

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

FILED SENATE
Feb 21, 2025
S.B. 132
PRINCIPAL CLERK

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SENATE BILL DRS45068-NIF-25A

Short Title: Swannanoa Valley TDA. (Local)

Sponsors: Senators Daniel, Mayfield, and Moffitt (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE CREATION OF THE SWANNANOVA VALLEY TOURISM
3 DEVELOPMENT AUTHORITY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part VI of Chapter 908 of the 1983 Session Laws, as amended by
6 Section 1 of Chapter 942 of the 1985 Session Laws, S.L. 2021-162, Section 60(a) of S.L.
7 2013-414, Section 8 of S.L. 2015-128, and Section 3.1 of S.L. 2022-40, reads as rewritten:

8 "PART VI. BUNCOMBE OCCUPANCY TAX.

9 "Sec. 17. Authorization and Scope. – (a) The Board of Commissioners of Buncombe County
10 may levy a room occupancy and tourism development tax of up to two percent (2%) of the gross
11 receipts derived from the rental of accommodations within the county that are subject to sales tax
12 imposed by the State under G.S. 105-164.4(a)(3).

13 "Sec. 18. Repealed.

14 "Sec. 19. Administration of Tax. – A tax levied under this act shall be levied, administered,
15 collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155
16 apply to a tax levied under this act.

17 "Sec. 20. Repealed.

18 "Sec. 21. Disposition of Taxes Collected. – (a) Buncombe County ~~shall~~ shall, on a quarterly
19 basis, remit the net proceeds of the occupancy tax collected from the areas collectively consisting
20 of, and legally denoted as, the Buncombe County Townships of (i) Broad River (28), (ii) Black
21 Mountain (25), and (iii) Swannanoa (21), and hereinafter collectively referred to as the "district,"
22 to the Swannanoa Valley Tourism Development Authority to be used for purposes consistent
23 with Section 24 of this act. Buncombe County shall remit the remainder of the net proceeds of
24 the occupancy tax collected to the ~~county~~ Buncombe County Tourism Development Authority
25 in Buncombe County. to be used for purposes consistent with this section. "Net proceeds" means
26 gross proceeds less the cost to the county of administering and collecting the tax, not to exceed
27 five percent (5%) of the gross proceeds collected each year.

28 (b) The Buncombe County Tourism Development Authority may expend any funds
29 remitted to it pursuant to subsection (a) of this section only as follows:

- 30 (1) Two-thirds of the funds shall be used only (i) to further the development of
31 travel, tourism, meetings and events in the county through marketing,
32 advertising, sales, and promotion and (ii) for the administrative expenses of
33 the Authority, not to exceed twenty percent (20%) of the net proceeds for the
34 applicable fiscal year of the Authority. For purposes of this provision,
35 administrative expenses shall include expenses of the Authority for salaries,
36 benefits, operations, and facilities.



