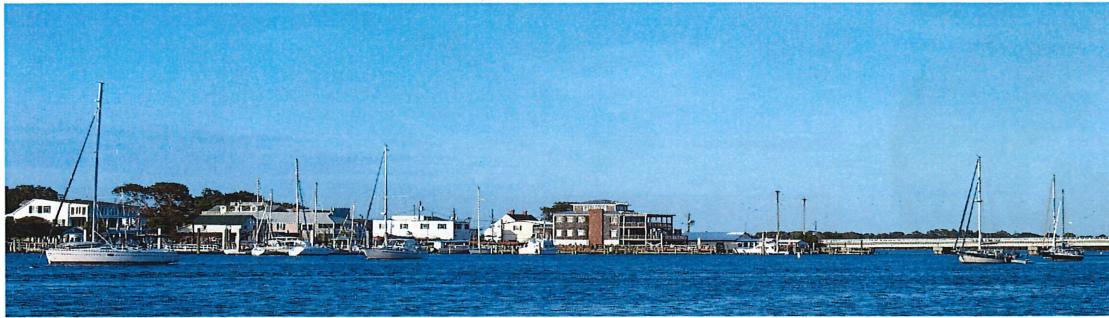


Swansboro Tourism Development Authority



1

Authority Act

Powers lie in State Statutes

Local Government Budget and Fiscal Control Act

SENATE BILL 831

Short Title:	Municipalities Occupancy Tax	(Public)
Sponsors:	Senator Nickel (Primary Sponsor)	
Referred to:	Rules and Operations of the Senate	

May 22, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE MUNICIPALITIES LOCATED WITHIN
3 HIGH-POPULATION COUNTIES TO LEVY AN ADDITIONAL ONE PERCENT ROOM
4 OCCUPANCY TAX.
5 The General Assembly of North Carolina enacts:
6 SECTION 1. Occupancy tax. - (a) Authorization and Scope. - A municipality
7 located in whole or in part in a county with a population, as determined by the most recent federal
8 decennial census, of greater than 900,000 may levy a room occupancy tax of up to one percent
9 (1%) of the gross receipts derived from the rental of any room, lodging, or accommodation
10 furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to
11 sales tax imposed by the State under G.S. 105-164.4(g)(3). This tax is in addition to any State or
12 local sales tax or other acts authorizing the municipality to levy an occupancy tax.
13 SECTION 1.(b) Administration. - A tax levied under this section shall be levied,
14 administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in
15 G.S. 160A-215 apply to a tax levied under this section.
16 SECTION 1.(c) Distribution and Use of Tax Revenue. - A municipality authorized
17 to impose a tax by this section shall use the proceeds of the tax for any public purpose in the
18 municipality.
19 SECTION 2. G.S. 160A-215(g) reads as rewritten:
20 "(g) Applicability. - Subsection (c) of this section applies to all cities that levy an
21 occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection
22 (c) supersedes that provision. The remainder of this section applies only to Beech Mountain
23 District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro,
24 Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lake Santeetlah, Lenoir,
25 Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Raleigh,
26 Reidsville, Roanoke Rapids, Salisbury, Sanford, Shelby, Statesville, Washington, and
27 Wilmington, to the Towns of Ahotkie, Apex, Beech Mountain, Benson, Bermuda Run, Blowing
28 Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carboro, Cary, Charlotte, Coolemeec,
29 Comelius, Cramerton, Dallas, Davidson, Dobson, Elkin, Fontana Dam, Franklin, Fuquay-Varina,
30 Gamer, Grover, Hillsborough, Holly Springs, Huntersville, Jonesville, Kenly, Knightsdale, Kure
31 Beach, Leland, Matthews, McAdenville, Must Hill, Mocksville, Mooresville, Morrisville,
32 Murfreesboro, North Topsail Beach, Pembroke, Pilot Mountain, Pineville, Reno, Robbinville,
33 Rolesville, Selma, Smithfield, St. Pauls, Stallings, Swansboro, Trouman, Tryon, Wake Forest,
34 Wendell, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, Yanceyville, Zebulon,
35 to the municipalities in Avery and Brunswick Counties, and to Saluda District D."



2

“Tourism-related Expenditures”

- Expenditures that, in judgment of the TDA,
- Are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the city
- Or to attract tourists or business travelers to the city.
- The term includes tourism-related capital expenditures.

