

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: September 19, 2007

SUBJECT: Room Occupancy Tax Increase

ATTACHMENTS: Pertinent portions of Session Law 1987-172

SUMMARY OF REQUEST:

Currently, Henderson County levies a three percent "Room Occupancy and Tourism Development Tax". The Henderson County Travel and Tourism Committee ("Travel and Tourism") is requesting the Board authorize increasing this tax to four percent. One-half of the increase would be earmarked to defray the cost of operations of the Historic Courthouse facility (as an "other similar facility which could logically be expected to promote tourism in the county"), and the other half would be set aside toward payment of the cost of construction or renovation for the Travel and Tourism facility.

Additionally, Travel and Tourism is requesting the Board authorize that an additional one cent room tax which is currently available, be specified specifically for use by Travel and Tourism. That additional cent would not be added to the room tax at this time, but would be available to Travel and Tourism to be used at their discretion at a future date. However, given the current language of the legislation enabling the room occupancy, it is the opinion of your county attorney that only the Board of Commissioners can levy the room occupancy tax, and once levied, it is owed by room occupants and must be collected (so there cannot be discretion in Travel and Tourism).

BOARD ACTION REQUESTED:

The Board is requested to authorize the addition of one percent to the current Henderson County room occupancy tax rate.

Suggested Motion:

I move that the Board increase the rate of the Room Occupancy and Tourism Development Tax to four percent from the current three percent, and that one-half of the increase be earmarked to defray the costs of the operation of the Historic Courthouse, and the other one-half of the increase be set aside toward the payment of the cost of construction or renovation of a Travel and Tourism facility.

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 172
HOUSE BILL 626

AN ACT AUTHORIZING HENDERSON COUNTY TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX.

...

Sec. 5. Occupancy Tax. (a) Authorization and Scope. The Board of Commissioners of Henderson County may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of no less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(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.

(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The

board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) Use of Tax Revenue. The county shall place the net proceeds collected from a tax levied under this act in a special Travel and Tourism Fund. Revenue in this fund may be used only to promote travel and tourism in the county. This fund will be administered by the Henderson Travel and Tourism Committee. As used in this subsection, "net proceeds" means gross proceeds less five percent (5%) of the gross proceeds which the county may retain to defray the cost of administering and collecting the tax.

The scope of promotion of travel and tourism in the county may include the following:

(1) Contracting with any person, firm, or agency to advise and assist in travel and tourism promotion.

(2) Advertising via appropriate media.

(3) Assisting in the initial funding and possible annual subsidy of a fine arts center or other similar facility which could logically be expected to promote tourism in the county.

(4) Promoting special events which would bring tourists to the county.

(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the board of commissioners of the county. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 6. Henderson Travel and Tourism Committee. When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Henderson Travel and Tourism Committee, which shall be a public authority under the Local Government Budget and Fiscal Control Act.

The Committee shall consist of nine voting members as follows:

(1) Four members who are registered to vote in Henderson County, appointed by the Henderson County Board of Commissioners;

(2) Four members who are registered to vote in Henderson County, appointed by the Hendersonville City Council; and

(3) The President of the Greater Hendersonville Chamber of Commerce, or his designee, to serve ex officio.

The board of commissioners shall designate one member of the Committee as chair and shall determine the compensation, if any, to be paid to members of the Committee. The Committee shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for Henderson County shall be the ex officio finance officer of the Committee. The Committee shall administer the Travel and Tourism Fund as provided in Section 1(e) of this act. The Committee shall report quarterly and at the close of the fiscal year to the board of commissioners on its expenditures for the preceding quarter and for the year in such detail as the board may require.