

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 92
Finance Committee Substitute Adopted 5/12/05
House Committee Substitute Favorable 6/30/05**

Short Title: Watauga Dist. U Occ. Tax/Force Account Limit. (Local)

Sponsors:

Referred to:

February 9, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE WATAUGA COUNTY TO LEVY AN OCCUPANCY
2 TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS
3 OF THE COUNTY AND TO INCREASE THE FORCE ACCOUNT LIMIT FOR
4 WATAUGA COUNTY AND THE TOWN OF BOONE FOR DEVELOPMENT OF
5 ANNE MARIE DRIVE PARK.
6

7 The General Assembly of North Carolina enacts:

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9 **PART I. WATAUGA COUNTY DISTRICT U OCCUPANCY TAX.**

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

19 **SECTION 2.** Authorization and Scope. – The governing body of Watauga
20 County District U may levy a room occupancy tax of up to six percent (6%) of the gross
21 receipts derived from the rental of any room, lodging, or accommodation furnished by a
22 hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales
23 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State
24 or local sales or room occupancy tax. This tax does not apply to accommodations
25 furnished by charitable, educational, or religious institutions or nonprofit organizations
26 when furnished in furtherance of their nonprofit purpose.

27 **SECTION 3.** Administration. – A tax levied under this act shall be levied,
28 administered, collected, and repealed as provided in G.S. 153A-155 as if Watauga

1 County District U were a county. The penalties provided in G.S. 153A-155 apply to a
2 tax levied under this act.

3 **SECTION 4.** Distribution and Use of Tax Revenue. – Watauga County
4 District U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to
5 the Watauga County District U Tourism Development Authority created pursuant to
6 Section 5 of this act. The Authority shall use at least two-thirds of the proceeds
7 distributed to it to promote travel and tourism in the district and shall use the remainder
8 for tourism-related expenditures in the district. In accordance with the North Carolina
9 Constitution and the United States Constitution, the tax proceeds may be used only for
10 the direct benefit of the jurisdiction of Watauga County District U. None of the
11 proceeds may be used to promote travel or tourism in areas within Watauga County that
12 are outside of the district or for tourism-related expenditures in the county that are
13 outside of the district.

14 The following definitions apply in this act:

- 15 (1) Net proceeds. – Gross proceeds less the cost to the county of
16 administering and collecting the tax, as determined by the finance
17 officer, not to exceed three percent (3%) of the first five hundred
18 thousand dollars (\$500,000) of gross proceeds collected each year and
19 one percent (1%) of the remaining gross receipts collected each year.
- 20 (2) Promote travel and tourism. – To advertise or market an area or
21 activity, publish and distribute pamphlets and other materials, conduct
22 market research, or engage in similar promotional activities that attract
23 tourists or business travelers to the area. The term includes
24 administrative expenses incurred in engaging in the listed activities.
- 25 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
26 the Tourism Development Authority, are designed to increase the use
27 of lodging facilities, meeting facilities, or convention facilities in a
28 county or to attract tourists or business travelers to the county. The
29 term includes tourism-related capital expenditures.

30 **SECTION 5.(a)** Watauga County District U Tourism Development
31 Authority. – Appointment and Membership. – The Watauga County Board of
32 Commissioners shall adopt a resolution creating the Watauga County District U
33 Tourism Development Authority, which shall be a public authority under the Local
34 Government Budget and Fiscal Control Act. The resolution shall provide for the
35 membership of the Authority, including the members' terms of office, and for the filling
36 of vacancies on the Authority. At least one-third of the members must be individuals
37 who are affiliated with businesses that collect the tax in the district, and at least one-half
38 of the members must be individuals who are currently active in the promotion of travel
39 and tourism in the district. The board of commissioners shall designate one member of
40 the Authority as chair and shall determine the compensation, if any, to be paid to
41 members of the Authority.

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

1 **SECTION 5.(b)** Duties. – The Authority shall expend the net proceeds of
2 the tax levied under this act for the purposes provided in Section 4 of this act. The
3 Authority shall promote travel and tourism in the district and make tourism-related
4 expenditures in the district.

5 **SECTION 5.(c)** Reports. – The Authority shall report quarterly and at the
6 close of the fiscal year to the Watauga County Board of Commissioners on its receipts
7 and expenditures for the preceding quarter and for the year in such detail as the board
8 may require.

9 **SECTION 6.** G.S. 153A-155(g) reads as rewritten:

10 "(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus,
11 Carteret, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Granville,
12 Halifax, Madison, Montgomery, Nash, New Hanover, Pasquotank, Pender, Person,
13 Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and
14 Washington Counties, to Watauga County District U, and to the Township of
15 Averasboro in Harnett County."

16 17 **PART II. FORCE ACCOUNT LIMIT.**

18 **SECTION 7.** G.S. 143-135 reads as rewritten:

19 "**§ 143-135. Limitation of application of Article.**

20 Except for the provisions of G.S. 143-129 requiring bids for the purchase of
21 apparatus, supplies, materials or equipment, this Article shall not apply to construction
22 or repair work undertaken by the State or by subdivisions of the State of North Carolina
23 (i) when the work is performed by duly elected officers or agents using force account
24 qualified labor on the permanent payroll of the agency concerned and (ii) when either
25 the total cost of the project, including without limitation all direct and indirect costs of
26 labor, services, materials, supplies and equipment, does not exceed ~~one hundred~~
27 ~~twenty five thousand dollars (\$125,000) or the total cost of labor on the project does not~~
28 ~~exceed fifty thousand dollars (\$50,000).~~ seven hundred fifty thousand dollars
29 (\$750,000). This force account work shall be subject to the approval of the Director of
30 the Budget in the case of State agencies, of the responsible commission, council, or
31 board in the case of subdivisions of the State. Complete and accurate records of the
32 entire cost of such work, including without limitation, all direct and indirect costs of
33 labor, services, materials, supplies and equipment performed and furnished in the
34 prosecution and completion thereof, shall be maintained by such agency, commission,
35 council or board for the inspection by the general public. Construction or repair work
36 undertaken pursuant to this section shall not be divided for the purposes of evading the
37 provisions of this Article."

38 **SECTION 8.** Section 7 of this act applies only to a joint project between
39 Watauga County and the Town of Boone to develop Anne Marie Drive Park.

40 **SECTION 9.** Section 7 of this act applies to Watauga County and the Town
41 of Boone only.

42 43 **PART III. EFFECTIVE DATE.**

44 **SECTION 10.** This act is effective when it becomes law.