

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 857*

Short Title: Chatham, Orange Revenue Options.

(Local)

Sponsors: Representatives Insko, Hackney; and Culp.

Referred to: Rules, Calendar and Operations of the House.

April 1, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE CHATHAM COUNTY TO LEVY AN IMPACT TAX AND
2 A VEHICLE REGISTRATION TAX, TO AUTHORIZE ORANGE COUNTY TO
3 LEVY AN IMPACT TAX, TO AUTHORIZE THE TOWN OF CHAPEL HILL TO
4 LEVY AN IMPACT TAX IN ADDITION TO ITS IMPACT FEES, TO
5 AUTHORIZE THE TOWN OF CARRBORO TO LEVY A ROOM OCCUPANCY
6 TAX, AND TO MODIFY THE HILLSBOROUGH MEALS TAX PENALTIES.
7

8 The General Assembly of North Carolina enacts:

9 TABLE OF CONTENTS

10 PART 1. CHATHAM IMPACT TAX

11 PART 2. CHATHAM VEHICLE REGISTRATION FEES

12 PART 3. ORANGE IMPACT TAX

13 PART 4. CHAPEL HILL IMPACT TAX

14 PART 5. CARRBORO ROOM TAX

15 PART 6. HILLSBOROUGH MEALS TAX CHANGES

16 PART 7. EFFECTIVE DATES

PART 1. IMPACT TAX

17 Section 1. This part applies only to Chatham County.

18 Section 2. The following definitions apply to this part:
19

- 1 (1) Commercial building enclosed floor space. – All enclosed floor space
2 used for any purpose except:
- 3 a. Dwelling units and accessory structures to dwelling units.
4 b. Recreational facilities constructed as part of a residential
5 development and used primarily by residents of the development.
6 c. Buildings owned by the United States, the State of North
7 Carolina, any county, or any municipal corporation.
8 d. Buildings owned and operated by nonprofit entities for
9 noncommercial and nonresidential purposes.
10 e. Schools or day care centers.
- 11 (2) Dwelling unit. – An enclosure containing sleeping, kitchen, and
12 bathroom facilities designed for and used or held ready for use as a
13 permanent residence by one family.
- 14 (3) Land development. –
- 15 a. Land development includes any of the following:
- 16 1. Construction of any dwelling unit, other than one
17 excluded under sub-subdivision b. of this subdivision, for
18 which a building permit was issued or should have been
19 issued after the effective date of an ordinance adopted
20 under this part.
- 21 2. Construction of any commercial building enclosed floor
22 space for which a building permit was issued or should
23 have been issued after the effective date of an ordinance
24 adopted under this part.
- 25 3. Conversion of a building that adds one or more new
26 dwelling units or that creates new commercial building
27 enclosed floor space.
- 28 4. The initial location of a manufactured home or other
29 dwelling or commercial structure within Chatham County.
- 30 b. For purposes of determining the impact of land development for
31 this part, land development does not include:
- 32 1. Construction of an addition to a dwelling unit.
33 2. The relocation within Chatham County of any structure
34 located within the county on the effective date of an
35 ordinance adopted pursuant to this part or any structure
36 with respect to which an impact tax pursuant to this part
37 has been paid.
- 38 3. Within the county, the reconstruction or replacement of
39 one dwelling unit by another or the replacement or
40 reconstruction of commercial building enclosed floor
41 space that was in existence on the effective date of an
42 ordinance adopted pursuant to this part or of any such

1 floor space with respect to which an impact tax adopted
2 pursuant to this part has been paid.

3 (4) Net proceeds. – The gross proceeds of the tax less the cost to the county
4 of collecting and administering the tax.

5 (5) Person. – An individual, a partnership, a corporation, or another legal
6 entity.

7 (6) Person responsible for the impact of land development. – The owner of
8 any dwelling unit or commercial building enclosed floor space on the
9 date an occupancy permit is issued for the dwelling unit or commercial
10 floor space or, if no occupancy permit is issued, the date the dwelling
11 unit or commercial floor space is occupied.

