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HOUSE BILL 347
Senate Finance Committee Substitute Adopted 5/27/15
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Short Title: Graham, Buncombe Occ. Tax/Stokesdale Fire.

(Local)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE AUTHORIZATION TO GRAHAM COUNTY TO LEVY AN OCCUPANCY TAX, TO AUTHORIZE BUNCOMBE COUNTY TO INCREASE ITS ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX TO SIX PERCENT AND TO MAKE OTHER ADMINISTRATIVE CHANGES, AND TO AUTHORIZE THE GUILFORD COUNTY COMMISSIONERS AND ROCKINGHAM COUNTY COMMISSIONERS TO CALL A SPECIAL ELECTION IN THE STOKESDALE FIRE PROTECTION DISTRICT FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS THEREIN THE QUESTION OF INCREASING THE ALLOWABLE SPECIAL TAX FOR FIRE PROTECTION WITHIN THAT DISTRICT FROM TEN CENTS ON THE ONE HUNDRED DOLLARS VALUATION TO FIFTEEN CENTS ON THE ONE HUNDRED DOLLARS VALUATION ON ALL TAXABLE PROPERTY WITHIN SUCH DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 969 of the 1985 Session Laws, as amended by Chapters 118 and 195 of the 1987 Session Laws and Section 21(k) of S.L. 2007-527, and only as it applies to Graham County, is rewritten and recodified as Sections 2 and 3 of this act. This act does not affect the rights or liabilities of the county, a taxpayer, or another person arising under the law rewritten and recodified by this act before the effective date of this act, nor does it affect the right to any refund or credit of a tax that accrued under the law rewritten and recodified by this act before the effective date of this act.

SECTION 2. Occupancy tax. – (a) Authorization and Scope. – The Graham County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to 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. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 2.(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this Part.

SECTION 2.(c) Definitions. – The following definitions apply in this act:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed



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1 three percent (3%) of the first five hundred thousand dollars (\$500,000) of
2 gross proceeds collected each year and one percent (1%) of the remaining
3 gross proceeds collected each year.

4 (2) Promote travel and tourism. – To advertise or market an area or activity,
5 publish and distribute pamphlets and other materials, conduct market
6 research, or engage in similar promotional activities that attract tourists or
7 business travelers to the area. The term includes administrative expenses
8 incurred in engaging in the listed activities.

9 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
10 Graham County Tourism Development Authority, are designed to increase
11 the use of lodging facilities, meeting facilities, or convention facilities in the
12 county or to attract tourists or business travelers to the county. The term
13 includes tourism-related capital expenditures.

14 **SECTION 2.(d)** Distribution and Use of Tax Revenue. – Graham County shall, on
15 a quarterly basis, remit the net proceeds of the occupancy tax levied under this act to the
16 Graham County Tourism Development Authority. The Authority shall use at least two-thirds of
17 the funds remitted to it under this subsection to promote travel and tourism in Graham County
18 and shall use the remainder for tourism-related expenditures.

19 **SECTION 3.** Tourism Development Authority. – (a) Appointment and
20 Membership. – The Graham County Board of Commissioners shall adopt a resolution
21 modifying the Graham County Tourism Development Authority to conform with the
22 requirements of this section. The Authority shall be a public authority under the Local
23 Government Budget and Fiscal Control Act. The resolution adopted by the Board of
24 Commissioners shall provide for the membership of the Authority, including the members'
25 terms of office, and for the filling of vacancies on the Authority. At least one-third of the
26 members shall be individuals who are affiliated with businesses that collect the tax in the
27 county, and at least one-half of the members shall be individuals who are currently active in the
28 promotion of travel and tourism in the county. The Board of Commissioners shall designate
29 one member of the Authority as chair and shall determine the compensation, if any, to be paid
30 to members of the Authority.

31 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
32 govern its meetings. The Finance Officer for Graham County shall be the ex officio finance
33 officer of the Authority.

34 **SECTION 3.(b)** Duties. – The Authority shall expend the net proceeds of the tax
35 levied under Section 2 of this act for the purposes provided in this act. The Authority shall
36 promote travel, tourism, and conventions in the county, sponsor tourist-related events and
37 activities in the county, and finance tourist-related capital projects in the county.

38 **SECTION 3.(c)** Reports. – The Authority shall report quarterly and at the close of
39 the fiscal year to the Graham County Board of Commissioners on its receipts and expenditures
40 for the preceding quarter and for the year in such detail as the Board of Commissioners may
41 require.

42 **SECTION 3.(d)** The Graham County Board of Commissioners shall adopt the
43 resolution required by this section within 60 days of the effective date of this act.

44 **SECTION 4.** Section 3 of Chapter 969 of the 1985 Session Laws, as amended by
45 S.L. 2011-170, reads as rewritten:

46 "Sec. 3. This act applies only to the following counties: ~~Graham~~, Clay, Durham, Macon,
47 Polk, and Transylvania."