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- 1 (2) The remainder shall be split evenly between the following funds created by
2 the Authority, with no portion of the remainder being used for operational
3 expenses:
4 a. The Tourism Product Development Fund. The Authority shall use
5 monies in the Fund to provide financial assistance for major tourism
6 projects in order to increase patronage of lodging facilities in, and
7 further economic development in, Buncombe County.
8 b. The Legacy Investment From Tourism Fund. The Authority shall use
9 monies in the Fund to provide financial assistance for tourism-related
10 projects that are designed to (i) increase patronage of lodging facilities,
11 meeting facilities, and convention facilities by attracting tourists,
12 business travelers, or both and (ii) benefit the community at large in
13 Buncombe County.
- 14 (c) The Buncombe County Tourism Development Authority shall administer and spend
15 the funds in the Tourism Product Development Fund as follows:
16 (1) The Authority shall create a Product Development Committee to review and
17 evaluate proposals from applicants for tourism capital projects, including
18 capital maintenance. No proceeds may be used for operational expenses. The
19 Product Development Committee shall make recommendations to the
20 Authority regarding use and disposition of funds derived from the Tourism
21 Product Development Fund. A for-profit entity is not eligible to receive funds
22 or loans from the Tourism Product Development Fund. Only upon
23 recommendation of the Product Development Committee, and upon a vote of
24 three-fourths of the current voting members of the Authority to expend such
25 funds, the Authority may award funds to qualified projects in the form of
26 outright grants of money and may guarantee loans and participate in pledges
27 of debt service for these projects; provided, however, that no loan guarantee
28 may exceed the amount committed from the Fund for the project. Projects
29 must be located in Buncombe County unless the Commissioners of Buncombe
30 County give specific approval to projects outside the county. Applicants must
31 provide a feasibility study satisfactory to the Product Development
32 Committee demonstrating the project's economic value to the area and the
33 number of estimated new room nights the project will generate.
- 34 (2) To be a qualified project, a project must be expected to increase patronage of
35 lodging facilities in Buncombe County.
- 36 (3) The Authority is not required to exhaust all of the funds generated each year
37 and may accumulate money in order to create a revolving fund to further the
38 purposes of this section. The Authority may not commit, for purposes of debt
39 service, a portion of the net funds in excess of thirty-three percent (33%) of
40 the average net funds received over a rolling three-year average for a period
41 of time in excess of 15 years for any one project. The Authority shall not be
42 the sole funding source for any debt service.
- 43 (4) The Product Development Committee need not be comprised solely of
44 members of the Authority. A majority of the members of the Product
45 Development Committee must be persons who are owners or operators of
46 hotels, motels, or bed and breakfasts.
- 47 (d) The Buncombe County Tourism Development Authority shall administer and spend
48 the funds in the Legacy Investment From Tourism Fund as follows:
49 (1) The Authority shall create a Legacy Investment From Tourism Committee to
50 review and evaluate proposals from applicants for tourism-related capital
51 projects, including capital maintenance, and project administration, design,

1 restoration, maintenance, and rehabilitation as well as enhancement of natural
2 resources and expansion of necessary infrastructure. The Legacy Investment
3 From Tourism Committee shall make recommendations to the Authority
4 regarding use and disposition of funds derived from the Legacy Investment
5 From Tourism Fund. A for-profit entity is not eligible to receive funds or loans
6 from the Legacy Investment From Tourism Fund. The Legacy Investment
7 From Tourism Fund cannot be used for operational expenses. Only upon
8 recommendation of the Legacy Investment From Tourism Committee, and
9 upon a vote of three-fourths of the current voting members of the Authority to
10 expend such funds, the Authority may award funds to qualified projects in the
11 form of outright grants of money and may guarantee loans and participate in
12 pledges of debt service for these projects; provided, however, that no loan
13 guarantee may exceed the amount committed from the Fund for the project.
14 Projects must be located in Buncombe County unless the Commissioners of
15 Buncombe County give specific approval to projects outside the county.
16 Applicants must provide information as to how the project balances visitor
17 and resident needs as part of the application process for a Legacy Investment
18 From Tourism Fund project.

- 19 (2) To be a qualified project, a project must be expected to (i) increase patronage
20 of lodging facilities, meeting facilities, and convention facilities by attracting
21 tourists, business travelers, or both and (ii) benefit the community at large in
22 Buncombe County.
- 23 (3) The Authority is not required to exhaust all of the funds generated each year
24 and may accumulate money in order to create a revolving fund to further the
25 purposes of this section. The Authority may not commit for purposes of debt
26 service a portion of the net funds in excess of thirty-three percent (33%) of the
27 average net funds received over a rolling three-year average for a period of
28 time in excess of 15 years for any one project. The Authority shall not be the
29 sole funding source for any debt service.
- 30 (4) The Legacy Investment From Tourism Committee need not be comprised
31 solely of members of the Authority. A majority of the members of the Legacy
32 Investment From Tourism Committee must be persons who are owners or
33 operators of hotels, motels, or bed and breakfasts.