12 Section 3. The Chatham County School Capital Impact Tax.

13 Section 3.(a) Except as provided in subsection (b) of this section, Chatham
14 County may adopt an ordinance levying a tax on the impact of land development within
15 the county and provide for the administration, enforcement, and collection of the tax.

16 Section 3.(b) Chatham County may not adopt an ordinance pursuant to this part if
17 any ordinance pertaining to a system of impact fees to provide for capital improvements
18 to public schools within Chatham County, adopted pursuant to Sections 4 through 12.1 of
19 Chapter 460 of the 1987 Session Laws, is in effect.

20 Section 4. Use of Tax Proceeds. – The purpose of the tax authorized by this
21 part is to generate funds to partially offset the cost of constructing new school capital
22 facilities or replacing, expanding, or improving existing school capital facilities
23 necessitated in part by new growth within Chatham County. Accordingly, the net
24 proceeds generated by the tax authorized by this part shall be deposited by Chatham
25 County in its capital reserve improvements fund or funds established under Part 2 of
26 Article 3 of Chapter 159 of the General Statutes and may be expended, to the extent
27 otherwise authorized by law, only for capital improvements projects related to public
28 schools.

29 Section 5. Liability; Administration. – An ordinance adopted pursuant to this
30 part shall provide that:

31 (1) A person responsible for the impact of land development shall pay an
32 impact tax for each square foot of dwelling space and commercial
33 building enclosed floor space for which an occupancy permit is issued
34 or, if no occupancy permit is issued, for each square foot of dwelling
35 space in an occupied dwelling and for each square foot of occupied
36 enclosed floor space in a commercial building.

37 (2) The tax shall be due on or before the date an occupancy permit is
38 initially issued for the dwelling unit or commercial building enclosed
39 floor space in question or, if no occupancy permit is issued, the date the
40 dwelling unit or commercial floor space is initially occupied. However,
41 no tax due shall be considered delinquent until 60 days after the tax
42 becomes due. There shall be added to delinquent taxes interest at the
43 legal rate.

- 1 (3) Taxes authorized by this part may be collected pursuant to G.S. 153A-
2 147 or G.S. 160A-207. In addition, taxes authorized by this part may be
3 recovered in a civil action in the nature of debt including an award of
4 reasonable attorneys' fees as part of costs.

5 Section 6. Rates. – Chatham County shall establish annually at the time of the
6 adoption of its annual budget the tax rate to be levied per square foot of dwelling space
7 and per square foot of commercial building enclosed floor space for the ensuing fiscal
8 year. Different tax rates may be established for different types of dwelling units and
9 different types of commercial building enclosed floor space.

10 Section 7. Provisions for Repeal of Other Local Acts. – Chatham County may
11 repeal all or part of an ordinance pertaining to a system of impact fees to provide for
12 capital improvements to public schools within Chatham County, adopted pursuant to
13 Sections 4 through 12.1 of Chapter 460 of the 1987 Session Laws. With respect to an
14 ordinance pertaining to a system of impact fees to provide for capital improvements to
15 public schools within Chatham County, Chatham County may not adopt an ordinance
16 pursuant to Sections 4 through 12.1 of Chapter 460 of the 1987 Session Laws while an
17 ordinance adopted pursuant to this part is in effect.

18 Section 8. Disclosure Requirements. – Whenever the sale of real property
19 located in Chatham County involves new construction, the seller shall prepare and sign,
20 and the buyer shall receive and sign, a disclosure statement. The disclosure statement
21 shall either be included in a contract or sale or contained in a separate document executed
22 prior to the execution of a sales contract. This disclosure statement shall fully and
23 completely disclose that the owner of the property at the time an occupancy permit issued
24 for the new construction or, if no occupancy permit is issued, the date the new
25 construction is occupied, may be subject to a tax levied by the county on the impact of
26 land development. If a seller fails to make this disclosure and the buyer suffers injury as
27 a result of the seller's failure to disclose, the seller is liable to the buyer to the extent of
28 the buyer's injury.

