

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 353
Committee Substitute Favorable 3/28/23

Short Title: Wilkes County Occupancy Tax.

(Local)

Sponsors:

Referred to:

March 14, 2023

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THE OCCUPANCY TAXES FOR THE TOWN OF WILKESBORO
2 AND WILKES COUNTY DISTRICT K, TO CREATE WILKES COUNTY DISTRICT W
3 AND ALLOW THE DISTRICT TO LEVY AN OCCUPANCY TAX OF SIX PERCENT,
4 AND TO CREATE THE WILKES COUNTY DISTRICT W TOURISM DEVELOPMENT
5 AUTHORITY.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** Part IX of S.L. 2001-439 is repealed.

9 **SECTION 1.(b)** Any revenue collected by the Town of Wilkesboro under Part IX
10 of S.L. 2001-439 prior to the effective date of this section may be used only for the direct benefit
11 of the Town of Wilkesboro. None of the proceeds may be used to promote travel or tourism or
12 for tourism-related expenditures in areas that are outside of the Town of Wilkesboro. The net
13 proceeds of the occupancy tax levied under this act shall supplement rather than supplant any
14 proceeds being used in the Town of Wilkesboro derived from the occupancy tax levied by the
15 Town under Part IX of S.L. 2001-439.

16 **SECTION 2.(a)** Sections 8 and 9 of S.L. 2010-78 are repealed.

17 **SECTION 2.(b)** Any revenue collected by Wilkes County District K under Sections
18 8 and 9 of S.L. 2010-78 prior to the effective date of this section may be used only for the direct
19 benefit of Wilkes County District K, as it existed prior to the effective date of this section. None
20 of the proceeds may be used to promote travel or tourism or for tourism-related expenditures in
21 areas that are outside of the jurisdiction of Wilkes County District K. The net proceeds of the
22 occupancy tax levied under this act shall supplement rather than supplant any proceeds being
23 used in the jurisdiction of Wilkes County District K derived from the occupancy tax levied by
24 the district under Sections 8 and 9 of S.L. 2010-78.

25 **SECTION 3.** Wilkes County District W Created. – Wilkes County District W is
26 created as a taxing district. Its jurisdiction consists of only that part of Wilkes County that is
27 located outside of the incorporated area of the Town of Elkin. Wilkes County District W is a
28 body politic and corporate and has the power to carry out the provisions of this act. The Wilkes
29 County Board of Commissioners shall serve ex officio as the governing body of the district, and
30 the officers of the County shall serve as the officers of the governing body of the district. A
31 simple majority of the governing body constitutes a quorum, and approval by a majority of those
32 present is sufficient to determine any matter before the governing body, if a quorum is present.

33 **SECTION 4.** Occupancy tax. – (a) Authorization and Scope. – The governing body
34 of Wilkes County District W may levy a room occupancy tax of up to six percent (6%) of the
35 gross receipts derived from the rental of an accommodation within the district that is subject to



1 sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or
2 local sales tax.

3 **SECTION 4.(b)** Administration. – A tax levied under this section shall be levied,
4 administered, collected, and repealed as provided in G.S. 153A-155 as if Wilkes County District
5 W were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this
6 section.

7 **SECTION 4.(c)** Distribution and Use of Tax Revenue. – Wilkes County District W
8 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Wilkes County
9 District W Tourism Development Authority. The Authority shall use at least two-thirds of the
10 funds to promote travel and tourism and shall use the remainder for tourism-related expenditures
11 in the district. In accordance with the North Carolina Constitution and the United States
12 Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Wilkes
13 County District W. None of the proceeds may be used to promote travel or tourism or for
14 tourism-related expenditures in areas within Wilkes County that are outside of the district.