48 **SECTION 5.** Section 3 of Chapter 118 of the 1987 Session Laws, as amended by
49 S.L. 2011-170, reads as rewritten:

50 "Sec. 3. This act applies only to the following counties: ~~Clay, Graham,~~ Clay and Macon."

1 **SECTION 6.** Section 2 of Chapter 195 of the 1987 Session Laws, as amended by
2 S.L. 2011-170, reads as rewritten:

3 "**Sec. 2.** This act applies only to the following counties: ~~Clay, Graham, Clay~~ and Macon."

4 **SECTION 7.** G.S. 153A-155(g) reads as rewritten:

5 "(g) Applicability. – Subsection (c) of this section applies to all counties and county
6 districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of
7 a local act, subsection (c) supersedes that provision. The remainder of this section applies only
8 to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell,
9 Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin,
10 Durham, Edgecombe, Forsyth, Franklin, Graham, Granville, Halifax, Haywood, Henderson,
11 Jackson, Madison, Martin, McDowell, Montgomery, Moore, Nash, New Hanover,
12 Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham,
13 Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance,
14 Washington, and Wilson Counties, to New Hanover County District U, to Surry County
15 District S, to Watauga County District U, to Wilkes County District K, to Yadkin County
16 District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township
17 Taxing District."

18 **SECTION 8.(a)** Part VI of Chapter 908 of the 1983 Session Laws, as amended by
19 Section 1 of Chapter 942 of the 1985 Session Laws, S.L. 2001-162, and Section 60(a) of S.L.
20 2013-414, reads as rewritten:

21 "PART VI. BUNCOMBE OCCUPANCY TAX.

22 "Sec. 17. Authorization and ~~Scope.~~Scope. – (a) The Board of Commissioners of Buncombe
23 County may levy a room occupancy and tourism development tax of up to two percent (2%) of
24 the gross receipts derived from the rental of accommodations within the county that are subject
25 to sales tax imposed by the State under G.S. 105-164.4(a)(3).

26 "Sec. 18. Repealed.

27 "Sec. 19. Administration of ~~Tax.~~Tax. – A tax levied under this act shall be levied,
28 administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in
29 G.S. 153A-155 apply to a tax levied under this act.

30 "Sec. 20. Repealed.

31 "Sec. 21. Disposition of Taxes ~~Collected.~~Collected. – (a) Buncombe County shall remit the
32 net proceeds of the occupancy tax to the county Tourism Development Authority in Buncombe
33 County. "Net proceeds" means gross proceeds less the cost to the county of administering and
34 collecting the tax. The Authority may not use more than ten percent (10%) of the funds
35 distributed to it pursuant to this subsection for administrative expenses of the Authority.

36 (b) The Authority may expend any funds distributed to it pursuant to subsection (a) of
37 this section only as follows:

38 (1) Three-fourths of the funds may be used only to further the development of
39 travel, tourism, and conventions in the county through State, national, and
40 international advertising and promotion.

41 (2) The Authority shall create a Tourism Product Development Fund and, in
42 order to further economic development in the county, shall credit the
43 remainder of the funds to the Tourism Product Development Fund. The
44 purpose of the fund shall be to provide financial assistance for major tourism
45 projects in order to significantly increase patronage of lodging facilities in
46 Buncombe County.

47 (c) The Authority shall administer and spend the funds in the Tourism Product
48 Development Fund as follows:

49 (1) The Authority shall create a Product Development Committee to review and
50 evaluate proposals from applicants for tourism capital projects and to make
51 recommendations to the Authority regarding use and disposition of funds

1 derived from the Tourism Product Development Fund. A for-profit entity is
 2 not eligible to receive funds or loans from the Product Development Fund.
 3 Only upon recommendation of the Product Development Committee, the
 4 Authority may award funds to qualified projects in the form of outright
 5 grants of money and may guarantee loans and participate in pledges of debt
 6 service for these projects. Projects must be located in Buncombe County
 7 unless the Commissioners of Buncombe County give specific approval to
 8 projects outside the county. Applicants must provide a feasibility study
 9 satisfactory to the Product Development Committee demonstrating the
 10 project's economic value to the area and the number of estimated new room
 11 nights it will generate.

- 12 (2) To be a qualified project, a project must be expected to significantly increase
 13 patronage of lodging facilities in Buncombe County.
- 14 (3) The Authority is not required to exhaust all of the funds generated each year
 15 and may accumulate money in order to create a revolving fund to further the
 16 purposes of this section. The Authority may not commit for purposes of debt
 17 service in excess of thirty-three percent (33%) of net funds received in any
 18 one year for a period of time in excess of 10 years. The Authority may not
 19 commit for purposes of debt service in excess of ten percent (10%) of net
 20 funds received in any one year for any single project.
- 21 (4) The Product Development Committee need not be comprised solely of
 22 members of the Authority. A majority of the members of the Product
 23 Development Committee must be persons who are owners or operators of
 24 hotels, motels, or other taxable tourist accommodations.

