GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

FILED SENATE
Feb 23, 2023
S.B. 154
PRINCIPAL CLERK

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SENATE BILL DRS45075-NIxf-44A

Short Title:	Avery County Occupancy Tax.	(Local)
Sponsors:	Senator Hise (Primary Sponsor).	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Avery County District A Created. – Avery County District A is created as a taxing district. Its jurisdiction consists of that part of Avery County that is located outside of incorporated areas within the county. Avery County District A is a body politic and corporate and has the power to carry out the provisions of this act. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 1.(b) Authorization and Scope. – The governing body of Avery County District A may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district 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 or room occupancy tax.

SECTION 1.(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County District A were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(d) Distribution and Use of Tax Revenue. – Avery County District A shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Avery County District A Tourism Development Authority created pursuant to this act. The Authority shall use at least one-third of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Avery County District A. None of the proceeds may be used to promote travel or tourism in areas within Avery County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

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

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

SECTION 2.(a) Avery County District A Tourism Development Authority. – Appointment and Membership. – When the governing body of Avery County District A adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Avery County District A Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Avery County shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Avery County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 3. G.S. 153A-155(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Graham, Granville, Halifax, Haywood, Henderson, Jackson, Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Nash, New Hanover, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, Wayne, and Wilson Counties, to <u>Avery County District A,</u> Harnett County District H, New Hanover County District U, Surry County District S, Watauga County District U, Wilkes County District K, Yadkin County District Y, and the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

SECTION 4. This act is effective when it becomes law.