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HOUSE BILL 726
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Short Title: Goldsboro Finance Changes.

(Local)

Sponsors:

Referred to:

April 11, 1991

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CONDITIONS ON USE OF PROCEEDS OF A
GOLDSBORO OCCUPANCY TAX AND TO RAISE THE FORCE ACCOUNT
CONSTRUCTION LIMIT FOR CERTAIN STORM DRAINAGE PROJECTS IN
GOLDSBORO.

The General Assembly of North Carolina enacts:

Section 1. Chapter 929 of the 1985 Session Laws, as amended by Chapters
172 and 319 of the 1987 Session Laws, is further amended by repealing all references to
the City of Goldsboro.

Sec. 2. Levy of Tax. The City of Goldsboro may by resolution, after not less
than 10 days public notice and after a public hearing held pursuant thereto, levy a room
occupancy and tourism development tax. Collection of the tax, and liability, therefore,
shall begin and continue only on and after the first day of a calendar month set in the
resolution levying the tax, which in no case may be earlier than the first day of the
second succeeding calendar month after the date of adoption of the resolution.

Sec. 3. Rate; Scope. The room occupancy and tourism development tax that
may be levied under this act shall not be less than three percent (3%) nor more than five
percent (5%) of the gross receipts derived from the rental of any room, lodging, or
similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar
place within the levying unit now subject to the three percent (3%) 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
tax.

1 Sec. 4. Exemptions. The tax authorized by this act does not apply to gross
2 receipts derived by the following entities from accommodations furnished by them:

- 3 (1) Religious organizations;
- 4 (2) A business that offers to rent fewer than five units;
- 5 (3) Educational organizations;
- 6 (4) Summer camps; and
- 7 (5) Charitable, benevolent, and other nonprofit organizations.

8 Sec. 5. Administration of Tax. (a) A tax levied under this act is due and payable
9 to the city in monthly installments on or before the twenty-fifth day of the month
10 following the month in which the tax accrues. Every person, firm, corporation, or
11 association liable for the tax shall, on or before the twenty-fifth day of each month,
12 prepare and render a return on a form prescribed by the city. The return shall state the
13 total gross receipts derived in the preceding month from rentals upon which the tax is
14 levied. A return filed under this section is not a public record as defined by G.S. 132-1
15 and may not be disclosed except as required by law.

16 (b) Any person, firm, corporation, or association who fails or refuses to file
17 the return required by this act shall pay a penalty of fifty dollars (\$50.00) for each day's
18 omission as provided under G.S. 160A-175.

19 (c) Any person who willfully attempts in any manner to evade the occupancy
20 tax imposed by this act or to make a return or who willfully fails to pay the tax or make
21 and file a return shall, in addition to all other penalties provided by law, be guilty of a
22 misdemeanor and shall be punishable by a fine not to exceed one thousand dollars
23 (\$1,000), imprisonment not to exceed six months, or both.

24 Sec. 6. Collection of Tax. Every operator of a business subject to the tax
25 levied by this act shall, on and after the effective date of the tax, collect the tax. The tax
26 shall be collected as part of the charge for the furnishing of any taxable
27 accommodations. The tax shall be stated and charged separately from the sales records,
28 and shall be paid by the purchaser to the operator of the business as trustee for and on
29 account of the governing bodies. The room occupancy tax levied pursuant to this act
30 shall be added to the sales price and shall be passed on to the purchaser instead of being
31 borne by the operator of the business. The city shall design, print, and furnish to all
32 appropriate businesses in the city the necessary forms for filing returns and instructions
33 to ensure the full collection of the tax.

34 Sec. 7. Disposition of Taxes Collected. (a) Feasibility Study. After levying
35 a tax under this act, the City of Goldsboro shall place the net proceeds of the tax in a
36 special fund. "Net proceeds" means gross proceeds less the cost to the city of collecting
37 and administering the tax. When sufficient proceeds have been accumulated in the
38 special fund, the city council shall create a citizens' advisory committee to conduct a
39 study of the feasibility of the construction of a civic center in Goldsboro. The citizens'
40 advisory committee shall be composed of either five or seven members, as determined
41 by the city council. If the committee is composed of five members, three shall be
42 appointed by the city council and two shall be appointed by the Chamber of Commerce
43 of Wayne County. If the committee is composed of seven members, four shall be
44 appointed by the city council and three shall be appointed by the Chamber of Commerce

1 of Wayne County. The citizens' advisory committee shall use the net proceeds of the
2 tax levied under this act for a study of the feasibility of the construction of a civic center
3 in Goldsboro.

4 (b) If Civic Center Feasible. If the Goldsboro City Council determines that the
5 results of the feasibility study indicate that a civic center would be a viable alternative
6 for the city, the proceeds of the tax levied under this act shall thereafter be used as
7 provided in this subsection. The citizens' advisory committee created pursuant to
8 subsection (a) of this section shall continue to serve in an advisory capacity to the
9 Goldsboro City Council. The city shall use no more than twenty percent (20%) of the
10 net proceeds of the tax levied under this act for development of tourism, support
11 services, and tourist-related events and attractions. The city shall use the remainder of
12 the net proceeds for improving, leasing, constructing, financing, operating, or acquiring
13 facilities and properties as needed to provide for a civic center facility for Goldsboro.
14 The city may contract with any person, firm, or agency to assist it in carrying out the
15 purposes provided in this subsection.

