



# HOUSE BILL 1039: Omnibus Occupancy Tax Changes.

2016-2017 General Assembly

<b>Committee:</b>		<b>Date:</b>	June 24, 2016
<b>Introduced by:</b>	Reps. L. Bell, Brisson	<b>Prepared by:</b>	Trina Griffin
<b>Analysis of:</b>	Second Edition		Staff Attorney

**SUMMARY:** *The Second Edition of House Bill 1039 contains the following occupancy tax provisions:*

- *It would increase from 3% to 6% Sampson County's authority to levy a room occupancy tax.*
- *It would expand the jurisdiction of Yadkin County District Y to include all areas of the county except for the Town of Jonesville, effectively bringing the Town of Yadkinville within the taxing district. Concurrently, the bill would repeal the Town of Yadkinville's authority to levy an occupancy tax and abolish its tourism development authority. (HB 1056)*
- *It would modify the use of occupancy tax proceeds for the City of Jacksonville so that the city may use 2/3 or more of the proceeds for tourism-related expenditures for a period of 10 years, with half of those proceeds being dedicated to the construction of a sports complex. After 10 years, the distribution formula would revert to the current law, under which at least 2/3 of the funds must be used for tourism promotion. (SB 46)*
- *It would authorize the City of Sanford to levy a room occupancy tax of 3%. The proceeds must be remitted to a city Tourism Development Authority and must be used as follows: two-thirds for tourism promotion and the remainder for the operation, maintenance, promotion, and renovation of the Dennis A. Wicker Civic Center. (SB 874)*
- *It would create a special taxing district consisting of all of Harnett County, with the exclusion of the Averasboro Township, and authorizes that special taxing district to levy a 6% room occupancy tax. The proceeds must be remitted to a Tourism Development Authority and must be used as follows: at least two-thirds for tourism promotion and the remainder for tourism-related expenditures. (SB 874)*
- *It would change the use of occupancy tax proceeds in Cumberland County and dissolve the county Tourism Development Authority. It also expands the use of the prepared food tax and repeals the requirement that the tax be repealed upon payment of debt for the local arena facility.*

## PART I. SAMPSON COUNTY

In 2007, the General Assembly granted Sampson County the authority to levy a 3% room occupancy tax. The provisions of that act conform to the Occupancy Tax Guidelines adhered to by the House Finance Committee.

Part I of the bill would increase from 3% to 6% the county's authority to levy an occupancy tax. No other changes are being made, so the local act would continue to conform to the Occupancy Tax Guidelines.

This Part would become effective when it becomes law.

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## **PART II. YADKIN COUNTY**

Yadkin County has authority to levy a 6% occupancy tax in all areas of the county that lie outside the incorporated areas. The Towns of Jonesville and Yadkinville, which lie within Yakin County, each have authority to levy 6% occupancy tax. All three provisions conform to the Occupancy Tax Guidelines adhered to by the House Finance Committee.

Part II of the bill would do the following:

- Expand the territorial jurisdiction over which Yadkin County has the authority to levy an occupancy tax.
- Repeal the authority of the Town of Yadkinville to levy an occupancy tax and its corresponding authority to administer that tax via a tourism development authority.

This Part would become effective July 1, 2016.

## **PART III. CITY OF JACKSONVILLE**

Session Law 2009-429 authorized the City of Jacksonville<sup>1</sup> to levy a room occupancy tax of up to 3%. The provisions of the 2009 authorization conform to the uniform guidelines traditionally followed by the House Finance Committee. Under those guidelines, the proceeds are used as follows:

- At least two-thirds of the proceeds to promote travel and tourism. – Proceeds dedicated for this purpose must be used to advertise or market the city, publish and distribute marketing materials, or engage in similar promotional activities that attract tourists to the city.
- The remainder for tourism-related expenditures. – Proceeds dedicated for this purposes must be used for expenditures that, in the judgment of the Jacksonville Tourism Development Authority, are designed to increase the use of facilities in the city or to attract people to the city.

Part III of the bill would modify the use of occupancy tax proceeds for the City of Jacksonville by reversing the normal distribution formula so that for a period of 10 years, the majority, and potentially all, of the proceeds could be used for tourism-related expenditures and the remainder for the promotion of travel and tourism. Further, of the proceeds dedicated to tourism-related expenditures, one-half of those funds must be used for the construction of a sports complex by the City of Jacksonville. This change would not conform to the uniform guidelines followed by the House Finance Committee. After 10 years, the formula would revert to the current distribution formula, at which point the legislation would comply with the uniform guidelines.

This Part would become effective when it becomes law.

## **PART IV. CITY OF SANFORD**

The City of Sanford is located in Lee County, which has the authority to levy a 3% room occupancy tax.<sup>2</sup> The proceeds of the county tax are used for the construction and maintenance of a community resource center; specifically, these funds are used for the [Dennis A. Wicker Civic Center](#). The excess over the amount needed for maintenance may be used for any lawful purpose.

Part IV of the bill would authorize Sanford to levy a 3% room occupancy tax. The City would be required to establish a Tourism Development Authority to administer the proceeds. Two-thirds of the proceeds must be used for tourism promotion, and the remainder must be used for the operation, maintenance, promotion, and renovation of the Dennis A. Wicker Civic Center. Of the funds dedicated

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<sup>1</sup> Jacksonville is located in Onslow County, which also has authority to levy a 3% occupancy tax.

<sup>2</sup> S.L. 1987-538.

