

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 1019
PROPOSED COMMITTEE SUBSTITUTE H1019-PCS10568-BAxfr-39

Short Title: McDowell/Caswell/Pender Occupancy Tax Mods.

(Local)

Sponsors:

Referred to:

May 6, 2024

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MCDOWELL COUNTY TO LEVY AN ADDITIONAL ONE PERCENT ROOM OCCUPANCY TAX AND MAKE OTHER ADMINISTRATIVE CHANGES, TO AUTHORIZE CASWELL COUNTY TO LEVY A ROOM OCCUPANCY TAX OF UP TO THREE PERCENT IN A TAX DISTRICT COMPRISING ALL AREAS OF THE COUNTY EXCLUSIVE OF THE TOWN OF YANCEYVILLE, AND TO AUTHORIZE PENDER COUNTY TO LEVY A ROOM OCCUPANCY TAX OF UP TO THREE PERCENT IN A TAX DISTRICT COMPRISING ALL AREAS OF THE COUNTY EXCLUSIVE OF THE TOWNS OF BURGAW, SURF CITY, AND TOPSAIL BEACH.

The General Assembly of North Carolina enacts:

PART I. MCDOWELL COUNTY OCCUPANCY TAX

SECTION 1.1. Chapter 892 of the 1985 Session Laws, as amended by S.L. 2007-315, reads as rewritten:

"Section 1. Occupancy Tax. – (a) Authorization and Scope. – The McDowell 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 similar accommodation furnished by a hotel, motel, inn, or similar place within an~~ accommodation 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 nonprofit charitable, educational, or religious organizations when furnished in furtherance of the nonprofit purpose.~~

(a1) Authorization of Additional Two Percent Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the McDowell County Board of Commissioners may levy an additional room occupancy tax of two percent (2%) 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 act. McDowell County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(a2) Authorization of Additional One Percent Occupancy Tax. – In addition to the tax authorized by subsections (a) and (a1) of this section, the McDowell County Board of Commissioners may levy an additional room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsections (a) and (a1) 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 act. McDowell County may not levy a tax under this subsection unless it also levies the tax authorized under subsections (a) and (a1) of this section.



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

4 (e) Distribution and Use of Tax Revenue. – McDowell County shall, on a quarterly basis,
5 remit the net proceeds of the occupancy tax to the McDowell Tourism Development Authority.
6 The Authority shall use at least two-thirds of the funds remitted to it under this subsection to
7 promote travel and tourism in McDowell County and shall use the remainder for tourism-related
8 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 three
12 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross
13 proceeds collected each year and one percent (1%) of the remaining gross
14 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 research,
17 or engage in similar promotional activities that attract tourists or business
18 travelers to the area. The term includes administrative expenses incurred in
19 engaging in the listed activities.
- 20 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
21 Tourism Development Authority, are designed to increase the use of lodging
22 facilities, meeting facilities, or convention facilities in a county or to attract
23 tourists or business travelers to the county. The term includes tourism-related
24 capital expenditures. Tourism-related capital expenditures may include
25 expenditures to purchase, renovate, maintain, or operate heritage tourism sites,
26 such as the McDowell House, the Carson House, Fort Davidson, or Heritage
27 Trails.

28 "Sec. 2. Tourism Development Authority. (a) Appointment and Membership. – When the
29 board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall
30 also adopt a resolution creating a county Tourism Development Authority, which shall be a
31 public authority under the Local Government Budget and Fiscal Control Act. The resolution shall
32 provide for the membership of the Authority, including the members' terms of office, and for the
33 filling of vacancies on the Authority. At least one-half of the members shall be individuals who
34 are affiliated with businesses that collect the tax in the county, and at least one-third of the
35 members shall be individuals who are currently active in the promotion of travel and tourism in
36 the county. The Authority must be comprised of the following seven voting members and two
37 nonvoting, ex officio members:

- 38 (1) The Executive Director of the McDowell Chamber of Commerce, who shall
39 serve as an ex officio, nonvoting member.
- 40 (2) A county commissioner appointed by the McDowell County Board of
41 Commissioners, who shall serve as an ex officio, nonvoting member.
- 42 (3) Four owners or operators of hotels, motels, or other taxable accommodations,
43 two of whom shall be appointed by the McDowell County Board of
44 Commissioners, and two of whom shall be appointed by the McDowell
45 Chamber of Commerce. Two of these appointees shall own or operate hotels,
46 motels, or other accommodations with more than 50 rental units, and two shall
47 own or operate hotels, motels, or other accommodations with 50 or fewer
48 rental units.
- 49 (4) Three individuals who are currently active in the promotion of travel and
50 tourism in the county, appointed as follows: two by the McDowell Chamber
51 of Commerce and one by the McDowell County Board of Commissioners.

