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SENATE BILL DRS45404-Nif-164B

Short Title: Durham County Occupancy Tax Modifications. (Local)

Sponsors: Senator Woodard (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE DURHAM COUNTY OCCUPANCY TAX.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Section 9 of Part III of S.L. 2001-480, as amended by S.L. 2002-36
5 and Part IV of S.L. 2005-233, reads as rewritten:

6 "**SECTION 9.(a)** Distribution and Use of Tax Revenue. – Durham County shall distribute
7 and use the net proceeds of the tax collected under this act as provided in this section. As used in
8 this section, "net proceeds" means gross proceeds less the cost to the county of administering and
9 collecting the tax, as determined by the finance officer, but not to exceed three percent (3%) of
10 the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one
11 percent (1%) of the remaining gross receipts collected each year. For the purpose of calculating
12 and distributing the threshold in the previous section, net proceeds, all three taxes levied under
13 Section 6 of this act shall be considered together.

14 Durham County shall distribute the net proceeds of the room occupancy tax as follows:

15 (1) For fiscal year 2024-2025, the net proceeds shall be distributed as follows:

- 16 a. Of the net proceeds derived from the levy of the first three percent
17 (3%) of the room occupancy tax, fifty-seven and one-half percent (57
18 1/2%) shall be retained by Durham County and forty-two and one-half
19 percent (42 1/2%) shall be distributed to the City of Durham. These
20 proceeds may be used for any purpose authorized by law.
21 b. The net proceeds derived from the levy of the next two percent (2%)
22 of the room occupancy tax shall be distributed to the Durham
23 Convention and Visitors Bureau. At least two-thirds of these funds
24 shall be used to promote travel and tourism, and the remainder shall
25 be used for tourism-related expenditures.
26 c. The net proceeds derived from the levy of the remaining one percent
27 (1%) of the room occupancy tax shall be distributed monthly to the
28 Durham Convention and Visitors Bureau. The Bureau shall distribute
29 and use the net proceeds in this sub-subdivision in the following
30 priority order:
31 1. To the City of Durham, the first one million four hundred
32 thousand dollars (\$1,400,000) collected annually to finance the
33 debt service associated with the construction of the Performing
34 Arts Theater. Funds distributed pursuant to this
35 sub-sub-subdivision (i) shall be used to finance the debt service
36 associated with the construction of the Performing Arts



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- 1 c. The net proceeds derived from the levy of the remaining one percent
2 (1%) of the room occupancy tax shall be distributed in accordance with
3 sub-subdivision c. of subdivision (1) of this subsection.
- 4 (4) For the fiscal year beginning July 1, 2027, and continuing each fiscal year
5 thereafter, until April 1, 2034, the net proceeds shall be distributed as follows:
- 6 a. The net proceeds derived from the levy of the first five percent (5%)
7 of the room occupancy tax shall be distributed to the Durham
8 Convention and Visitors Bureau. At least two-thirds of these funds
9 shall be used to promote travel and tourism, and the remainder shall
10 be used for tourism-related expenditures.
- 11 b. The net proceeds derived from the levy of the remaining one percent
12 (1%) of the room occupancy tax shall be distributed in accordance with
13 sub-subdivision c. of subdivision (1) of this subsection.

14 ~~"SECTION 9.(b) Use of Proceeds From First Three Percent (3%) Tax.—Durham County~~
15 ~~shall retain fifty seven and one half percent (57½%) of the net proceeds collected from the tax~~
16 ~~levied under Section 6(a) of this act and shall distribute the remaining forty two and one half~~
17 ~~percent (42½%) of the net proceeds collected from the tax levied under Section 6(a) of this act~~
18 ~~to the City of Durham. Funds retained by the county or distributed to the City of Durham pursuant~~
19 ~~to this subsection may be used for any purpose authorized by law.~~

20 ~~"SECTION 9.(c) Use of Proceeds From Additional Two Percent (2%) Tax.—Durham~~
21 ~~County shall, on a monthly basis, remit the net proceeds of the tax levied under Section 6(b) of~~
22 ~~this act to the Durham Tourism Development Authority created by Section 10 of this act.~~

