

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

1

HOUSE BILL 930

Short Title: Sampson/Clinton Room Taxes. (Local)

Sponsors: Representatives Bell (By Request); Bowie, Cunningham, Davis,
Goodwin, Weatherly, and Womble.

Referred to: Finance.

March 29, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE SAMPSON COUNTY AND THE CITY OF CLINTON
3 TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

4 The General Assembly of North Carolina enacts:

5 **PART 1. SAMPSON OCCUPANCY TAX**

6 **SECTION 1.** Sampson occupancy tax. (a) Authorization and Scope. – The
7 Sampson County Board of Commissioners may levy a room occupancy tax of up to
8 three percent (3%) of the gross receipts derived from the rental of any room, lodging, or
9 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
10 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
11 This tax is in addition to any State or local sales tax. This tax does not apply to
12 accommodations furnished by nonprofit charitable, educational, or religious
13 organizations when furnished in furtherance of their nonprofit purpose.

14 **SECTION 1.(b)** Administration. – A tax levied under this section shall be
15 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
16 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

17 **SECTION 1.(c)** Distribution and Use of Tax Revenue. – Sampson County
18 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Sampson
19 Tourism Development Authority. The Authority shall use at least two-thirds of the
20 funds remitted to it under this subsection to promote travel and tourism in Sampson
21 County and shall use the remainder for tourism-related expenditures.

22 The following definitions apply in this subsection:

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

- 1 (2) Promote travel and tourism. – To advertise or market an area or
2 activity, publish and distribute pamphlets and other materials, conduct
3 market research, or engage in similar promotional activities that attract
4 tourists or business travelers to the area; the term includes
5 administrative expenses incurred in engaging in these activities.
- 6 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
7 the Tourism Development Authority, are designed to increase the use
8 of lodging facilities, meeting facilities, and convention facilities in a
9 county by attracting tourists or business travelers to the county. The
10 term includes tourism-related capital expenditures.

11 **SECTION 2.** Sampson Tourism Development Authority. – (a) Appointment
12 and Membership. – When the board of commissioners adopts a resolution levying a
13 room occupancy tax under this act, it shall also adopt a resolution creating a county
14 Tourism Development Authority, which shall be a public authority under the Local
15 Government Budget and Fiscal Control Act. The resolution shall provide for the
16 membership of the Authority including the members' terms of office, and for the filling
17 of vacancies on the Authority. At least one-third of the members must be individuals
18 who are affiliated with businesses that collect the tax in the county and at least
19 three-fourths of the members must be individuals who are currently active in the
20 promotion of travel and tourism in the county. The board of commissioners shall
21 designate one member of the Authority as chair and shall determine the compensation,
22 if any, to be paid to members of the Authority.

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

26 **SECTION 2.(b) Duties.** – The Authority shall expend the net proceeds of the
27 tax levied under this act for the purposes provided in Section 1 of this act. The
28 Authority shall promote travel, tourism, and conventions in the county, sponsor
29 tourist-related events and activities in the county, and finance tourist-related capital
30 projects in the county.

31 **SECTION 2.(c) Reports.** – The Authority shall report quarterly and at the
32 close of the fiscal year to the board of commissioners on its receipts and expenditures
33 for the preceding quarter and for the year in such detail as the board may require.

34 **SECTION 3.** County Administrative Provisions. – G.S. 153A-155 reads as
35 rewritten:

36 "**§ 153A-155. Uniform provisions for room occupancy taxes.**

37 (a) Scope. – This section applies only to counties the General Assembly has
38 authorized to levy room occupancy taxes.

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

1 (c) Collection. – Every operator of a business subject to a room occupancy tax
2 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
3 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
4 be stated and charged separately from the sales records and shall be paid by the
5 purchaser to the operator of the business as trustee for and on account of the taxing
6 county. The tax shall be added to the sales price and shall be passed on to the purchaser
7 instead of being borne by the operator of the business. The taxing county shall design,
8 print, and furnish to all appropriate businesses and persons in the county the necessary
9 forms for filing returns and instructions to ensure the full collection of the tax. An
10 operator of a business who collects a room occupancy tax may deduct from the amount
11 remitted to the taxing county a discount equal to the discount the State allows the
12 operator for State sales and use tax.