RESOLUTION 2011-R7

A RESOLUTION LEVYING A ROOM OCCUPANCY TAX
IN THE TOWN OF SWANSBORO

WHEREAS North Carolina General Statute 160A-215, as amended by ratified Session Law 2011-170, authorizes the Town of Swansboro to levy a room occupancy tax; and

WHEREAS over 70 other North Carolina municipalities, including the Onslow County cities of Jacksonville and North Topsail Beach, have been authorized to levy a room occupancy tax; and

WHEREAS the Town of Swansboro -- a coastal community with an beautiful and historic downtown waterfront area with regional tourism attraction -- desires to promote, market, and enhance the travel and tourism segment of its local business economy; and

WHEREAS the promotion of tourism in Swansboro improves the economic health and prosperity of the community, creating business revenue to fund employment opportunities and generating sales tax revenue to support needed public services associated with tourism; and

WHEREAS a public hearing has been conducted, following at least 10 days notice, on the question of levying an occupancy tax of three percent on the gross receipts derived from the rental of rooms, lodging, or other accommodations in the town;

BE IT RESOLVED by the Board of Commissioners of the Town of Swansboro:

Section 1. Tax Levy. There is hereby levied a room occupancy tax of three percent on the gross receipts derived from the rental of any room, lodging, or accommodation furnished by an hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State of North Carolina under the provisions of G.S. 105-164.4(a)(3).

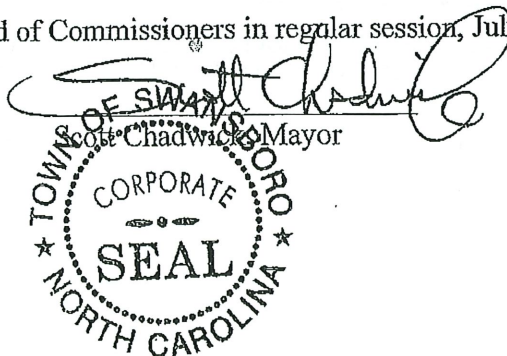
Section 2. Collection and Use of Funds. The proceeds of this tax shall be collected by the Town of Swansboro and remitted, on a quarterly basis, to the Swansboro Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it to promote travel and tourism in the town of Swansboro and shall use the remainder for tourism-related expenses.

Section 3. Effective Date. This tax levy shall be effective September 1, 2011.

Adopted by the Swansboro Board of Commissioners in regular session, July 19, 2011.

Attest:

Paula W. Webb
Paula Webb, Town Clerk



RESOLUTION 2011-R8

**A RESOLUTION ESTABLISHING THE
SWANSBORO TOURISM DEVELOPMENT AUTHORITY**

WHEREAS the Town of Swansboro has, under the authority of North Carolina General Statute 160A-215 and Session Law 2011-170, levied a room occupancy tax on the gross receipts from the rental of any room, lodging, or accommodation furnished by an hotel, motel, inn, tourist camp, or similar place; and

WHEREAS the act of the General Assembly granting authority to the Town to levy a room occupancy tax required that the Town create a Tourism Development Authority to expend the proceeds of the room occupancy tax to promote travel, tourism, and conventions, to sponsor tourist-related events and activities in the town, and to finance tourist-related capital projects in the town;

BE IT RESOLVED by the Board of Commissioners of the Town of Swansboro:

Section 1. Creation of Authority. There is hereby created a Swansboro Tourism Development Authority, which shall be a public authority under the provisions of the Local Government Budget and Fiscal Control Act.

Section 2. Membership. The Swansboro Tourism Development Authority shall consist of six members, who shall be appointed by the Swansboro Board of Commissioners for a term of two years each that shall coincide with the calendar year; provided, however, that the initial appointments to the authority shall be for a term of 28 months, beginning September 1, 2011. Effective with the January 2014 appointments, membership of the Authority shall consist of 2-year staggered term appointments with three (3) members appointed by the Board of Commissioners at the end of each calendar year. The members shall serve at the pleasure of the Board of Commissioners, and any vacancies on the authority shall be filled by appointment of the Board of Commissioners. At least half of the members of the authority shall be persons who are active in the promotion of travel and tourism in the town, and at least one third of the members shall be persons who are affiliated with businesses that collect the room occupancy tax. Individual members may, if qualified, serve in- and fulfill the representation requirements for more than one category, and the Town officials shall be regarded as being active in the promotion of travel and tourism, so long as the Town appropriates funds in support of these purposes. The remaining member or members of the authority shall be appointed at the sole discretion of the Board of Commissioners and may include members of the town governing board or town administration. The Board of Commissioners shall designate the

Section 7. Reports. The Authority shall report quarterly and at the close of the fiscal year to the Swansboro Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year. Such reports shall be in such detail as may be required by the Board of Commissioners. The fiscal year shall be the same as the municipal fiscal year.

Section 8. Effective Date. The Swansboro Tourism Development Authority shall be established effective September 1, 2011.

Section 9. Amendments. The provisions of this resolution may be amended from time to time by the Board of Commissioners, following a public hearing with at least 10 days notice to the public.

Adopted by the Swansboro Board of Commissioners in regular session, July 19, 2011.