23 ~~The Authority may use the funds remitted to it under this subsection only to promote travel,~~
24 ~~tourism, and conventions in Durham County.~~

25 ~~"SECTION 9.(d) Use of Proceeds From Additional One Percent (1%) Tax During First 24~~
26 ~~Months.—Durham County shall, on a monthly basis, remit the net proceeds of the occupancy tax~~
27 ~~levied under Section 6(c) of this act to the Durham Tourism Development Authority created by~~
28 ~~Section 10 of this act. During the first 24 months that the tax is levied under Section 6(c) of this~~
29 ~~act, the Authority shall distribute and use these net proceeds in the following priority order:~~

- 30 (1) ~~To Durham County, up to the first two hundred thousand dollars (\$200,000)~~
31 ~~collected to fund the development of a Cultural Arts Master Plan.~~
- 32 (2) ~~The Authority shall use the next seven hundred thousand dollars (\$700,000)~~
33 ~~collected to promote travel, tourism, and conventions in Durham County.~~
- 34 (3) ~~To the City of Durham, the next two hundred forty eight thousand dollars~~
35 ~~(\$248,000) collected. The city shall use these funds for the design and~~
36 ~~engineering costs associated with the construction of a Performing Arts~~
37 ~~Theater.~~
- 38 (4) ~~To Durham County, the next four hundred thousand dollars (\$400,000)~~
39 ~~collected for improvements to the Museum of Life and Science. This may~~
40 ~~include the financing of debt service.~~
- 41 (5) ~~To Durham County, the next five hundred thousand dollars (\$500,000)~~
42 ~~collected. These funds shall be credited into an Arts Reserve Fund and used~~
43 ~~to implement the Cultural Arts Master Plan developed under subdivision (1)~~
44 ~~of this subsection.~~
- 45 (6) ~~The Authority shall use any net proceeds collected in excess of two million~~
46 ~~forty eight thousand dollars (\$2,048,000) to promote travel, tourism, and~~
47 ~~conventions in Durham County.~~

48 ~~"SECTION 9.(e) Use of Proceeds From Additional One Percent (1%) Tax After First 24~~
49 ~~Months.—The net proceeds of the tax collected under Section 6(c) of this act after the first 24~~
50 ~~months that the tax is levied shall be remitted monthly to the Durham Tourism Development~~

1 Authority created by Section 10 of this act. The Authority shall use and distribute these net
2 proceeds in the following priority order:

- 3 (1) To the City of Durham, the first one million four hundred thousand dollars
4 (\$1,400,000) collected annually to finance the debt service associated with the
5 construction of the Performing Arts Theater. Until those funds are distributed
6 to the City of Durham for that purpose, they shall be held by the Durham
7 Tourism Development Authority in a capital reserve fund as provided by Part
8 2 of Article 3 of Chapter 159 of the General Statutes except they may be
9 expended as provided by the last sentence of Section 7(a) of this act if the tax
10 is repealed as provided by Section 7(a) of this act. Any interest earned by that
11 fund shall be credited to the fund.
- 12 (2) Thirty two years after the levy of the tax authorized under Section 6(c) of this
13 act, instead of the allocation under subdivision (1) of this subsection, the first
14 one million four hundred thousand dollars (\$1,400,000) collected annually
15 shall be used by the Authority to promote travel and tourism or for tourism
16 related expenditures.
- 17 (3) To Durham County, the next five hundred thousand dollars (\$500,000)
18 collected annually to be used for improvements to the Museum of Life and
19 Science. This may include the financing of debt service. Any of these funds
20 that are not needed for this purpose shall be returned to the Authority and used
21 to promote travel and tourism.
- 22 (4) The Authority shall use any net proceeds in excess of that provided by
23 subdivisions (1), (2), and (3) of this subsection to promote travel, tourism, and
24 conventions in Durham County.

25 As used in this subsection, "annually" means the 12 month period beginning after the first 24
26 months that the tax authorized under Section 6(c) of this act is levied.