15 The following definitions apply in this subsection:

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

31 **SECTION 5.** Tourism Development Authority. – (a) Appointment and Membership.
32 – When the governing body of the Wilkes County District W adopts a resolution levying a room
33 occupancy tax under this act, it shall also adopt a resolution creating a district Tourism
34 Development Authority, which shall be a public authority under the Local Government Budget
35 and Fiscal Control Act. The resolution shall provide for the membership of the Authority,
36 including the members' terms of office, and for the filling of vacancies on the Authority. The
37 district Tourism Development Authority shall consist of the following members:

- 38 (1) Two members appointed by the Wilkes County Board of Commissioners, one
39 of whom must be an individual affiliated with a business that collects the tax
40 in the district and another who must be an individual currently active in the
41 promotion of travel and tourism in the district.
- 42 (2) Two members appointed by the Wilkesboro Town Council, one of whom must
43 be an individual affiliated with a business that collects the tax in Wilkesboro
44 and another who must be an individual currently active in the promotion of
45 travel and tourism in Wilkesboro.
- 46 (3) One member appointed by the North Wilkesboro Board of Commissioners
47 who is (i) an individual affiliated with a business that collects the tax in North
48 Wilkesboro or (ii) an individual currently active in the promotion of travel and
49 tourism in North Wilkesboro.

- 1 (4) One member appointed by the Ronda Board of Commissioners who is (i) an
2 individual affiliated with a business that collects the tax in Ronda or (ii) an
3 individual currently active in the promotion of travel and tourism in Ronda.

4 The district Tourism Development Authority may, by majority vote, appoint up to
5 two additional members to the Authority. Any additional member appointed by the Authority
6 must be either (i) an individual affiliated with a business that collects the tax in the district or (ii)
7 an individual currently active in the promotion of travel and tourism in the district.

8 Notwithstanding the options available under this section, the overall composition of
9 the Authority, including any additional members, must in all cases consist of at least one-third of
10 the members who are individuals affiliated with the businesses that collect the tax in the district
11 and at least one-half of the members who are individuals currently active in the promotion of
12 travel and tourism in the district.

13 The governing body of the district shall designate one member of the Authority as
14 chair and shall determine the compensation, if any, to be paid to members of the Authority. The
15 Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its
16 meetings. The finance officer for the governing body of the district shall be the ex officio finance
17 officer of the Authority.

18 **SECTION 5.(b) Duties.** – The Authority shall expend the net proceeds of the tax
19 levied under this act for promoting travel and tourism and for tourism-related expenditures as
20 provided in this act.

21 **SECTION 5.(c) Reports.** – The Authority shall report quarterly and at the close of
22 the fiscal year to the governing body of the district on its receipts and expenditures for the
23 preceding quarter and for the year in such detail as the governing body of the district may require.

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

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

38 **SECTION 7.** G.S. 160A-215(g) reads as rewritten:

39 "(g) Applicability. – Subsection (c) of this section applies to all cities that levy an
40 occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection
41 (c) supersedes that provision. The remainder of this section applies only to Beech Mountain
42 District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro,
43 Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lake Santeetlah, Lenoir,
44 Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville,
45 Roanoke Rapids, Salisbury, Sanford, Shelby, Statesville, Washington, and Wilmington, to the
46 Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs,
47 Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin,
48 Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach, Leland,
49 McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke, Pilot
50 Mountain, Ranlo, Robbinsville, Selma, Smithfield, St. Pauls, Swansboro, Troutman, Tryon, West

1 Jefferson, ~~Wilkesboro~~, Wrightsville Beach, Yadkinville, Yanceyville, to the municipalities in
2 Avery and Brunswick Counties, and to Saluda District D."

3 **SECTION 8.** The governing body of Wilkes County District K, the Wilkes County
4 Board of Commissioners, the Wilkesboro Town Council, the North Wilkesboro Board of
5 Commissioners, and the Ronda Board of Commissioners shall adopt any resolutions or modify
6 any adopted resolutions, as needed, to carry out the provisions of this act.

7 **SECTION 9.** This act does not affect the rights or liabilities of the State, a taxpayer,
8 or another person arising under a statute amended by this act before the effective date of its
9 amendment, nor does it affect the right to any refund or credit of a tax that accrued under the
10 amended statute before the effective date of its amendment.

11 **SECTION 10.** Sections 1 and 2 of this act become effective July 1, 2023. The
12 remainder of this act is effective when it becomes law, however, a room occupancy tax authorized
13 to be levied by this act may not become effective until on or after July 1, 2023.