Greene.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX
3 DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY.
4 The General Assembly of North Carolina enacts:

5
6 **AVERY COUNTY OCCUPANCY TAX AUTHORIZATION**

7 **SECTION 1.(a)** Avery County District A Created. – Avery County District A is
8 created as a taxing district. Its jurisdiction consists of that part of Avery County that is located
9 outside of incorporated areas within the county. Avery County District A is a body politic and
10 corporate and has the power to carry out the provisions of this act. The Avery County Board of
11 Commissioners shall serve ex officio as the governing body of the district, and the officers of the
12 county shall serve as the officers of the governing body of the district. A simple majority of the
13 governing body constitutes a quorum, and approval by a majority of those present is sufficient to
14 determine any matter before the governing body if a quorum is present.

15 **SECTION 1.(b)** Authorization and Scope. – The governing body of Avery County
16 District A may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived
17 from the rental of an accommodation within the district that is subject to sales tax imposed by
18 the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

19 **SECTION 1.(c)** Administration. – A tax levied under this act shall be levied,
20 administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County District
21 A were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this
22 section.

23 **SECTION 1.(d)** Distribution and Use of Tax Revenue. – Avery County District A
24 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Avery County
25 District A Tourism Development Authority created pursuant to this act. The Authority shall use
26 at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district
27 and shall use the remainder for tourism-related expenditures in the district. In accordance with
28 the North Carolina Constitution and the United States Constitution, the tax proceeds may be used
29 only for the direct benefit of the jurisdiction of Avery County District A. None of the proceeds
30 may be used to promote travel or tourism in areas within Avery County that are outside of the
31 district or for tourism-related expenditures in the county that are outside of the district.

32 The following definitions apply in this act:

- 33 (1) Net proceeds. – Gross proceeds less the cost to the district of administering
34 and collecting the tax, as determined by the finance officer, not to exceed three
35 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross



1 proceeds collected each year and one percent (1%) of the remaining gross
 2 receipts collected each year.

3 (2) Promote travel and tourism. – To advertise or market an area or activity,
 4 publish and distribute pamphlets and other materials, conduct market research,
 5 or engage in similar promotional activities that attract tourists or business
 6 travelers to the area. The term includes administrative expenses incurred in
 7 engaging in the listed activities.

8 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
 9 Tourism Development Authority, are designed to increase the use of lodging
 10 facilities, meeting facilities, or convention facilities in a district or to attract
 11 tourists or business travelers to the district. The term includes tourism-related
 12 capital expenditures.

13
 14 **AVERY COUNTY DISTRICT A TOURISM DEVELOPMENT AUTHORITY**

15 **SECTION 2.(a)** Appointment and Membership. – When the governing body of Avery
 16 County District A adopts a resolution levying a room occupancy tax under this act, it shall also
 17 adopt a resolution creating the Avery County District A Tourism Development Authority, which
 18 shall be a public authority under the Local Government Budget and Fiscal Control Act. The
 19 resolution shall provide for the membership of the Authority, including the members' terms of
 20 office, and for the filling of vacancies on the Authority. At least one-third of the members must
 21 be individuals who are affiliated with businesses that collect the tax in the district, and at least
 22 one-half of the members must be individuals who are currently active in the promotion of travel
 23 and tourism in the district. The board of commissioners shall designate one member of the
 24 Authority as chair and shall determine the compensation, if any, to be paid to members of the
 25 Authority.

26 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
 27 govern its meetings. The Finance Officer for Avery County shall be the ex officio finance officer
 28 of the Authority.

29 **SECTION 2.(b)** Duties. – The Authority shall expend the net proceeds of the tax
 30 levied under this act for the purposes provided in this act. The Authority shall promote travel and
 31 tourism in the district and make tourism-related expenditures in the district.

32 **SECTION 2.(c)** Reports. – The Authority shall report quarterly and at the close of
 33 the fiscal year to the Avery County Board of Commissioners on its receipts and expenditures for
 34 the preceding quarter and for the year in such detail as the board may require.

35
 36 **ADMINISTRATIVE PROVISIONS**

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

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

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