# HOUSE BILL 531:
# Various Occupancy Tax Changes

*2015-2016 General Assembly*

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| **Committee:** | Senate Finance | **Date:** | September 21, 2015 |
| **Introduced by:** | Reps. J. Bell, Dixon, L. Bell | **Prepared by:** | Trina Griffin |
| **Analysis of:** | PCS to Second Edition<br>H531-CSSVxr-44 | | Committee Counsel |

***SUMMARY:* *The Proposed Committee Substitute for House Bill 531 would do the following:***

- ***Authorize Wayne County to levy a 1% room occupancy tax and require the TDA to use 100% for tourism promotion.***
- ***Authorize Moore County to levy an additional 3% room occupancy tax consistent with the current use provisions.***
- ***Authorize the City of Sanford to levy a 3% room occupancy tax. The TDA would be required to use 2/3 for tourism promotion and 1/3 for the Dennis A. Wicker Civic Center. Of the funds dedicated for the Wicker Center, any unexpended or unobligated funds at the end of each fiscal year could be used for tourism promotion.***
- ***Create a special taxing district consisting of all of Harnett County, with the exclusion of the Averasboro Township, and authorize that special taxing district to levy a 6% room occupancy tax. The TDA would be required to use at least two-thirds for tourism promotion and the remainder for tourism-related expenditures.***
- ***Change the use of the 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 It also expands the use of the prepared food tax and repeals the requirement that the tax be repealed upon payment of debt for the local arena facility.***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: WAYNE COUNTY OCCUPANCY TAX

**CURRENT LAW:** Wayne County is not currently authorized to levy a room occupancy tax. The City of Goldsboro, which is located in Wayne County, is authorized to levy an occupancy tax of at least 3% but no more than 5%. The City is currently levying 5%.

**BILL ANALYSIS:** Part I of the PCS for House Bill 531 would authorize Wayne County to levy a 1% room occupancy tax, the proceeds of which would be remitted to a county Tourism Development Authority. One hundred percent (100%) of the proceeds would be used for tourism promotion. As currently, drafted, this Part conforms to the Occupancy Tax Guidelines adhered to by the House Finance Committee.

## PART II: MOORE COUNTY OCCUPANCY TAX

**CURRENT LAW:** In 1987, the General Assembly authorized Moore County to levy a room occupancy tax of three percent (3%). In 2011, the local act was recodified to make it consistent with the Occupancy Tax Guidelines. By conforming to the Guidelines, Moore County is able to use up to one-third of the occupancy tax proceeds for tourism-related expenditures, which it could not do under its prior law.

**BILL ANALYSIS:** Part II of the PCS would authorize Moore County to levy an additional three percent (3%) room occupancy tax bringing the total rate to six percent (6%). The bill makes no change to the current distribution: at least two-thirds of the proceeds must be used for tourism promotion and the remainder must be used for tourism-related expenditures.

The bill also makes a technical change by deleting exemption language related to the applicability of occupancy tax to "accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose."[1]

With both of these changes, the local act would continue to conform to the House Finance Occupancy Tax Guidelines.

**PART III: CITY OF SANFORD OCCUPANCY TAX**

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

**BILL ANALYSIS:** Part III of the PCS 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 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.

**PART IV: HARNETT COUNTY OCCUPANCY TAX**

**CURRENT LAW:** 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 tax 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 levied in Harnett County other than in Averasboro Township.

**BILL ANALYSIS:** Part IV of the PCS 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.

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[1] The deletion of this language makes the local act conform to the Uniform Provisions for Room Occupancy Taxes (G.S. 153A-155). In 2010, the General Assembly amended the uniform provisions to provide that room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. The legislation further provided that to the extent this provision conflicts with any provision of a local act, the general law supersedes the local provision. Therefore, this change is technical to the extent the language conflicts with State law and has been superseded by the 2010 legislation. Specifically, the exemption for summer camps is not needed because they are already exempt under State law. The other deletions also reflect the application of State sales tax on accommodations.

[2] S.L. 1987-538.

## PART V: CUMBERLAND COUNTY OCCUPANCY TAX AND PREPARED FOOD TAX CHANGES

***Occupancy Tax***

**CURRENT LAW:** 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.

**BILL ANALYSIS:** Part V of the PCS 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***

**CURRENT LAW:** Cumberland, Dare, Mecklenburg[3], and Wake Counties and the Town of Hillsborough currently levy a prepared food and beverage tax. The General Assembly has also

[3] 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.

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%).

**BILL ANALYSIS:** The PCS 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.

**BACKGROUND:** In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax,[4] 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** |
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| **Rate** – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%. |
| **Use** – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures. |
| **Definitions** The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms. |
| **Administration** – 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. |
| **Costs of Collection** – 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. |

[4] G.S. 153A-155 and G.S. 160A-215.