

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 925

Short Title: Wilmington River Walk District.

(Local)

Sponsors: Representative McComas.

Referred to: Rules, Calendar, and Operations of the House.

March 29, 2001

A BILL TO BE ENTITLED

AN ACT TO CREATE THE WILMINGTON RIVER WALK CONVENTION
CENTER DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) River Walk District Created. – The Wilmington River Walk Tax District is created as a body politic and corporate and has the powers to carry out this act. The Wilmington City Council shall serve, ex officio, as the governing body of the district, and the officers of the city council 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) Jurisdiction. – The jurisdiction of the Wilmington River Walk Tax District is the area comprising all of the following:

- (1) All the lots contiguous to either side of Third Street between the Isabelle Holmes Bridge and the intersection with Davis Street.
- (2) All the lots contiguous to either side of Second Street from the intersection with Third Street to the intersection with Brunswick Street.
- (3) All the lots contiguous to either side of Front Street from the intersection with Second Street to the intersection with Hanover Street.
- (4) All the lots contiguous to either side of Nutt Street from the intersection with Hanover Street to the intersection with Red Cross Street.
- (5) All the lots contiguous to either side of Water Street or South Water Street from the intersection with Red Cross Street to the intersection with Nun Street.

SECTION 2. River Walk Occupancy Tax. – (a) Authorization and Scope. – The governing body of the Wilmington River Walk Tax District may levy a room

1 occupancy tax of up to three percent (3%) of the gross receipts derived from the rental
2 of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp,
3 or similar place within the district that is subject to sales tax imposed by the State under
4 G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax
5 does not apply to accommodations furnished by nonprofit charitable, educational, or
6 religious organizations when furnished in furtherance of their nonprofit purpose.

7 **SECTION 2.(b) Administration.** – A tax levied under this section shall be
8 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
9 penalties provided in G.S. 160A-215 apply to a tax levied under this section. The
10 district may contract with the City of Wilmington or with New Hanover County to
11 collect or administer the tax on its behalf.

12 **SECTION 2.(c) Use of Tax Revenue.** – The Wilmington River Walk Tax
13 District shall use the net proceeds of the tax authorized by this section to construct,
14 maintain, and operate a convention center in or near the district. Any excess not needed
15 for this purpose may be used only for tourism-related expenditures to benefit the
16 district.

17 The following definitions apply in this subsection:

- 18 (1) Net proceeds. -- Gross proceeds less the cost to the district of
19 administering and collecting the tax, as determined by the finance
20 officer, not to exceed three percent (3%) of the first five hundred
21 thousand dollars (\$500,000) of gross proceeds collected each year and
22 one percent (1%) of the remaining gross receipts collected each year.
- 23 (2) Tourism-related expenditures. -- Expenditures that, in the judgment of
24 the governing body of the district, are designed to increase the use of
25 lodging facilities, meeting facilities, or convention facilities in the area
26 or to attract tourists or business travelers to the area. The term includes
27 tourism-related capital expenditures.

28 **SECTION 3. District Administrative Provisions.** – G.S. 160A-215 reads as
29 rewritten:

30 **"§ 160A-215. Uniform provisions for room occupancy taxes.**

31 (a) Scope. – This section applies only to municipalities the General Assembly
32 has authorized to levy room occupancy taxes. For the purpose of this section, the term
33 "city" means a ~~municipality.~~ municipality or a tax district.

34 (b) Levy. – A room occupancy tax may be levied only by resolution, after not
35 less than 10 days' public notice and after a public hearing held pursuant thereto. A room
36 occupancy tax shall become effective on the date specified in the resolution levying the
37 tax. That date must be the first day of a calendar month, however, and may not be
38 earlier than the first day of the second month after the date the resolution is adopted.

39 (c) Collection. – Every operator of a business subject to a room occupancy tax
40 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
41 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
42 be stated and charged separately from the sales records and shall be paid by the
43 purchaser to the operator of the business as trustee for and on account of the taxing city.
44 The tax shall be added to the sales price and shall be passed on to the purchaser instead

1 of being borne by the operator of the business. The taxing city shall design, print, and
2 furnish to all appropriate businesses and persons in the city the necessary forms for
3 filing returns and instructions to ensure the full collection of the tax. An operator of a
4 business who collects a room occupancy tax may deduct from the amount remitted to
5 the taxing city a discount equal to the discount the State allows the operator for State
6 sales and use tax.