29 **PART 2. CHATHAM VEHICLE REGISTRATION FEES**

30 Section 9. G.S. 20-97(b) reads as rewritten:

31 "(b) General Municipal and County Vehicle Tax. —~~Cities—~~Cities, counties, and
32 towns may levy a tax of not more than five dollars (\$5.00) per year upon any vehicle
33 resident in the ~~city—~~city, county, or town. The proceeds of the tax may be used for any
34 lawful purpose."

35 Section 10. This part applies to Chatham County only.

36 **PART 3. ORANGE IMPACT TAX**

37 Section 11. This part applies to Orange County only.

38 Section 12. The following definitions apply to this part:

- 39 (1) Commercial building enclosed floor space. – All enclosed floor space
40 used for any purpose except:
41 a. Dwelling units and accessory structures to dwelling units.
42 b. Recreational facilities constructed as part of a residential
43 development and used primarily by residents of the development.

- 1 c. Buildings owned by the United States, the State of North
2 Carolina, any county, or any municipal corporation.
- 3 d. Buildings owned and operated by nonprofit entities for
4 noncommercial and nonresidential purposes.
- 5 e. Schools or day care centers.
- 6 (2) Dwelling unit. – An enclosure containing sleeping, kitchen, and
7 bathroom facilities designed for and used or held ready for use as a
8 permanent residence by one family.
- 9 (3) Land development. –
10 a. Land development includes any of the following:
 - 11 1. Construction of any dwelling unit, other than one
12 excluded under sub-subdivision b. of this subdivision, for
13 which a building permit was issued or should have been
14 issued after the effective date of an ordinance adopted
15 under this part.
 - 16 2. Construction of any commercial building enclosed floor
17 space for which a building permit was issued or should
18 have been issued after the effective date of an ordinance
19 adopted under this part.
 - 20 3. Conversion of a building that adds one or more new
21 dwelling units or that creates new commercial building
22 enclosed floor space.
 - 23 4. The initial location of a manufactured home or other
24 dwelling or commercial structure within Orange County.
- 25 b. For purposes of determining the impact of land development for
26 this part, land development does not include:
 - 27 1. Construction of an addition to a dwelling unit.
 - 28 2. The relocation within Orange County of any structure
29 located within the county on the effective date of an
30 ordinance adopted pursuant to this part or any structure
31 with respect to which an impact tax pursuant to this part
32 has been paid.
 - 33 3. Within the county, the reconstruction or replacement of
34 one dwelling unit by another or the replacement or
35 reconstruction of commercial building enclosed floor
36 space that was in existence on the effective date of an
37 ordinance adopted pursuant to this part or of any such
38 floor space with respect to which an impact tax adopted
39 pursuant to this part has been paid.
- 40 (4) Net proceeds. – The gross proceeds of the tax less the cost to the county
41 of collecting and administering the tax.
- 42 (5) Person. – An individual, a partnership, a corporation, or another legal
43 entity.

- 1 (6) Person responsible for the impact of land development. – The owner of
2 any dwelling unit or commercial building enclosed floor space on the
3 date an occupancy permit is issued for the dwelling unit or commercial
4 floor space or, if no occupancy permit is issued, the date the dwelling
5 unit or commercial floor space is occupied.

6 Section 13. The Orange County School Capital Impact Tax.

7 Section 13.(a) Except as provided in subsection (b) of this section, Orange County
8 may adopt an ordinance levying a tax on the impact of land development within the
9 county and provide for the administration, enforcement, and collection of the tax.

10 Section 13.(b) Orange County may not adopt an ordinance pursuant to this part if
11 any ordinance pertaining to a system of impact fees to provide for capital improvements
12 to public schools within Orange County, adopted pursuant to Sections 17 through 18.1 of
13 Chapter 460 of the 1987 Session Laws and Chapter 324 of the 1991 Session Laws, is in
14 effect.