1 All members of the Authority shall serve without compensation. Vacancies in the Authority
2 shall be filled by the appointing authority of the member creating the vacancy. Members
3 appointed to fill vacancies shall serve for the remainder of the unexpired term which they are
4 appointed to fill. Members shall serve three-year terms. The members shall elect a chairman from
5 the membership of the Authority, who shall serve for a term of two years. The Authority shall
6 meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The
7 Finance Officer for McDowell County shall be the ex officio finance officer of the Authority.

8 (c) Duties. – The Authority shall expend the net proceeds of the tax levied under this act
9 for ~~the purposes provided in this act. The Authority shall promote travel, tourism, and~~
10 ~~conventions in McDowell County, sponsor tourist-related events and activities in the county, and~~
11 ~~finance tourist-related capital projects in the county. In performing its duties, the Authority may~~
12 ~~contract with any person, firm, or agency to advise and assist it and may recommend to the board~~
13 ~~of county commissioners that county staff be employed for this advice and assistance. Any~~
14 ~~county staff employed upon a recommendation made by the Authority shall be hired and~~
15 ~~supervised by the Authority, which shall pay the salaries and expenses of this staff.~~
16 travel and tourism and for tourism-related expenditures as provided in this act.

17 (d) Reports. – The Authority shall report quarterly and at the close of the fiscal year to
18 the board of county commissioners on its receipts and expenditures for the preceding quarter and
19 for the year in such detail as the board may require.

20 "Sec. 4. This act is effective upon ratification."

21 **SECTION 1.2.** This Part becomes effective July 1, 2024, and applies to the
22 distribution and use of occupancy tax proceeds on or after that date.

23 24 **PART II. CASWELL COUNTY DISTRICT C OCCUPANCY TAX**

25 **SECTION 2.1.(a)** Caswell County District C Created. – Caswell County District C
26 is created as a taxing district. Its jurisdiction consists of all of Caswell County exclusive of the
27 Town of Yanceyville. Caswell County District C is a body politic and corporate and has the
28 power to carry out the provisions of this Part. The Caswell County Board of Commissioners shall
29 serve ex officio as the governing body of the district, and the officers of the county shall serve as
30 the officers of the governing body of the district. A simple majority of the governing body
31 constitutes a quorum, and approval by a majority of those present is sufficient to determine any
32 matter before the governing body, if a quorum is present.

33 **SECTION 2.1.(b)** Authorization and Scope. – The governing body of Caswell
34 County District C may levy a room occupancy tax of up to three percent (3%) of the gross receipts
35 derived from the rental of an accommodation within the district that is subject to sales tax
36 imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local
37 sales or room occupancy tax.

38 **SECTION 2.1.(c)** Administration. – A tax levied under this section shall be levied,
39 administered, collected, and repealed as provided in G.S. 153A-155 as if Caswell County District
40 C were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this
41 section.

42 **SECTION 2.1.(d)** Distribution and Use of Tax Revenue. – Caswell County District
43 C shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Caswell
44 County Tourism Development Authority created pursuant to Section 2 of S.L. 2007-224. The
45 Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and
46 tourism in the district and shall use the remainder for tourism-related expenditures in the district.
47 In accordance with the North Carolina Constitution and the United States Constitution, the tax
48 proceeds may be used only for the direct benefit of the jurisdiction of Caswell County District C.

49 The following definitions apply in this subsection:

- 50 (1) Net proceeds. – Gross proceeds less the cost to the district of administering
51 and collecting the tax, as determined by the finance officer, not to exceed three

1 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross
2 proceeds collected each year and one percent (1%) of the remaining gross
3 receipts collected each year.

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

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

14 **SECTION 2.2.(a)** Additional Tourism Development Authority Duties. – In addition
15 to the duties required under Section 2(b) of S.L. 2007-224, the Authority shall expend the net
16 proceeds of the tax levied under this Part for promoting travel and tourism in the district and for
17 tourism-related expenditures in the district as provided in this Part.