7 (d) Administration. – The taxing city shall administer a room occupancy tax it
8 levies. A room occupancy tax is due and payable to the city finance officer in monthly
9 installments on or before the fifteenth day of the month following the month in which
10 the tax accrues. Every person, firm, corporation, or association liable for the tax shall,
11 on or before the fifteenth day of each month, prepare and render a return on a form
12 prescribed by the taxing city. The return shall state the total gross receipts derived in the
13 preceding month from rentals upon which the tax is levied. A room occupancy tax
14 return filed with the city finance officer is not a public record and may not be disclosed
15 except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

16 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
17 file a room occupancy tax return or pay a room occupancy tax as required by law is
18 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
19 return for State sales and use taxes. The governing board of the taxing city has the same
20 authority to waive the penalties for a room occupancy tax that the Secretary of Revenue
21 has to waive the penalties for State sales and use taxes.

22 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be
23 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or
24 reduction of a room occupancy tax shall become effective on the first day of a month
25 and may not become effective until the end of the fiscal year in which the resolution
26 was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for
27 a tax that was attached before the effective date of the repeal or reduction, nor does it
28 affect a right to a refund of a tax that accrued before the effective date of the repeal or
29 reduction.

30 (g) This section applies only to the Cities of Goldsboro, Greensboro, Lumberton,
31 Mount Airy, Shelby, and Statesville, to the Towns of Banner Elk, Mooresville, and St.
32 Pauls, to the Wilmington River Walk Tax District, and to the municipalities in
33 Brunswick County."

34 **SECTION 4.** River Walk Privilege License tax. – (a) Levy. –
35 Notwithstanding any other provision of law, the governing body of the Wilmington
36 River Walk Tax District may, by ordinance, after not less than 10 days' public notice
37 and a public hearing held pursuant thereto, levy a privilege license tax on every person
38 engaged in the business of operating a commercial building within the district. A tax
39 levied under this section may become effective no earlier than September 1 following
40 its levy. A person is engaged in the business of operating a commercial building if the
41 person does either of the following during the tax year:

- 42 (1) Uses or holds out for use as a commercial building his or her own
43 property.

- 1 (2) Leases or otherwise provides his or her property to another for use as a
2 commercial building.

3 **SECTION 4.(b)** Administration. – The provisions of G.S. 105-33(b) and (h)
4 apply to a tax levied under this section. As used in those provisions, the term "fiscal
5 year" means the district's fiscal year and the term "person" has the meaning provided in
6 G.S. 105-228.90. The district shall adopt regulations to govern the reporting and
7 administration of the tax. The district may contract with the City of Wilmington to
8 collect or administer the tax on its behalf.

9 **SECTION 4.(c)** Tax Base and Rate. – The tax authorized by this section is
10 based on the floor surface area of every commercial building used or held out for use in
11 the district. In the case of an ongoing business, the tax is based on the floor surface area
12 used or held out for using during the previous fiscal year of the district. In the case of a
13 new business, the tax is based on the floor surface area used or held out for use during
14 the tax year.

15 A tax levied under this section may not exceed fifteen cents (15¢) per square
16 foot, subject to a minimum tax of two hundred fifty dollars (\$250.00) per location.

17 **SECTION 4.(d)** Lien and Penalties. – A tax levied under this section
18 becomes a lien on the real property where the commercial building is located. The
19 penalties provided in G.S. 105-236 apply to a tax levied under this section.

20 **SECTION 4.(e)** Use of Tax Revenue. – The Wilmington River Walk Tax
21 District shall use the net proceeds of the tax authorized by this section to construct,
22 maintain, and operate a convention center in or near the district. Any excess not needed
23 for this purpose may be used only for tourism-related expenditures to benefit the
24 district.