15 Section 14. Use of Tax Proceeds. – The purpose of the tax authorized by this
16 part is to generate funds to partially offset the cost of constructing new school capital
17 facilities or replacing, expanding, or improving existing school capital facilities
18 necessitated in part by new growth within Orange County. Accordingly, the net proceeds
19 generated by the tax authorized by this part shall be deposited by Orange County in its
20 capital reserve improvements fund or funds established under Part 2 of Article 3 of
21 Chapter 159 of the General Statutes and may be expended, to the extent otherwise
22 authorized by law, only for capital improvements projects related to public schools.

23 Section 15. Liability; Administration. – An ordinance adopted pursuant to this
24 part shall provide that:

- 25 (1) A person responsible for the impact of land development shall pay an
26 impact tax for each square foot of dwelling space and commercial
27 building enclosed floor space for which an occupancy permit is issued
28 or, if no occupancy permit is issued, for each square foot of dwelling
29 space in an occupied dwelling and for each square foot of occupied
30 enclosed floor space in a commercial building.
- 31 (2) The tax shall be due on or before the date an occupancy permit is
32 initially issued for the dwelling unit or commercial building enclosed
33 floor space in question or, if no occupancy permit is issued, the date the
34 dwelling unit or commercial floor space is initially occupied. However,
35 no tax due shall be considered delinquent until 60 days after the tax
36 becomes due. There shall be added to delinquent taxes interest at the
37 legal rate.
- 38 (3) Taxes authorized by this part may be collected pursuant to G.S. 153A-
39 147 or G.S. 160A-207. In addition, taxes authorized by this part may be
40 recovered in a civil action in the nature of debt including an award of
41 reasonable attorneys' fees as part of costs.

42 Section 16. Rates. – Orange County shall establish annually at the time of the
43 adoption of its annual budget the tax rate to be levied per square foot of dwelling space

1 and per square foot of commercial building enclosed floor space for the ensuing fiscal
2 year. Different tax rates may be established for different types of dwelling units and
3 different types of commercial building enclosed floor space.

4 Section 17. Provisions for Repeal of Other Local Acts. – Orange County may
5 repeal all or part of an ordinance pertaining to a system of impact fees to provide for
6 capital improvements to public schools within Orange County, adopted pursuant to
7 Sections 17 through 18.1 of Chapter 460 of the 1987 Session Laws and Chapter 324 of
8 the 1991 Session Laws. With respect to an ordinance pertaining to a system of impact
9 fees to provide for capital improvements to public schools within Orange County, Orange
10 County may not adopt an ordinance pursuant to Sections 17 through 18.1 of Chapter 460
11 of the 1987 Session Laws and Chapter 324 of the 1991 Session Laws while an ordinance
12 adopted pursuant to this part is in effect.

13 Section 18. Disclosure Requirements. – Whenever the sale of real property
14 located in Orange County involves new construction, the seller shall prepare and sign,
15 and the buyer shall receive and sign, a disclosure statement. The disclosure statement
16 shall either be included in a contract or sale or contained in a separate document executed
17 prior to the execution of a sales contract. This disclosure statement shall fully and
18 completely disclose that the owner of the property at the time an occupancy permit issued
19 for the new construction or, if no occupancy permit is issued, the date the new
20 construction is occupied, may be subject to a tax levied by the county on the impact of
21 land development. If a seller fails to make this disclosure and the buyer suffers injury as
22 a result of the seller's failure to disclose, the seller is liable to the buyer to the extent of
23 the buyer's injury.

24 **PART 4. CHAPEL HILL IMPACT TAX**

25 Section 19. The Charter of the Town of Chapel Hill, being Chapter 473,
26 Session Laws of 1975, as amended, is further amended by adding a new Article 8 to
27 Chapter V to read as follows:

28 **"ARTICLE 8. IMPACT TAXES.**

29 **"§ 5.43. Impact Tax Authorized.**

30 The Town of Chapel Hill may adopt an ordinance levying an excise tax on the impact
31 of land development within the Town and providing for the administration, enforcement,
32 and collection of the tax.