25 "Sec. 22. Appointment, Duties of Tourism Development ~~Authority.~~ Authority. – (a) When
 26 the board of county commissioners adopts a resolution levying a room occupancy tax pursuant
 27 to this Part, it shall also adopt a resolution creating a county Tourism Development Authority,
 28 which shall be a public authority under the Local Government Budget and Fiscal Control Act
 29 and shall be composed of the following ~~nine~~ 11 members:

- 30 (1) ~~a~~ A county commissioner appointed by the board of county commissioners,
 31 who shall serve as an ex officio, nonvoting member;
- 32 (2) ~~a~~ A member of the Asheville City Council appointed by the board of county
 33 commissioners, who shall serve as an ex officio, nonvoting member;
- 34 (3) ~~four~~ Six owners or operators of hotels, motels, bed and breakfasts, or
 35 vacation rental management companies, or other taxable tourist
 36 accommodations, two ~~four~~ of which own or operate hotels, motels, bed and
 37 breakfasts, or vacation rental management companies, or other
 38 accommodations with more than 100 rental units, ~~one~~ two of whom shall be
 39 appointed by the Asheville City Council and ~~one~~ two by the board of county
 40 commissioners; and two of which own or operate hotels, motels, bed and
 41 breakfasts, or vacation rental management companies, or other
 42 accommodations with 100 or fewer rental units, one of whom shall be
 43 appointed by the Asheville City Council and one by the board of county
 44 commissioners;
- 45 (4) ~~three~~ Three individuals actively involved in the tourist business who have
 46 demonstrated an interest in tourist development ~~participated in tourism~~
 47 promotion and do not own or operate hotels, motels, or other taxable tourist
 48 accommodations, appointed as follows: one by the Asheville City Council,
 49 one by the Asheville Area Chamber of Commerce, and one by the board of
 50 county commissioners.

1 All members of the Authority shall serve without compensation. Vacancies in the Authority
2 shall be filled by the appointing authority of the member creating the vacancy. Members
3 appointed to fill vacancies shall serve for the remainder of the unexpired term for which they
4 are appointed to fill. Members shall serve three-year terms, except the initial members who
5 shall serve the following terms:

- 6 (1) members appointed pursuant to subdivisions (1) and (2) above shall serve
7 one-year terms;
- 8 (2) of the members appointed pursuant to subdivision (3) above, one appointee
9 of the city council and the board of commissioners shall serve a two-year
10 term and one appointee of the city council and the board of commissioners
11 shall serve a three-year term, as designated by the city council and board of
12 county commissioners;
- 13 (3) of the three members appointed pursuant to subdivision (4) above, the
14 appointee of the Asheville City Council shall serve a one-year term, the
15 appointee of the Asheville Area Chamber of Commerce shall serve a
16 two-year term, and the appointee of the board of county commissioners shall
17 serve a three-year term.

18 Members may serve no more than two consecutive terms. The members shall elect a chair, who
19 shall serve for a term of two years. The Authority shall meet at the call of the chair and shall
20 adopt rules of procedure to govern its meetings. The finance officer for Buncombe County shall
21 be the ex officio finance officer of the Authority.

22 (b) The Tourism Development Authority may contract with any person, firm, or agency
23 to advise and assist it in the promotion of travel, tourism, and conventions and may recommend
24 to the board of county commissioners that county staff be employed for this advice and
25 assistance. Any county staff employed under this Part shall be hired and supervised by the
26 Tourism Development Authority, which shall pay the salaries and expenses of this staff.

27 (c) The Tourism Development Authority shall report quarterly and at the close of the
28 fiscal year to the board of county commissioners on its receipts and expenditures for the
29 preceding quarter and for the year in such detail as the board may require.

30 "Sec. 23. Repealed.

31 "Sec. 23.1. First Additional Tax. – In addition to the tax authorized by Section 17 of
32 this Part, the Buncombe County Board of Commissioners may levy an additional room
33 occupancy and tourism development tax of one percent (1%) of the gross receipts derived from
34 the rental of accommodations taxable under that section. The levy, collection, administration,
35 and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied
36 under this section, shall be in accordance with Sections 17 through ~~2322~~ of this Part.
37 Buncombe County may not levy a tax under this section unless it also levies a tax under
38 Section 17 of this Part.