25 **SECTION 4.(f)** Definitions. – The following definitions apply in this
26 section:

- 27 (1) Commercial building. – A building that is not used for residential
28 purposes. In the case of a building that is used partially for residential
29 purposes and partially for other purposes, the part of the building not
30 used for residential purposes is a commercial building.
- 31 (2) Floor surface area. – Gross interior wall space, which may include not
32 only the commercial area but also any ancillary areas such as aisles,
33 hallways, stairwells, escalators, elevators, eating and drinking areas,
34 restrooms, and common areas.
- 35 (3) Net proceeds. – Gross proceeds less the cost to the district of
36 administering and collecting the tax, as determined by the finance
37 officer, not to exceed three percent (3%) of the first five hundred
38 thousand dollars (\$500,000) of gross proceeds collected each year and
39 one percent (1%) of the remaining gross receipts collected each year.
- 40 (4) Tourism-related expenditures. – Expenditures that, in the judgment of
41 the governing body of the district, are designed to increase the use of
42 the lodging facilities, meeting facilities, or convention facilities in the
43 area or to attract tourists or business travelers to the area. The term
44 includes tourism-related capital expenditures.

1 **SECTION 5.** Section 35 of Chapter 908 of the 1983 Session Laws, as
2 amended by Chapter 987 of the 1983 Session Laws, Chapters 726 and 971 of the 1985
3 Session Laws, and Chapter 540 of the 1995 Session Laws, reads as rewritten:

4 "Sec. 35. Disposition of Taxes Collected.

5 (a) New Hanover County shall distribute the net proceeds of the occupancy tax
6 as follows:

7 (1) All of the net proceeds of the occupancy tax collected from
8 accommodations located within the Wilmington River Walk Tax
9 District shall be remitted to the district and may be used only to
10 construct, maintain, and operate a convention center in or near the
11 district. The district may use any excess not needed for this purpose
12 only for tourism-related expenditures to benefit the district;

13 (1a) Sixty percent (60%) of the net proceeds remaining after the
14 distribution provided in subdivision (1) of this subsection shall be
15 deposited in a special fund, the cash balance of which shall be
16 deposited at interest or invested in accordance with G.S. 159-30; and

17 (2) Forty percent (40%) of the net proceeds remaining after the
18 distribution provided in subdivision (1) of this subsection shall be
19 distributed on a quarterly basis to the county and its municipalities in
20 accordance with the method by which the one percent (1%) local sales
21 and use taxes levied in the county pursuant to Article 39 of Chapter
22 105 of the General Statutes are distributed.

23 'Net proceeds' means gross proceeds less the cost to the county of administering and
24 collecting the tax.

25 Unless a change in the use of occupancy tax revenue is authorized pursuant to
26 subsection (b), the revenue deposited in a special fund in accordance with subdivision
27 ~~(1)~~ (1a) of this subsection shall be used by the county ~~to control beach erosion,~~ for beach
28 nourishment, and the revenue distributed between the county and its municipalities in
29 accordance with subdivision (2) of this subsection shall be used to promote travel and
30 tourism. No revenue distributed under subdivision (2), however, may be used to plan,
31 construct, operate, maintain, or in any way promote a civic center, convention center,
32 public auditorium, or like facility.

33 (b) The purposes for which revenue from the room occupancy tax may be used
34 by the county and its municipalities under subdivisions (a)(1a) and (2) of this section
35 may be changed only by resolution of the New Hanover Board of County
36 Commissioners after being approved by a majority of the votes cast in an election held
37 in New Hanover County on the question of how revenue from the room occupancy tax
38 should be used. The ballot presented to the qualified voters of the county in an election
39 concerning the use of revenue from the room occupancy tax shall state all the proposed
40 uses of this revenue and the percentage of the revenue to be used for each purpose. Any
41 change in use of revenue from the room occupancy tax made by the county
42 commissioners after voter approval may likewise be changed only by resolution of the
43 county commissioners after being approved by the voters in another election.

1 The question of how revenue from the room occupancy tax should be spent may be
2 submitted to the qualified voters of the county only at the time of a statewide general
3 election. All elections under this section shall be conducted in accordance with the laws
4 then governing elections in this State."

5 **SECTION 6.** The City of Wilmington and the Wilmington River Walk Tax
6 District may contract for the design and construction of a convention center, without
7 being subject to the requirements of Article 8 of Chapter 143 of the General Statutes.

8 **SECTION 7.** Section 5 of this act becomes effective September 1, 2001, and
9 applies to taxes that accrue on or after that date. The remainder of this act is effective
10 when it becomes law. Section 6 of this act is repealed effective July 1, 2006.