33 **"§ 5.44. Definitions.**

34 The following definitions apply in this Article:

35 (1) Commercial building enclosed floor space. – All enclosed floor space
36 designed or intended to be used for any purpose except:

37 a. Single-family, two-family, or multifamily residences and
38 accessory structures.

39 b. Recreational facilities constructed as part of a residential
40 development and used primarily by residents of the development.

41 c. Governmentally owned buildings.

42 d. Buildings owned and operated by nonprofit entities for
43 noncommercial and nonresidential purposes.

- 1 e. Buildings designed and constructed to be used as schools or day
2 care centers.
- 3 (2) Land development. – Either of the following:
- 4 a. Construction of any dwelling unit for which a building permit
5 was issued or should have been issued after the effective date of
6 an ordinance adopted under this Article.
- 7 b. Construction of any commercial building enclosed floor space
8 for which a building permit was issued or should have been
9 issued after the effective date of an ordinance adopted under this
10 Article.
- 11 (3) Person. – An individual, a partnership, a corporation, or another legal
12 entity.
- 13 (4) Person responsible for the impact of land development. – The owner of
14 any dwelling unit or commercial building enclosed floor space on the
15 date an occupancy permit is issued for the dwelling unit or commercial
16 floor space or, if no occupancy permit is issued, the date the dwelling
17 unit or commercial floor space is occupied.

18 **"§ 5.45. Purpose of Tax.**

19 The purpose of the tax authorized by this Article is to generate funds to partially
20 offset the cost of constructing new capital facilities or replacing, expanding, or improving
21 existing capital facilities necessitated in part by new growth within the Town.
22 Accordingly, the net proceeds generated by the tax authorized by this Article shall be
23 deposited in the Town's capital reserve improvements fund or funds established under
24 Part 2 of Article 3 of Chapter 159 of the General Statutes.

25 **"§ 5.46. Persons Responsible for Tax; Collection.**

26 An ordinance adopted under this Article shall provide that:

- 27 (1) A person responsible for the impact of land development shall pay an
28 excise tax for each square foot of dwelling space and commercial
29 building enclosed floor space for which an occupancy permit is issued
30 or, if no occupancy permit is issued, for each square foot of dwelling
31 space in an occupied dwelling and for each square foot of occupied
32 enclosed floor space in a commercial building.
- 33 (2) The tax shall be due on or before the date an occupancy permit is issued
34 for the dwelling unit or commercial building enclosed floor space in
35 question or, if no occupancy permit is issued, the date the dwelling unit
36 or commercial floor space is occupied. However, no tax due shall be
37 considered delinquent until 60 days after the tax becomes due. There
38 shall be added to delinquent taxes interest at the legal rate.
- 39 (3) Taxes authorized by this Article may be collected pursuant to G.S.
40 160A-207. In addition, taxes authorized by this Article may be
41 recovered in a civil action in the nature of debt including an award of
42 reasonable attorneys' fees as part of costs.

43 **"§ 5.47. Tax Rate to be Set Annually.**

1 The Town of Chapel Hill shall establish annually at the time of the adoption of the
2 annual budget the rate of tax to be levied per square foot of dwelling space and per square
3 foot of commercial building enclosed floor space for the ensuing fiscal year. Different
4 tax rates may be established for different types of commercial construction and for
5 dwelling units containing a different number of bedrooms.

6 **"§ 5.48. Disclosure Required.**

7 Whenever the sale of real property located in the Town involves new construction, the
8 seller shall prepare and sign, and the buyer shall receive and sign, a disclosure statement.
9 This disclosure statement shall fully and completely disclose that the owner of the
10 property at the time an occupancy permit is issued for the new construction or, if no
11 occupancy permit is issued, the date the new construction is occupied, may be subject to
12 an excise tax on the impact of land development. If a seller fails to make this disclosure
13 and the buyer suffers injury as a result of the seller's failure to disclose, the seller is liable
14 to the buyer to the extent of the buyer's injury."