27 **"SECTION 9.(f) Definitions.** – For the purpose of this Part:

- 28 (1) "Promote travel and tourism" means to advertise or market an area or activity,
29 to publish and distribute pamphlets and other materials, to conduct market
30 research, and to engage in similar promotional activities that attract tourists or
31 business travelers to the area, and also includes administrative expenses
32 incurred in engaging in these activities.
- 33 (2) "Promote travel, tourism, and conventions" means to advertise or market an
34 area or activity, to publish and distribute pamphlets and other materials, to
35 conduct market research, and to engage in similar promotional activities that
36 attract tourists, business travelers, or conventioners to the area, and also
37 includes administrative expenses incurred in engaging in these activities.
- 38 (3) "Tourism related expenditures" are those that, in the judgment of the Durham
39 Tourism Development Authority, are designed to increase the use of lodging
40 facilities, meeting facilities, and convention facilities in the county by
41 attracting tourists or business travelers to the county, and includes capital
42 expenditures related to that purpose."

43 **SECTION 2.(a)** Parts II and III of S.L. 2001-480, as amended by S.L. 2002-36, Part
44 IV of S.L. 2005-233, S.L. 2006-98, and Section 1 of this act, are consolidated and rewritten as
45 Sections 2 and 3 of this act.

46 **SECTION 2.(b) Occupancy Tax.** – Authorization and Scope. – The Durham Board
47 of Commissioners may levy a room occupancy tax of up to six percent (6%) of the gross receipts
48 derived from the rental of an accommodation within the county that is subject to sales tax
49 imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local
50 sales tax.

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

4 **SECTION 2.(d)** Distribution and Use of Tax Revenue. – Durham shall, on a monthly
5 basis, remit the net proceeds of the occupancy tax to the Durham Convention and Visitors
6 Bureau. The Bureau shall use at least two-thirds of the funds to promote travel and tourism and
7 shall use the remainder for tourism-related expenditures in the county.

8 The following definitions apply in this subsection:

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

24 **SECTION 3.** Establishment of the Durham Convention and Visitors Bureau as a
25 Tourism Development Authority. – (a) Appointment and Membership. – The Durham
26 Convention and Visitors Bureau, created on January 17, 1989, in an interlocal agreement between
27 Durham County and the City of Durham shall act as a tourism development authority, which is
28 a public authority under the Local Government Budget and Fiscal Control Act.

29 The membership of the board of directors of the Durham Convention and Visitors
30 Bureau shall be as specified in an interlocal cooperation agreement between Durham County and
31 the City of Durham. The agreement shall provide for the number of members, terms of office,
32 who shall appoint the membership, and other provisions as may reasonably be necessary. The
33 interlocal agreement may be amended as provided by its terms. At least one-third of the
34 membership of the Durham Convention and Visitors Bureau shall be individuals who are
35 affiliated with businesses that collect the tax in the county, and at least one-half of the
36 membership shall be individuals who are currently active in the promotion of travel and tourism
37 in the county. If the interlocal cooperation agreement is terminated, the directors of the Durham
38 Convention and Visitors Bureau shall continue to serve until the appointment of their successors
39 pursuant to further action by the City of Durham and the County of Durham or by the General
40 Assembly.

41 The Durham Convention and Visitors Bureau shall meet at the call of the chair and
42 shall adopt rules of procedure to govern its meetings.

43 **SECTION 3.(b)** Duties. – The Durham Convention and Visitors Bureau shall expend
44 the net proceeds of the tax levied under this act for promoting travel and tourism and for
45 tourism-related expenditures as provided in this act.

46 **SECTION 3.(c)** Reports. – The Durham Convention and Visitors Bureau shall file a
47 copy of its audit report with the Durham County Board of Commissioners and the Durham City
48 Council following the close of each fiscal year and in such detail as the Board and Council may
49 require.

50 **SECTION 4.** Section 1 of this act becomes effective July 1, 2024, and applies to the
51 distribution and use of occupancy tax proceeds on or after that date. Sections 2 and 3 of this act

1 become effective April 1, 2034, and apply to the distribution and use of occupancy tax proceeds
2 on or after that date. The remainder of this act is effective when it becomes law. The provisions
3 of the prior acts consolidated and rewritten in this act that authorize the levy of and provide for
4 the administration of the tax by the Durham Convention and Visitors Bureau shall continue
5 without interruption so that all rights and liabilities that have accrued before the effective date of
6 this act are preserved and may be enforced.