2021-2022 General Assembly

HOUSE BILL 1057: Mitchell/Hickory-Conover/Buncombe OT Changes.

Committee:	Senate Select Committee on Nominations	**Date:**	June 28, 2022
Introduced by:	Rep. Greene	**Prepared by:**	Trina Griffin Staff Attorney
Analysis of:	PCS to Second Edition, as amended in Senate Finance H1057-CSSVxf-40		

OVERVIEW: The PCS for House Bill 1057 contains the following three occupancy tax provisions:

- ***Makes administrative changes to the Mitchell County occupancy tax that, in part, will allow the county to collect occupancy tax on accommodations affiliated with an educational institution. (H1057)***
- ***Extending by 10 years the period for which the Cities of Hickory and Conover may use two-thirds of their occupancy tax proceeds for improving, leasing, constructing, financing, operating, or acquiring facilities and properties as needed to provide for a convention center and for which the debt service on the convention center must mature. (S749)***
- ***Modifying the uses of the Buncombe Cunty occupancy tax, including the creation of a new "Legacy Investment From Tourism Fund" from which proceeds may be used to provide grants to government entities and nonprofits for tourism-related capital projects. It would also modify the composition of the Tourism Development Authority. (S914)***

MITCHELL COUNTY OCCUPANCY TAX CHANGES

CURRENT LAW: Mitchell County has the authority to levy a 3% room occupancy tax. The net proceeds of the tax are remitted to the Chamber of Commerce. The Chamber of Commerce may spend the funds to promote travel and tourism and to finance tourist-related capital projects in the county.

Mitchell County enacted its occupancy tax legislation in 1987, and to the extent the county has not sought any changes to the legislation since then, it has not been brought into conformity with either the statutory uniform provisions or the House Guidelines for Occupancy Tax.

BILL ANALYSIS: The bill would bring the existing legislation into conformity with the statutory uniform provisions for occupancy tax and with the House Finance Guidelines for Occupancy Tax. In doing so, the county will be required to establish a tourism development authority (TDA) to administer the funds. The TDA must use at least 2/3 of the funds for tourism promotion and the remainder for tourism-related expenditures. Another consequence of this conformity is that the occupancy tax would apply to the same accommodations to which the State sales tax on accommodations applies.

EFFECTIVE DATE: This provision would become effective when the act becomes law.

HICKORY-CONOVER OCCUPANCY TAX CHANGES

CURRENT LAW: The Cities of Hickory and Conover each have authority to levy an occupancy tax of up to 6%, but the tax must be authorized through joint resolution of both cities. In 2009, legislation was enacted that reversed, through 2019, the distribution from the generally accepted formula under the House Finance Guidelines such that the cities could use two-thirds of the funds for convention center expenditures, including parking facilities, with the remainder being used for tourism promotion. At the end of that period, the formula was scheduled to revert to the standard formula with at least two-thirds required to be used for tourism promotion. In 2017, the legislation was amended to extend the period by another 10 years through 2029.

BILL ANALYSIS: This part of the bill would extend, for a second time and for another 10 years, the period that two-thirds of the occupancy tax proceeds generated in the Cities of Conover and Hickory may be used for convention center expenditures, including parking facilities. The extension would also apply to the date by which the debt service on the convention center, to the extent secure by occupancy tax proceeds, must mature.

EFFECTIVE DATE: This provision would become effective when the act becomes law.

BUNCOMBE COUNTY OCCUPANCY TAX CHANGES

CURRENT LAW: Buncombe County has the authority to levy a 6% occupancy tax. The net proceeds are remitted to the Buncombe County Tourism Development Authority, which must use three-fourths of the funds for tourism promotion and must place the remainder in a "Tourism Product Development Fund" (TPDF). This Fund is used to provide grants to governmental entities or nonprofits to significantly increase patronage of lodging facilities in the county. There is a committee that reviews and evaluates proposals for grants from the Fund. The majority of the committee members must be owners or operators of tourist accommodations. Only upon the committee's recommendation may the Authority award funds to qualified projects.

The current TDA is comprised of 11 members as follows:

- A county commissioner and an Asheville City Council member.
- Six accommodations operators. Four of the operators must represent accommodations with more than 100 units. Of those 4, 2 are appointed by the county and 2 are appointed by Asheville. The remainder two operators must represent accommodations with less than 100 units, 1 of which is appointed by the county and 1 is appointed by Asheville.
- Three individuals who have participated in tourism promotion and are not accommodations operators. Of these, 1 is appointed by the county, 1 is appointed by Asheville, and 1 is appointed by the Asheville Area Chamber of Commerce.

BILL ANALYSIS: This provision would do the following:

- Increase from 10% of the entire net proceeds to 20% of three-fourths of the net proceeds, the amount that the Authority may use for administrative expenses, including salaries, benefits, operations, and facilities.
- Change the amount to be used for tourism promotion from ¾ to 2/3.
- Splits the remainder of net proceeds between the existing Tourism Product Development Fund and a new fund to be created called the "Legacy Investment From Tourism Fund" (LIFT). The LIFT Fund is intended to provide financial assistance for major capital tourism projects that will significantly increase patronage at lodging facilities, meeting facilities, and convention facilities and further economic development in the county. Funds in this Fund may not be used for operational expenses.

- Establish the LIFT Committee to review and evaluate proposals in a manner similar to how the TPDF Committee operates. The Committee would make recommendations to the Authority regarding use of the funds. Grant applicants must indicate on their application how the project balances visitor and resident needs.
- For both Committees, add a new requirement that, in addition to a recommendation by the respective Committee for approval, approval of projects will also require a vote of ¾ of the voting members of the Authority.
- Modify the TDA membership as follows:
  - Of the 4 accommodation operators, it would limit the possible appointment of owners of vacation rental management companies to those with fewer than 100 units.
  - Of the 3 individuals actively involved in the tourist business, it would specify the following:
    - 1 vacation rental owner or vacation rental management company owner appointed by the county commissioners.
    - 1 executive from a ticketed tourist attraction appointed by the Asheville Area Chamber of Commerce.
    - 1 owner of a restaurant, brewery, distillery, or winery open for tours or tastings, or executive director of a ticketed arts organization appointed by the Asheville City Council.

EFFECTIVE DATE: Section 3.1(a) would become effective July 1, 2022, with the remainder of the provision becoming effective when the act becomes law. Current members of the Authority would serve out the remainder of their terms prior to the appointments contemplated by the act.