15 **PART 5. CARRBORO ROOM TAX**

16 Section 20. Occupancy tax. (a) Authorization and scope. The governing body
17 of the Town of Carrboro may levy a room occupancy tax of up to three percent (3%) of
18 the gross receipts derived from the rental of any room, lodging, or accommodation
19 furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is
20 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
21 addition to any State or local sales tax. This tax does not apply to accommodations
22 furnished by nonprofit charitable, educational, or religious organizations when furnished
23 in furtherance of their nonprofit purpose.

24 Section 20.(b) Administration. A tax levied under this section shall be levied,
25 administered, collected, and repealed as provided in G.S. 160A-215. The penalties
26 provided in G.S. 160A-215 apply to a tax levied under this section.

27 Section 20.(c) Use of tax revenue. The governing body of the Town of Carrboro
28 shall decide on the allocation of the net proceeds of the tax levied under this section
29 annually during its budgeting process, with particular consideration given to providing
30 funding to promote travel and tourism and for tourism-related expenditures, and not less
31 than ten percent (10%) of the net proceeds shall be used for those purposes.

32 The following definitions apply in this subsection:

- 33 (1) Net proceeds. – Gross proceeds less the cost to the town of
34 administering and collecting the tax, as determined by the finance
35 officer, not to exceed three percent (3%) of the first five hundred
36 thousand dollars (\$500,000) of gross proceeds collected each year and
37 one percent (1%) of the remaining gross receipts collected each year.
- 38 (2) Promote travel and tourism. – To advertise or market an area or activity,
39 publish and distribute pamphlets and other materials, conduct market
40 research, or engage in similar promotional activities that attract tourists
41 or business travelers to the area; the term includes administrative
42 expenses incurred in engaging in the listed activities.

- 1 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
2 the governing body of the town, are designed to increase the use of
3 lodging facilities, meeting facilities, or convention facilities in a town or
4 to attract tourists or business travelers to the town. The term includes
5 tourism-related capital expenditures.

6 Section 21. Town administrative provisions. – Section 3 of S.L. 1997-410, as
7 amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as
8 rewritten:

9 "Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L.
10 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy,
11 Shelby, and Statesville, to the ~~Town of St. Pauls~~ Towns of Carrboro and St. Pauls, and to
12 the municipalities in Brunswick County."

13 PART 6. HILLSBOROUGH MEALS TAX CHANGES

14 Section 22. Subsection (g) of Section 1 of Chapter 449 of the 1993 Session
15 Laws reads as rewritten:

16 "(g) Penalties. – A person, firm, corporation, or association who fails or refuses to
17 file a return required by this section or pay the tax due under this act is subject to the civil
18 and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales
19 and use taxes. In addition, for failure or refusal to file the return for a period of 30 days
20 after it is due, the taxpayer is subject to an additional tax, as a penalty, of one hundred
21 dollars (\$100.00). The town board has the same authority to waive the penalties for a tax
22 levied under this act that the Secretary of Revenue has to waive the penalties for State
23 sales and use taxes. The remedies provided in G.S. 160A-207 apply to taxes, interest,
24 and penalties that accrue under this act. ~~shall pay a penalty of two dollars (\$2.00) for each~~
25 ~~day's omission, subject to a maximum of five hundred dollars (\$500.00). In case of failure or~~
26 ~~refusal to file the return or pay the tax for a period of 30 days after the time required for filing the~~
27 ~~return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of~~
28 ~~the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each~~
29 ~~additional month or fraction thereof until the tax is paid. The town board may, for good cause~~
30 ~~shown, compromise or forgive the additional tax penalties imposed by this section.~~

31 ~~A person who willfully attempts in any manner to evade a tax imposed under this~~
32 ~~section or who willfully fails to pay the tax or make and file a return shall, in addition to~~
33 ~~all other penalties provided by law, be guilty of a misdemeanor and shall be punishable~~
34 ~~by a fine not to exceed five hundred dollars (\$500.00), imprisonment not to exceed six~~
35 ~~months, or both."~~

36 PART 7. EFFECTIVE DATES

37 Section 23. Section 22 of this act becomes effective July 1, 1999, and applies
38 to taxes due on or after that date. The remainder of this act is effective when it becomes
39 law.