16 (c) If Civic Center Not Feasible at Present. If the Goldsboro City Council
17 determines that the results of the feasibility study indicate that a civic center would not
18 be a viable alternative for the city at present or without the participation of other
19 governmental, educational, or nonprofit entities, then the city may, on a monthly basis,
20 remit up to fifty percent (50%) of the net proceeds of the tax to the Goldsboro Tourism
21 Council created in Section 8 of this act. The remaining net proceeds of the tax shall be
22 invested in a special interest bearing fund and held by the city for improving, leasing,
23 constructing, financing, operating, or acquiring facilities and properties, either by the
24 city or in conjunction with other governmental, educational, or nonprofit entities.
25 Thereafter, if the Goldsboro City Council determines that a civic center would be a
26 viable alternative for the city, then a citizens' advisory committee shall be again created,
27 if it has been disbanded, pursuant to subsection (a) of this section, and the provisions of
28 subsection (b) of this section shall apply. Further, the citizens' advisory committee may
29 conduct additional feasibility studies as it deems necessary. If the Goldsboro City
30 Council later determines that a civic center would not be a viable alternative for the city,
31 then the provisions of subsection (d) of this section shall apply.

32 (d) If Civic Center Not Feasible. If the Goldsboro City Council determines
33 that the results of the feasibility study indicate that a civic center would not be a viable
34 alternative for the city, the proceeds of the tax levied under this act shall thereafter be
35 used as provided in this subsection. The citizens' advisory committee created pursuant
36 to subsection (a) of this section shall be disbanded. The city shall, on a monthly basis,
37 remit the net proceeds of the tax to the Goldsboro Tourism Council created in Section 8
38 of this act. The Council shall use the proceeds to develop tourism, support services, and
39 tourist-related events, and for any other appropriate activities to provide tourism-related
40 facilities and attractions.

41 Sec. 8. Goldsboro Tourism Council. (a) If the Goldsboro City Council
42 determines that the results of the feasibility study indicate that a civic center would not
43 be a viable alternative for the city, as provided in Section 7, it shall adopt a resolution

1 creating a Goldsboro Tourism Council. The membership of the Goldsboro Tourism
2 Council shall be appointed by the Goldsboro City Council as follows:

- 3 (1) Three owners or operators of hotels, motels, or other taxable
4 accommodations in the City of Goldsboro.
- 5 (2) Three individuals who have demonstrated an interest in conventions
6 and tourism development in the Goldsboro area, and who do not own
7 or operate hotels, motels, or other taxable tourism accommodations.
- 8 (3) Three ex officio members: the city manager, the executive vice-
9 president of the Chamber of Commerce of Wayne County, and the
10 mayor of the City of Goldsboro.

11 (b) All members of the Council shall serve without compensation. Travel
12 expenses, as approved in the annual budget, may be provided by the Goldsboro Tourism
13 Council. Vacancies in the Council shall be filled in the same manner as the original
14 appointments. Members appointed to fill vacancies shall serve for the remainder of the
15 unexpired term for which they are appointed to fill. Members shall serve three-year
16 terms which will be staggered as provided by the city council; members may serve no
17 more than two consecutive three-year terms. The members shall elect a chairperson and
18 treasurer, who shall serve for a term of two years. The Council shall meet at the call of
19 the chairperson and shall adopt rules of procedure to govern its meeting as provided by
20 Robert's Rules of Order.

21 (c) The Goldsboro Tourism Council may contract with any person, firm, or
22 agency to assist it in carrying out the purposes provided in this act. The Council shall
23 prepare an annual budget and shall report quarterly and at the close of the fiscal year to
24 the Goldsboro City Council on its receipts and expenditures for the preceding quarter
25 and year in such detail as the city may require. An audit will be conducted as part of the
26 city's audit contract.

27 Sec. 9. Repeal. A tax levied under this section may be repealed by a
28 resolution adopted by the Goldsboro City Council. Repeal of a tax levied under this
29 section shall become effective on the first day of a month and may not become effective
30 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a
31 tax levied under this section does not affect a liability for a tax that was attached before
32 the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued
33 before the effective date of the repeal.

34 Sec. 10. Force Account Modification.

35 (a) G.S. 143-135 reads as rewritten:

36 **"§ 143-135. Limitation of application of Article.**

37 Except for the provisions of G.S. 143-129 requiring bids for the purchase of
38 apparatus, supplies, materials or equipment, this Article shall not apply to construction
39 or repair work undertaken by the State or by subdivisions of the State of North Carolina

40 (i) when the work is performed by duly elected officers or agents using force
41 account qualified labor on the permanent payroll of the agency concerned and (ii) when
42 the total cost of the project, including without limitation all direct and indirect costs of
43 labor, services, materials, supplies and equipment, does not exceed seventy-five
44 thousand dollars (\$75,000). In addition, except for the provisions of G.S. 143-129

1 requiring bids for the purchase of apparatus, supplies, materials, or equipment, this
2 Article shall not apply to work undertaken by the City of Goldsboro to enclose or
3 encase an open storm drainage ditch when (i) the work is performed by duly elected
4 officers or agents using force account qualified labor on the permanent payroll of the
5 agency concerned, (ii) the total cost of the materials for the project does not exceed one
6 hundred thousand dollars (\$100,000) per drainage ditch, and (iii) the total remaining
7 cost of the project, including without limitation all direct and indirect costs of labor and
8 services, does not exceed seventy-five thousand dollars (\$75,000). Such force account
9 work shall be subject to the approval of the Director of the Budget in the case of State
10 agencies, of the responsible commission, council, or board in the case of subdivisions of
11 the State. Complete and accurate records of the entire cost of such work, including
12 without limitation, all direct and indirect costs of labor, services, materials, supplies and
13 equipment performed and furnished in the prosecution and completion thereof, shall be
14 maintained by such agency, commission, council or board for the inspection by the
15 general public. Construction or repair work undertaken pursuant to this section shall not
16 be divided for the purposes of evading the provisions of this Article."

17 (b) This section applies only to the City of Goldsboro.

18 Sec. 11. This act is effective upon ratification.