Amended by the Swansboro Board of Commissioners in regular session, May 20, 2014.



Scott Chadwick, Mayor

Attest:



Paula Webb, Town Clerk



**MEMORANDUM OF AGREEMENT
FOR ADMINISTRATIVE & CLERICAL SERVICES**

This agreement is made by and between the Town of Swansboro North Carolina, a municipal corporation (hereinafter "Town"), and the Swansboro Tourism Authority, a public authority created under the provisions of N.C. General Statute 160A-215 (hereinafter "Authority").

The parties agree and acknowledge as follows:

- A. Statutory Authority.** North Carolina General Statute 160A-461 authorizes inter-local cooperation agreements between local governments and public authorities, and Section 4.1.(c)(2) of Session Law 2011-170, authorizing the creation of the Authority, allows use of a portion of the Authority's occupancy tax revenue to pay for administrative expenses.
- B. Local Authority.** The Authority expressed its intent, at its October 6, 2011 meeting, to seek administrative support from the Town of Swansboro, and the Town Board of Commissioners approved, at its October 18, 2011, the provision of such services.
- C. Purpose.** The Swansboro Tourism Development Authority requires administrative and clerical resources in order to carry out its duties and responsibilities.
- D. Town Responsibilities.** The Town agrees to provide, through its town manager or staff members assigned by him, the following administrative and clerical services to the Authority.
1. Meeting Notices. The Town will provide notices of Authority meetings to Authority members in a timely manner, as well to the media and public as required by the state Open Meetings law.
 2. Agenda Preparation. The Town will prepare agendas of Authority meetings in order to facilitate the business of the Authority.
 3. Minutes of Meetings. The Town will prepare and present for approval the minutes of Authority meetings, in order to assist Authority compliance with state law requiring minutes of local government meetings.
 4. Budgets. The Town will prepare, present, and make available to the media and the public the proposed annual budgets of the Authority will advertise budget hearings in accordance with the Local Government Budget and Financial Control Act. The town manager or his designee shall serve as budget officer.
 5. Planning and Policy Support. The Town will provide planning and policy development assistance to support the Authority in the fulfillment of its duties and responsibilities, including reasonable preparation of proposed plans and policies. This may include the preparation of criteria, conditions, and/or requirements related to the use of funds to promote tourism or other-tourism –related expenditures.

6. Reports. The Town will assist in the preparation of any reports that the Authority may wish to make to the Town Board of Commissioners, the public, or other organizations.

7. Applications; Evaluation. If the Authority elects to disburse funds to other organizations in order to help carry out its duties and responsibilities, the Town will assist in preparing any necessary forms and applications, and will receive and evaluate applications as necessary.

8. Implementation; Monitoring. The Town will help prepare any necessary agreements related to the use of funds provided by the Authority to other entities (in order to accomplish its duties and responsibilities) and will help monitor compliance with any required terms or conditions of any grants or disbursements to other organizations.

E. Authority Obligations. The Authority shall have the following obligations under this agreement.

1. Directives. Any instructions or directives issued to the Town for the provision of services under this agreement shall be made by collective decision of the Authority (not individual members), except for the following: (a) coordination of agendas with the Authority chair; (b) coordination of matters specifically delegated by the Authority to the chair or another authority member; (c) compliance with statutory requirements.

2. Compensation. The Authority shall compensate the Town for its services at the rate of \$300 per month, based on invoices that are submitted on a monthly or quarterly basis.

3. Liability. The Authority shall indemnify, defend, waive, and hold harmless the Town of Swansboro and its officers, employees, agents, and successors from and against all claims, damages, liabilities, losses, civil or administrative proceedings, costs, or expenses arising out of or related to any services performed by the Town under this agreement.

F. Duration. The initial term of this agreement shall be from October 1, 2011, to June 30, 2012. The agreement shall be automatically renewed for successive periods of 12 months, coinciding with the fiscal year, for each year thereafter, unless terminated as provided below.


G. Amendments. Any amendments to this agreement shall be in writing, executed by both parties.

H. Termination. This agreement may be terminated by either party upon 90 days advance notice to the other party or by mutual agreement at any time.

I. Exclusions. This agreement does not include or encompass any of the responsibilities of the finance officer under state law or as otherwise assigned by the Authority – such as collection of-, accounting for-, disbursement of-, or reporting of the funds of the Authority. Such services are compensated through a three percent deduction from the gross proceeds of the room occupancy tax, as provided by state law.

Agreed to by the authorized officials of the Town and the Authority.


SWANSBORO TOURISM DEVELOPMENT AUTHORITY


Tina Siegel, Chair


Attest:


Larry Philpott, Vice Chair

TOWN OF SWANSBORO


Patrick Thomas, Town Manager

Attest:


Paula Webb, Town Clerk