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

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

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

36 (g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie,
37 Granville, Madison, Nash, Person, Randolph, Sampson, Scotland, and Transylvania
38 Counties."

39 PART 2. CLINTON OCCUPANCY TAX

40 SECTION 4. Clinton occupancy tax. (a) Authorization and Scope. – The
41 Clinton City Council may levy a room occupancy tax of up to three percent (3%) of the
42 gross receipts derived from the rental of any room, lodging, or accommodation
43 furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is
44 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in

1 addition to any State or local sales tax. This tax does not apply to accommodations
2 furnished by nonprofit charitable, educational, or religious organizations when
3 furnished in furtherance of their nonprofit purpose.

4 **SECTION 4.(b) Administration.** – A tax levied under this section shall be
5 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
6 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

7 **SECTION 4.(c) Distribution and Use of Tax Revenue.** – The City of Clinton
8 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Clinton
9 Tourism Development Authority. The Authority shall use at least two-thirds of the
10 funds remitted to it under this subsection to promote travel and tourism in the area and
11 shall use the remainder for tourism-related expenditures.

12 The following definitions apply in this subsection:

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

28 **SECTION 5. Clinton Tourism Development Authority.** (a) Appointment and
29 Membership. – When the city council adopts a resolution levying a room occupancy tax
30 under this act, it shall also adopt a resolution creating a city Tourism Development
31 Authority, which shall be a public authority under the Local Government Budget and
32 Fiscal Control Act. The resolution shall provide for the membership of the Authority,
33 including the members' terms of office, and for the filling of vacancies on the Authority.
34 At least one-third of the members must be individuals who are affiliated with businesses
35 that collect the tax in the city and at least three-fourths of the members must be
36 individuals who are currently active in the promotion of travel and tourism in the city.
37 The city council shall designate one member of the Authority as chair and shall
38 determine the compensation, if any, to be paid to members of the Authority.

39 The Authority shall meet at the call of the chair and shall adopt rules of
40 procedure to govern its meetings. The Finance Officer for the City of Clinton shall be
41 the ex officio finance officer of the Authority.

42 **SECTION 5.(b) Duties.** – The Authority shall expend the net proceeds of the
43 tax levied under this act for the purposes provided in this act. The Authority shall

1 promote travel, tourism, and conventions in the city, sponsor tourist-related events and
2 activities in the city, and finance tourist-related capital projects in the city.

3 **SECTION 5.(c) Reports.** – The Authority shall report quarterly and at the
4 close of the fiscal year to the city council on its receipts and expenditures for the
5 preceding quarter and for the year in such detail as the city council may require.

6 **SECTION 6.** City administrative provisions. – G.S. 160A-215 reads as
7 rewritten:

8 "**§ 160A-215. Uniform provisions for room occupancy taxes.**

9 (a) Scope. – This section applies only to municipalities the General Assembly
10 has authorized to levy room occupancy taxes. For the purpose of this section, the term
11 "city" means a municipality.

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

17 (c) Collection. – Every operator of a business subject to a room occupancy tax
18 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
19 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
20 be stated and charged separately from the sales records and shall be paid by the
21 purchaser to the operator of the business as trustee for and on account of the taxing city.
22 The tax shall be added to the sales price and shall be passed on to the purchaser instead
23 of being borne by the operator of the business. The taxing city shall design, print, and
24 furnish to all appropriate businesses and persons in the city the necessary forms for
25 filing returns and instructions to ensure the full collection of the tax. An operator of a
26 business who collects a room occupancy tax may deduct from the amount remitted to
27 the taxing city a discount equal to the discount the State allows the operator for State
28 sales and use tax.

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

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

1 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be
2 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or
3 reduction of a room occupancy tax shall become effective on the first day of a month
4 and may not become effective until the end of the fiscal year in which the resolution
5 was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for
6 a tax that was attached before the effective date of the repeal or reduction, nor does it
7 affect a right to a refund of a tax that accrued before the effective date of the repeal or
8 reduction.

9 (g) This section applies only to the Cities of Clinton, Goldsboro, Greensboro,
10 Lumberton, Mount Airy, Shelby, and Statesville, to the Towns of Banner Elk,
11 Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

12 **SECTION 7.** This act is effective when it becomes law.