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for the Wicker Center, if, at the end of each fiscal year, there are funds that have not been spent or obligated for that purpose, the TDA may use those unexpended or uncommitted funds for tourism promotion in Sanford.

This Part would become effective when it becomes law.

## **PART V: HARNETT COUNTY**

In 1987, the General Assembly authorized Harnett County, as the governing body of Averasboro Township, to levy a 3% room occupancy tax in the township. In 2001, the taxing authority was increased to 6%. The proceeds must be remitted to the Averasboro Township Tourism Development Authority and must be used as follows: two-thirds for tourism promotion and the remainder for tourism-related expenditures. The tax only applies in within the township limits. Currently, there is no occupancy tax in Harnett County other than in Averasboro.

Part V of the bill would create a special taxing district consisting of all of Harnett County, exclusive of the Averasboro Township. The Harnett County Board of Commissioners would serve as the governing body for the district and would be authorized to levy a 6% room occupancy tax in the district. The proceeds of the tax must be remitted to a district Tourism Development Authority. The Authority must use at least two-thirds of the funds for tourism promotion and the remainder for tourism-related expenditures.

This Part would become effective when it becomes law.

## **PART VI: CUMBERLAND COUNTY OCCUPANCY TAX CHANGES**

### **Occupancy Tax**

Cumberland County has the authority to levy a 6% room occupancy tax. The occupancy tax proceeds are distributed as follows:

- First 3%
  - 50% of the first 3% is retained by the county and allocated for the benefit of the "Auditorium Commission" to help finance repairs, renovation, or other capital improvements to the Crown Coliseum Complex.
  - 50% of the first 3% is remitted to the Cumberland County TDA to be used specifically for advertising the Coliseum and for promoting travel and tourism in the county.
- Second 3% - All of the net proceeds of the second 3% are remitted to the TDA and used as follows:
  - 50% must be used to promote travel and tourism and for tourism-related expenditures.
  - 50% must be distributed to the Arts Council of Fayetteville/Cumberland County for arts festivals and other arts events. The Authority and the Arts Council are encouraged to give favorable consideration to tourism-related expenditures of the Seniors Call to Action Teams, Inc. (SCAT) and the Martin Luther King, Jr. Committee.

Cumberland County has a seven-member TDA. Four of the members must be nominated by hotels within the county – 2 with more than 100 rooms and 2 with fewer than 100 rooms. The other members are the President of the Fayetteville Area Chamber of Commerce, the county manager, and one member of the public who is not affiliated with travel and tourism and reflects the cultural diversity of the county.

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Part VI of the bill modifies the provisions governing the use of the occupancy tax proceeds and dissolves the Cumberland County Tourism Development Authority. The net proceeds of the 6% tax would be remitted directly to the county and would be used as follows:

- 47% shall be invested in capital needs and improvements of facilities that enhance travel and tourism within Cumberland County.
- 26% shall be disbursed through contracting with community organizations or private vendors to promote, market, and advertise festivals, athletic events and tournaments, arts venues, cultural arts, community markets and other events that encourage tourism and travel to Cumberland County.
- 20% shall be disbursed through contracting with community organizations or private vendors to market the community by advertising and promoting travel, tourism, and conventions within Cumberland County.
- 7% shall be used to market Cumberland County for economic development purposes.

## **Prepared Food and Beverage Tax**

Cumberland, Dare, Mecklenburg<sup>3</sup>, and Wake Counties and the Town of Hillsborough currently levy a prepared food and beverage tax. The General Assembly has also authorized the City of Monroe and Durham County to hold a referendum on the issue of whether to levy a prepared food and beverage tax but the issue was defeated for both localities. The rate of tax for all localities that levy it is one percent (1%).

Part VI of the bill does three things with regard to the prepared food and beverage tax:

- It provides that the proceeds of the tax will be retained by the county rather than being remitted to the Cumberland County Civic Center Commission.
- It expands the use of the tax to include any purpose that promotes or enhances tourism, travel, arts, entertainment, and sports venues and activities within the county. Currently, the funds may only be used to finance the cost of constructing, maintaining, operating, expanding, and promoting the arena or expanded arena facilities.
- It repeals the requirement that the county must repeal the prepared food tax when the arena facilities for which the tax was imposed have been constructed and any debt for those facilities has been paid. The county would still have the discretion to repeal the tax if it so chooses, but it would not be required to do so.

This Part would become effective when it becomes law. Within 60 days of the effective date of the bill, the Cumberland County Board of Commissioners must adopt a resolution dissolving the Cumberland County Tourism Development Authority.

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<sup>3</sup> The City of Charlotte has authority to levy a prepared food and beverage tax to the extent Mecklenburg County does not levy the tax, but the County does currently levy the tax.

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**BACKGROUND:** In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax,<sup>4</sup> which provide uniformity among counties and cities with respect to the levy, administration, collection, repeal, and imposition of penalties. In 1993, the House Finance Committee established the Occupancy Tax Guidelines, which address the rate of tax, the use of the tax proceeds, the administration of the tax, and the body with authority to determine how the proceeds will be spent. A summary of these provisions is detailed in the chart below.

Uniform Occupancy Tax Provisions
<b>Rate</b> – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
<b>Use</b> – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
<b>Definitions</b> The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
<b>Administration</b> – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least 1/2 of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
<b>Costs of Collection</b> – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first \$500,000 collected each year plus 1% of the remainder collected each year.

<sup>4</sup> G.S. 153A-155 and G.S. 160A-215.