

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 715
Senate Finance Committee Substitute Adopted 7/23/01
Senate Finance Committee Substitute #2 Adopted 8/22/01

Short Title: Mecklenburg Local Tax/Coliseum Authority.

(Local)

Sponsors:

Referred to:

March 21, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE FOR AN ADDITIONAL DISTRIBUTION OF THE
3 PROCEEDS OF THE MECKLENBURG OCCUPANCY TAX AMONG THE
4 TOWNS OF MECKLENBURG COUNTY, TO SUNSET THE MECKLENBURG
5 MEALS TAX AND THE ADDITIONAL DISTRIBUTION, AND TO MODIFY
6 THE MEMBERSHIP OF THE CHARLOTTE COLISEUM AUTHORITY.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Section 5(b) of Chapter 908 of the 1983 Session Laws, as
9 amended by Chapters 821 and 922 of the 1989 Session Laws, is amended by adding a
10 new subdivision to read:

11 "(b) Definitions. = The definitions in G.S. 105-164.3 apply to this Part insofar as
12 they are not inconsistent with the provisions of this Part. In addition, the following
13 definitions apply in this Part.

14 ...

15 (3a) Mecklenburg towns. – The towns of Cornelius, Davidson,
16 Huntersville, Matthews, Mint Hill, and Pineville."

17 **SECTION 2.** Section 9 of Chapter 908 of the 1983 Session Laws, as
18 amended by Chapters 821 and 922 of the 1989 Session Laws, reads as rewritten:

19 "Sec. 9. (a) Distribution and Use of Proceeds. = The local administrative authority,
20 acting on its own behalf or as agent for each taxing entity, shall distribute the proceeds
21 of the taxes levied in this Part as provided in this subsection. The distribution shall be
22 made by the 20th day of each month following the month in which the tax is collected.

23 (1) Deduction of Administrative Expense. = The local administrative
24 authority may deduct from the gross proceeds of the taxes collected
25 under this Part an amount not to exceed three percent (3%) of the
26 amount collected to pay for the direct cost it has incurred in
27 administering and collecting the taxes authorized by this Part.

- 1 (2) Distribution to Charlotte for Convention Center Facilities. – After
2 deducting the amount provided above, the local administrative
3 authority shall transfer an amount equal to three percent (3%) of the
4 gross occupancy receipts and the entire net proceeds of the prepared
5 food and beverage tax to the City of Charlotte. The net proceeds
6 transferred to the City of Charlotte pursuant to this subdivision shall be
7 applied in accordance with the following priorities. No application of
8 any net proceeds to any class of the priorities set forth below in this
9 subdivision shall be made until, with respect to each preceding class of
10 priorities, either all payments for the current fiscal year have been
11 provided for in full or no such payments are required for the current
12 fiscal year.
- 13 a. To provide for when due payments for the current fiscal year
14 with respect to any financing for new convention center
15 facilities or for the expansion of existing convention center
16 facilities, which may include off-street parking for use in
17 conjunction with the facilities.
- 18 b. To pay costs incurred in an ~~aggregate amount not greater than~~
19 equal to the sum of one million five hundred thousand dollars
20 (\$1,500,000) plus the total current fiscal year distributions to
21 the Mecklenburg towns pursuant to sub-subdivision (a)(4)b. of
22 this section in each fiscal year for marketing and promoting
23 new or expanded convention center facilities, facilities and for
24 activities and programs aiding and encouraging convention and
25 visitor promotion.
- 26 c. To pay other costs of acquiring, constructing, maintaining,
27 operating, marketing, and promoting new or expanded
28 convention center ~~facilities, facilities and of activities and~~
29 programs aiding and encouraging convention and visitor
30 promotion.
- 31 (3) Distribution to Other Municipalities. – After deducting the amounts
32 provided above, the local administrative authority shall determine the
33 amount of the remaining occupancy tax net proceeds that were
34 collected from taxable establishments located in each municipality,
35 other than the City of Charlotte. The local administrative authority
36 shall then distribute to each municipality, other than the City of
37 Charlotte, an amount equal to one hundred twenty percent (120%) of
38 the amount of the remaining occupancy tax net proceeds collected in
39 that municipality. These funds may be expended only for acquiring,
40 constructing, financing, maintaining, operating, marketing, and
41 promoting convention centers, civic centers, performing arts centers,
42 coliseums, auditoriums, and museums, for off-street parking for use in

1 conjunction with these facilities, and for tourism and tourism-related
2 programs and activities including art and cultural programs, events,
3 and festivals.