39 "Sec. 23.2. Second Additional Tax. – In addition to the tax authorized by Sections 17
40 and 23.1 of this Part, the Buncombe County Board of Commissioners may levy an additional
41 room occupancy and tourism development tax of one percent (1%) of the gross receipts derived
42 from the rental of accommodations taxable under those sections. The levy, collection,
43 administration, and repeal of the tax authorized by this section, and the use of tax revenue from
44 a tax levied under this section, shall be in accordance with Sections 17 through ~~2322~~ of this
45 Part. Buncombe County may not levy a tax under this section unless it also levies the taxes
46 under Sections 17 and 23.1 of this Part.

47 "Sec. 23.3. Third Additional Occupancy Tax. – In addition to the tax authorized by Sections
48 17, 23.1, and 23.2 of this Part, the Buncombe County Board of Commissioners may levy an
49 additional room occupancy and tourism development tax of two percent (2%) of the gross
50 receipts derived from the rental of accommodations taxable under those sections. The levy,
51 collection, administration, and repeal of the tax authorized by this section, and the use of tax

1 revenue from a tax levied under this section, shall be in accordance with Sections 17 through
2 22 of this Part. Buncombe County may not levy a tax under this section unless it also levies the
3 taxes under Sections 17, 23.1, and 23.2 of this Part."

4 **SECTION 8.(b)** This section is effective when it becomes law and applies to
5 grants awarded on or after that date.

6 **SECTION 9.(a)** G.S. 69-25.1 reads as rewritten:

7 "**§ 69-25.1. Election to be held upon petition of voters.**

8 Upon the petition of thirty-five percent (35%) of the resident freeholders living in an area
9 lying outside the corporate limits of any city or town, which area is described in the petition
10 and designated as " _____

11 (Here insert name)

12 Fire District," the board of county commissioners of the county shall call a special election in
13 said district for the purpose of submitting to the qualified voters therein the question of levying
14 and collecting a special tax on all taxable property in said district, of not exceeding fifteen cents
15 (15¢) on the one hundred dollars (\$100.00) valuation of property, for the purpose of providing
16 fire protection in said district. The county tax office shall be responsible for checking the
17 freeholder status of those individuals signing the petition and confirming the location of the
18 property owned by those individuals. Unless specifically excluded by other law, the provisions
19 of Chapter 163 of the General Statutes concerning petitions for referenda and special elections
20 shall apply. If the voters reject the special tax under the first paragraph of this section, then no
21 new election may be held under the first paragraph of this section within two years on the
22 question of levying and collecting a special tax under the first paragraph of this section in that
23 district, or in any proposed district which includes a majority of the land within the district in
24 which the tax was rejected.

25 ~~Upon the petition of thirty five percent (35%) of the resident freeholders living in an area~~
26 ~~which has previously been established as a fire protection district and in which there has been~~
27 ~~authorized by a vote of the people a special tax not exceeding ten cents (10¢) on the one~~
28 ~~hundred dollars (\$100.00) valuation of property within the area, Upon request of the Town~~
29 ~~Council of the Town of Stokesdale, or upon its own motion, the board of county commissioners~~
30 ~~shall may call a special election in said area an area which has previously been established as a~~
31 ~~fire protection district and in which there has been authorized by a vote of the people a special~~
32 ~~tax not exceeding ten cents (10¢) on the one hundred dollars (\$100.00) valuation of property~~
33 ~~within the area for the purpose of submitting to the qualified voters therein the question of~~
34 ~~increasing the allowable special tax for fire protection within said district from ten cents (10¢)~~
35 ~~on the one hundred dollars (\$100.00) valuation to fifteen cents (15¢) on the one hundred~~
36 ~~dollars (\$100.00) valuation on all taxable property within such district. Special elections on the~~
37 ~~question of increasing the allowable tax rate for fire protection shall not be held within the~~
38 ~~same district at intervals less than two years."~~

39 **SECTION 9.(b)** G.S. 69-25.9 reads as rewritten:

40 "**§ 69-25.9. Procedure when area lies in more than one county.**

41 In the event that an area ~~petitioning for a tax election under this Article~~ lies in more than
42 ~~one county~~ county, ~~said petition shall be submitted to the board of county commissioners of all~~
43 ~~the counties in which said area lies and the election shall be called which shall be conducted~~
44 jointly by the county board of elections and the cost of same shall be shared equally by all
45 counties.

46 Upon passage, the tax herein provided shall be levied and collected by each county on all of
47 the taxable property in its portion of the fire protection district; the tax collected shall be paid
48 into a special fund and used for the purpose of providing fire protection for the district."

49 **SECTION 9.(c)** The special elections authorized by this section shall be held on
50 the same date in each county.

1 **SECTION 9.(d)** This section applies to the Stokesdale Fire Protection District
2 only, which lies in Guilford and Rockingham Counties.
3 **SECTION 10.** Section 9 of this act is effective when it becomes law and expires
4 December 1, 2016, or upon conclusion of the special elections authorized by this act. The
5 remainder of this act is effective when it becomes law.