34 "Sec. 22. Appointment, Duties of the Buncombe County Tourism Development Authority. –

35 (a) When the board of county commissioners adopts a resolution levying a room occupancy tax
36 pursuant to this Part, it shall also adopt a resolution creating a county Tourism Development
37 Authority, which shall be a public authority under the Local Government Budget and Fiscal
38 Control Act and shall be composed of the following 11 members:

- 39 (1) A county commissioner appointed by the Buncombe County Board of
40 Commissioners, who shall serve as an ex officio, nonvoting member;
- 41 (2) A member of the Asheville City Council appointed by the Asheville City
42 Council, who shall serve as an ex officio, nonvoting member;
- 43 (3) Six owners or operators of hotels, motels, bed and breakfasts, or vacation
44 rental management companies, four of which own or operate hotels, motels,
45 or bed and breakfasts, with more than 100 rental units, two of whom shall be
46 appointed by the Asheville City Council and two by the Buncombe County
47 Board of Commissioners; and one of which owns or operates hotels, motels,
48 bed and breakfasts, or vacation rental management companies, with 100 or
49 fewer rental units, who shall be appointed by the Asheville City Council; and
50 one of which owns or operates hotels, motels, or bed and breakfasts with 100

1 or fewer rental units, who shall be appointed by the Buncombe County Board
2 of Commissioners.

- 3 (4) Three individuals actively involved in the tourist business who have
4 participated in tourism promotion, appointed as follows: one vacation rental
5 owner or vacation rental management company owner appointed by the
6 Buncombe County Board of Commissioners; one executive from a ticketed
7 tourist attraction appointed by the Asheville Area Chamber of Commerce; and
8 one restaurant owner, owner of a brewery, distillery, or winery open for tours
9 or tastings, or executive director of a ticketed arts organization appointed by
10 the Asheville City Council.

11 All members of the Authority shall serve without compensation. Vacancies in the Authority shall
12 be filled by the appointing authority of the member creating the vacancy. Members appointed to
13 fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to
14 fill. Members shall serve three-year terms and may serve no more than two consecutive terms.
15 The members shall elect a chair, who shall serve for a term of two years. The Authority shall
16 meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance
17 officer for Buncombe County shall be the ex officio finance officer of the Authority.

18 (b) The Buncombe County Tourism Development Authority may contract with any
19 person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions
20 and may recommend to the board of county commissioners that county staff be employed for this
21 advice and assistance. Any county staff employed under this Part shall be hired and supervised
22 by the Tourism Development Authority, which shall pay the salaries and expenses of this staff.

23 (c) The Buncombe County Tourism Development Authority shall report quarterly and at
24 the close of the fiscal year to the board of county commissioners on its receipts and expenditures
25 for the preceding quarter and for the year in such detail as the board may require.

26 (d) The following definitions apply in this section:

- 27 (1) Vacation rental management company. – A corporate entity having at least
28 five rental units that are available for rent in Buncombe County for more than
29 sixty percent (60%) of the days in the calendar year.
- 30 (2) Vacation rental management company owner. – The owner of a corporate
31 entity having at least five rental units that are available for rent in Buncombe
32 County for more than sixty percent (60%) of the days in the calendar year.
- 33 (3) Vacation rental owner. – The owner of at least one vacation rental unit in
34 Buncombe County, registered in compliance with all local and State laws, that
35 is available for rent for more than sixty percent (60%) of the days in the
36 calendar year.

37 "Sec. 23. Repealed.

38 "Sec. 23.1. First Additional Tax. – In addition to the tax authorized by Section 17 of this Part,
39 the Buncombe County Board of Commissioners may levy an additional room occupancy and
40 tourism development tax of one percent (1%) of the gross receipts derived from the rental of
41 accommodations taxable under that section. The levy, collection, administration, and repeal of
42 the tax authorized by this section, and the use of tax revenue from a tax levied under this section,
43 shall be in accordance with Sections 17 through 22 and Section 24 of this Part. Buncombe County
44 may not levy a tax under this section unless it also levies a tax under Section 17 of this Part.