4 (4) Distribution to Charlotte for Convention and Visitor ~~Promotion~~-
5 Promotion and Other Tourism-Related Purposes. –

6 a. Of the occupancy tax net proceeds remaining after deducting
7 the amounts provided in subsections (a)(1) and (a)(2) above, at
8 least fifty percent (50%) of the first one million dollars
9 (\$1,000,000) in each fiscal year, at least thirty-five percent
10 (35%) of the second one million dollars (\$1,000,000) in each
11 fiscal year, and at least twenty-five percent (25%) of the amount
12 in excess of two million dollars (\$2,000,000) in each fiscal year
13 shall be transferred by the local administrative authority to the
14 City of ~~Charlotte~~ Charlotte.

15 b. From these funds, during any fiscal year that the county
16 prepared food and beverage tax authorized by Section 7(a) of
17 this Part is in effect for the entire fiscal year, the City of
18 Charlotte shall make the distributions provided in this
19 sub-subdivision to the Mecklenburg towns. The Mecklenburg
20 towns may use the funds distributed to them under this
21 sub-subdivision only for acquiring, constructing, financing,
22 maintaining, operating, marketing, and promoting convention
23 centers, civic centers, performing arts centers, coliseums,
24 auditoriums, and museums, for off-street parking for use in
25 conjunction with these facilities, and for tourism and
26 tourism-related programs and activities including art and
27 cultural programs, events, and festivals.

28 During each of the five fiscal years beginning with the
29 2001-2002 fiscal year, the City of Charlotte shall transfer from
30 these funds to each Mecklenburg town an amount equal to fifty
31 percent (50%) of the county prepared food and beverage tax net
32 proceeds that were collected in that town during the preceding
33 fiscal year, except that the total amount to be transferred to all
34 of the towns each fiscal year may not exceed the applicable
35 annual cap. Half of the amount to be transferred to each town
36 each fiscal year shall be distributed on October 1 and the
37 remaining half shall be distributed on April 1. The annual cap
38 for the 2001-2002 fiscal year is one million fifty thousand
39 dollars (\$1,050,000). The cap for the 2002-2003 fiscal year is
40 one million one hundred forty thousand dollars (\$1,140,000)
41 increased or decreased by the percentage by which the proceeds
42 of the county prepared food and beverage tax levied under

1 Section 7(a) of this Part increased or decreased during the
2 preceding fiscal year. The annual cap for each fiscal year
3 thereafter is the annual cap for the preceding fiscal year
4 increased or decreased by the percentage by which the proceeds
5 of the county prepared food and beverage tax levied under
6 Section 7(a) of this Part increased or decreased during the
7 preceding fiscal year. If fifty percent (50%) of the total county
8 prepared food and beverage tax collected in the Mecklenburg
9 towns during the preceding fiscal year exceeds the applicable
10 cap, the amount to be transferred to each town shall be reduced
11 in proportion to the amount of county prepared food and
12 beverage tax collected in each town until the total amount to be
13 transferred equals the cap.

14 During the five fiscal years beginning with the 2001-2002
15 fiscal year, the City of Charlotte and each of the Mecklenburg
16 towns shall in good faith work to execute an interlocal
17 agreement that may increase the amount to be distributed to the
18 town thereafter.

19 During the 2006-2007 fiscal year and each fiscal year
20 thereafter, the City of Charlotte shall transfer to each
21 Mecklenburg town an amount equal to the greater of (i) fifty
22 percent (50%) of the county prepared food and beverage tax net
23 proceeds that were collected in that town during the preceding
24 fiscal year and (ii) an amount agreed to by interlocal agreement
25 between the Mecklenburg town and the City of Charlotte. Half
26 of the amount to be transferred to each town each fiscal year
27 shall be distributed on October 1, and the remaining half shall
28 be distributed April 1.

29 For the purpose of this subdivision, net tax proceeds
30 collected in a town include proceeds attributable to
31 establishments that have locations in the town but are part of
32 multilocation businesses that report proceeds on a countywide
33 basis.

34 c. Except as provided in sub-subdivision b. of this subdivision, the
35 City of Charlotte may use the funds distributed to it under this
36 subdivision only for activities and programs aiding and
37 encouraging convention and visitor promotion. The City of
38 Charlotte shall be acting as agent for each occupancy taxing
39 entity.

40 (5) Distribution of Remainder between Charlotte and Mecklenburg
41 County. – The amount of occupancy tax net proceeds remaining after
42 deducting the amounts provided above shall be allocated by the local