18 **SECTION 2.2.(b)** Reports. – In addition to the reports required under Section 2(c)
19 of S.L. 2007-224, the Authority shall report quarterly and at the close of the fiscal year to the
20 Caswell County Board of Commissioners on its receipts and expenditures for the net proceeds of
21 the tax levied under this Part for the preceding quarter and for the year in such detail as the board
22 may require.

23 **SECTION 2.3.** This Part is effective when it becomes law.
24

25 **PART III. PENDER COUNTY DISTRICT P OCCUPANCY TAX**

26 **SECTION 3.1.(a)** Pender County District P Created. – Pender County District P is
27 created as a taxing district. Its jurisdiction consists of all of Pender County exclusive of the Towns
28 of Burgaw, Surf City, and Topsail Beach. Pender County District P is a body politic and corporate
29 and has the power to carry out the provisions of this Part. The Pender County Board of
30 Commissioners shall serve ex officio as the governing body of the district, and the officers of the
31 county shall serve as the officers of the governing body of the district. A simple majority of the
32 governing body constitutes a quorum, and approval by a majority of those present is sufficient to
33 determine any matter before the governing body, if a quorum is present.

34 **SECTION 3.1.(b)** Authorization and Scope. – The governing body of Pender County
35 District P may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived
36 from the rental of an accommodation within the district that is subject to sales tax imposed by
37 the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room
38 occupancy tax.

39 **SECTION 3.1.(c)** Administration. – A tax levied under this section shall be levied,
40 administered, collected, and repealed as provided in G.S. 153A-155 as if Pender County District
41 P were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

42 **SECTION 3.1.(d)** Distribution and Use of Tax Revenue. – Pender County District
43 P shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Pender County
44 Tourism Development Authority created pursuant to Section 6.3 of S.L. 2001-439. The Authority
45 shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the
46 district and shall use the remainder for tourism-related expenditures in the district. In accordance
47 with the North Carolina Constitution and the United States Constitution, the tax proceeds may
48 be used only for the direct benefit of the jurisdiction of Pender County District P.

49 The following definitions apply in this subsection:

50 (1) Net proceeds. – Gross proceeds less the cost to the district of administering
51 and collecting the tax, as determined by the finance officer, not to exceed three

1 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross
2 proceeds collected each year and one percent (1%) of the remaining gross
3 receipts collected each year.

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

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

14 **SECTION 3.2.(a)** Additional Tourism Development Authority Duties. – In addition
15 to the duties required under Section 6.3(b) of S.L. 2001-439, the Authority shall expend the net
16 proceeds of the tax levied under this Part for promoting travel and tourism in the district and for
17 tourism-related expenditures in the district as provided in this Part.

18 **SECTION 3.2.(b)** Reports. – In addition to the reports required under Section 6.3(c)
19 of S.L. 2001-439, the Authority shall report quarterly and at the close of the fiscal year to the
20 Pender County Board of Commissioners on its receipts and expenditures for the net proceeds of
21 the tax levied under this Part for the preceding quarter and for the year in such detail as the board
22 may require.

23 **SECTION 3.3.** This Part is effective when it becomes law.
24

25 **PART IV. CONFORMING CHANGES**

26 **SECTION 4.1.** G.S. 153A-155(g) reads as rewritten:

27 "(g) Applicability. – Subsection (c) of this section applies to all counties and county
28 districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of
29 a local act, subsection (c) supersedes that provision. The remainder of this section applies only
30 to Alleghany, Anson, Bertie, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret,
31 Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie,
32 Duplin, Durham, Edgecombe, Forsyth, Franklin, Graham, Granville, Halifax, Haywood,
33 Henderson, Jackson, Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Nash, New
34 Hanover, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond,
35 Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Swain, Transylvania,
36 Tyrrell, Union, Vance, Warren, Washington, Wayne, Wilson, and Yancey Counties, to Avery
37 County District A, Caswell County District C, Graham County District G, Harnett County
38 District H, Iredell County District I, New Hanover County District U, Pender County District P,
39 Surry County District S, Watauga County District U, Wilkes County District W, Yadkin County
40 District Y, and the Township of Averagesboro in Harnett County and the Ocracoke Township
41 Taxing District."

42 **SECTION 4.2.** This Part is effective when it becomes law.
43

44 **PART V. EFFECTIVE DATE**

45 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
46 law.