45 "Sec. 23.2. Second Additional Tax. – In addition to the tax authorized by Sections 17 and
46 23.1 of this Part, the Buncombe County Board of Commissioners may levy an additional room
47 occupancy and tourism development tax of one percent (1%) of the gross receipts derived from
48 the rental of accommodations taxable under those sections. The levy, collection, administration,
49 and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied under
50 this section, shall be in accordance with Sections 17 through 22 and Section 24 of this Part.

1 Buncombe County may not levy a tax under this section unless it also levies the taxes under
2 Sections 17 and 23.1 of this Part.

3 "Sec. 23.3. Third Additional Occupancy Tax. – In addition to the tax authorized by Sections
4 17, 23.1, and 23.2 of this Part, the Buncombe County Board of Commissioners may levy an
5 additional room occupancy and tourism development tax of two percent (2%) of the gross
6 receipts derived from the rental of accommodations taxable under those sections. The levy,
7 collection, administration, and repeal of the tax authorized by this section, and the use of tax
8 revenue from a tax levied under this section, shall be in accordance with Sections 17 through 22
9 and Section 24 of this Part. Buncombe County may not levy a tax under this section unless it also
10 levies the taxes under Sections 17, 23.1, and 23.2 of this Part.

11 "Sec. 24. Swannanoa Valley Tourism Development Authority. – (a) Use of Tax Revenue. –
12 The Swannanoa Valley Tourism Development Authority shall use at least two-thirds of the funds
13 distributed to it under Section 21 of this act to promote travel and tourism in the district and shall
14 use the remainder for tourism-related expenditures in the district.

15 The following definitions apply in this subsection:

16 (1) Promote travel and tourism. – To advertise or market an area or activity,
17 publish and distribute pamphlets and other materials, conduct market research,
18 or engage in similar promotional activities that attract tourists or business
19 travelers to the area. The term includes administrative expenses incurred in
20 engaging in the listed activities.

21 (2) Tourism-related expenditures. – Expenditures that, in the judgment of the
22 Tourism Development Authority, are designed to increase the use of
23 accommodations, meeting facilities, or convention facilities in the district, to
24 attract tourists or business travelers to the district, or to promote outdoor
25 adventure tourism within the district. The term includes tourism-related
26 capital expenditures that allow for restoration and development of
27 tourism-related infrastructure.

28 (b) Appointment and Membership. – The Swannanoa Valley Tourism Development
29 Authority shall be a public authority under the Local Government Budget and Fiscal Control Act.
30 The Buncombe County Board of Commissioners shall, by resolution, provide for the membership
31 of the Authority, including the members' terms of office, and for the filling of vacancies on the
32 Authority. The Authority shall consist of a minimum of nine members. At least one-third of the
33 members shall be individuals who are affiliated with businesses that collect tax in the district,
34 and at least one-half of the members shall be individuals who are currently active in the
35 promotion of travel and tourism in the district. The Authority shall elect one member to serve as
36 chair of the Authority, and all members shall serve without compensation.

37 The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern
38 its meetings. The Finance Officer for Buncombe County shall be the ex officio finance officer of
39 the Authority. The Authority and the Buncombe County Board of Commissioners may each
40 appoint additional ex officio, nonvoting members who are representative of the district or county,
41 respectively, as necessary to promote the travel and tourism-related purposes of this act.

42 (c) Duties. – The Swannanoa Valley Tourism Development Authority shall expend the
43 net proceeds of the tax distributed to it under this act for promoting travel and tourism and for
44 tourism-related expenditures as provided in this section.

45 (d) Reports. – The Swannanoa Valley Tourism Development Authority shall report
46 quarterly and at the close of the fiscal year to the Buncombe County Board of Commissioners on
47 its receipts and expenditures for the preceding quarter and for the year in such detail as the Board
48 may require."

49 **SECTION 2.** Section 1 of this act (i) becomes effective only if the Buncombe County
50 Board of Commissioners adopts a resolution creating the Swannanoa Valley Tourism
51 Development Authority and (ii) applies to the distribution and use of occupancy tax proceeds on

- 1 the fiscal quarter following the first full fiscal quarter after the adoption of such resolution. The
- 2 remainder of this act is effective when it becomes law.