1 administrative authority between Mecklenburg County and the City of
2 Charlotte using the following formula: the ratio of expenditures by
3 each of Mecklenburg County and the City of Charlotte for acquiring,
4 constructing, financing, maintaining, operating, marketing, and
5 promoting convention centers, civic centers, performing arts centers,
6 coliseums, auditoriums, and museums, for off-street parking for use in
7 conjunction with these facilities, and for tourism and tourism-related
8 programs and activities including art and cultural programs, events,
9 and festivals to total expenditures by both Mecklenburg County and
10 the City of Charlotte for such purposes. There shall be excluded from
11 expenditures by the City of Charlotte for purposes of computing this
12 ratio all expenditures for acquiring, constructing, financing,
13 maintaining, operating, marketing, and promoting the new or expanded
14 convention center facilities in the City of Charlotte for which net
15 proceeds are allocated pursuant to subdivision (2) of this subsection.
16 The ratio shall be computed annually on the basis of the prior fiscal
17 year's expenditures. However, no amount shall be allocated to
18 Mecklenburg County if it has not levied an occupancy tax and a
19 prepared food and beverage tax for the current period. These funds
20 may be expended only for acquiring, constructing, financing,
21 maintaining, operating, marketing, and promoting convention centers,
22 civic centers, performing arts centers, coliseums, auditoriums,
23 museums, for off-street parking for use in conjunction with these
24 facilities, and for tourism and tourism-related programs and activities
25 including art and cultural programs, events, and festivals.

26 (b) Authority to Contract. – Mecklenburg County and each municipality located
27 within Mecklenburg County may contract with any person, agency, association, or
28 nonprofit corporation to undertake or carry out the activities and programs for which the
29 proceeds may be expended. All contracts entered into pursuant to this subsection shall
30 require an annual financial audit of any funds expended and a performance audit of
31 contractual obligations."

32 **SECTION 3.** Chapter 908 of the 1983 Session Laws, as amended by
33 Chapters 821 and 922 of the 1989 Session Laws, is amended by adding a new section to
34 read:

35 "Sec. 9.1. Sunset of Certain Provisions. – Effective on the latest of the three dates
36 listed below, Section 7 of this act and Section 9(a)(4)b. of this act are repealed:

37 (1) July 1 following the date of final satisfaction, by payment or other
38 irrevocable defeasance, of any debt instruments or obligations that
39 meet both of the following conditions:

40 a. They were issued by the City of Charlotte or by a related
41 special purpose entity in connection with the financing of the
42 Charlotte Convention Center or of any hotel or parking facility

1 constructed or participated in by the city to support or serve the
2 convention center.

3 b. They were issued and outstanding on or before July 1, 2001.

4 (2) July 1 following the date of final satisfaction, by payment or other
5 irrevocable defeasance, of any debt instruments or obligations that
6 were issued by the City of Charlotte or by a related special purpose
7 entity in connection with a construction contract for expansion of the
8 existing convention center that meets both of the following conditions:

9 a. The expansion contracted for will encompass at least 100,000
10 square feet of additional exhibit and meeting space and related
11 support facilities.

12 b. The design contract for the expansion contracted for was
13 awarded by January 1, 2011.

14 (3) July 1, 2031."

15 **SECTION 4.** Section 5.21 of the Charter of the City of Charlotte, being S.L.
16 2000-26, as amended, reads as rewritten:

17 "Section 5.21. **Continuation.** (a) The control, management, and operation of the
18 property and improvements now or hereafter made or acquired by the City for
19 auditorium, coliseum, civic center, and baseball stadium purposes shall continue to be
20 vested in the authority to be known as the auditorium-coliseum-convention center
21 authority. The authority shall ~~continue to~~ be composed of at least seven and not more
22 than nine members, as determined jointly by the Mayor and the City Council. If the
23 authority has nine members, three shall be appointed by the Mayor and six shall be
24 appointed by the City Council. If the authority has seven or eight members, two shall be
25 appointed by the Mayor and the remainder shall be appointed by the City Council. ~~five~~
26 ~~members to be appointed by the Council and two members to be appointed by the~~
27 ~~Mayor. One member of the authority must be an individual who is not an elected~~
28 ~~official and who is jointly nominated by the towns of Cornelius, Davidson, Huntersville,~~
29 ~~Matthews, Mint Hill, and Pineville and confirmed by the City's appointing authority.~~
30 The City may, for good cause shown, reject the individual nominated by the towns. The
31 City must appoint or reject the individual nominated by the towns in a timely manner. If
32 the City rejects the nominee, the towns must jointly nominate a different individual. If
33 the authority has nine members, one member must be an individual who is affiliated
34 with the hotel, motel, or restaurant business in the City. The Council and the Mayor
35 shall jointly determine which of the seats are subject to these conditions.

36 Each member shall serve a term of three years. No member shall serve more than
37 two consecutive terms. ~~In case~~ If any vacancy ~~shall be~~ is created on ~~said the~~ the authority,
38 the Council or the Mayor, as the case may be, shall appoint a member to fill the
39 unexpired term. The members of the authority shall receive no compensation.

40 (b) Attendance of meetings and continued service on the authority shall be
41 governed by the attendance policies established by the Council. Vacancies resulting

1 from a member's failure to attend the required number of meetings shall be filled as
2 provided herein."

3 **SECTION 5.** Section 4 of this act is effective on the first day of the second
4 month after it becomes law. The remainder of this act becomes effective July 1, 2001,
5 and applies to taxes collected on or after that date.