

House Bill 962

By: Representatives Gasaway of the 28th, Ballinger of the 23rd, Gravley of the 67th, Barr of the 103rd, and Powell of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the excise tax on the furnishing for value to the public of any rooms, lodgings, or
3 accommodations, so as to change certain provisions regarding the levy and collection of such
4 tax; to provide that certain counties levying a certain form of such tax shall only be
5 authorized to levy a new tax after a certain date; to provide for certain conditions for
6 expenditures of such tax revenue; to change certain provisions authorizing certain counties
7 and municipalities to levy such tax under certain conditions; to provide for requirements and
8 limitations with respect thereto; to provide for related matters; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to the
13 excise tax on the furnishing for value to the public of any rooms, lodgings, or
14 accommodations, is amended in Code Section 48-13-51, relating to county and municipal
15 levies on public accommodations charges, by revising paragraphs (1) and (2) of
16 subsection (a) as follows:

17 "(a)(1)(A) The governing authority of each municipality in this state may levy and
18 collect an excise tax upon the furnishing for value to the public of any room or rooms,
19 lodgings, or accommodations furnished by any person or legal entity licensed by, or
20 required to pay business or occupation taxes to, the municipality for operating a hotel,
21 motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which
22 rooms, lodgings, or accommodations are regularly furnished for value. Within the
23 territorial limits of the special district located within the county, each county in this
24 state may levy and collect an excise tax upon the furnishing for value to the public of
25 any room or rooms, lodgings, or accommodations furnished by any person or legal
26 entity licensed by, or required to pay business or occupation taxes to, the county for

27 operating within the special district a hotel, motel, inn, lodge, tourist camp, tourist
 28 cabin, campground, or any other place in which rooms, lodgings, or accommodations
 29 are regularly furnished for value. The provisions of this Code section shall control over
 30 the provisions of any local ordinance or resolution to the contrary enacted pursuant to
 31 Code Section 48-13-53 and in effect prior to July 1, 1998. Any such ordinance shall
 32 not be deemed repealed by this Code section but shall be administered in conformity
 33 with this Code section.

34 (B)(i) The excise tax shall be imposed on any person or legal entity licensed by or
 35 required to pay a business or occupation tax to the governing authority imposing the
 36 tax for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground,
 37 or any other place in which rooms, lodgings, or accommodations are regularly
 38 furnished for value and shall apply to the furnishing for value of any room, lodging,
 39 or accommodation. Every person or entity subject to a tax levied as provided in this
 40 Code section shall, except as provided in this Code section, be liable for the tax at the
 41 applicable rate on the lodging charges actually collected or, if the amount of taxes
 42 collected from the hotel or motel guest is in excess of the total amount that should
 43 have been collected, the total amount actually collected must be remitted.

44 (ii) Any tax levied as provided in this Code section is also imposed upon every
 45 person or entity who is a hotel or motel guest and who receives a room, lodging, or
 46 accommodation that is subject to the tax levied under this Code section. Every such
 47 guest subject to the tax levied under this Code section shall pay the tax to the person
 48 or entity providing the room, lodging, or accommodation. The tax shall be a debt of
 49 the person obtaining the room, lodging, or accommodation to the person or entity
 50 providing such room, lodging, or accommodation until it is paid and shall be
 51 recoverable at law by the person or entity providing such room, lodging, or
 52 accommodation in the same manner as authorized for the recovery of other debts.
 53 The person or entity collecting the tax from the hotel or motel guest shall remit the tax
 54 to the governing authority imposing the tax, and the tax remitted shall be a credit
 55 against the tax imposed by division (i) of this subparagraph on the person or entity
 56 providing the room, lodging, or accommodation.

57 (C) Reserved.

58 (D) Except as provided in paragraphs (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5),
 59 (3.6), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), and (5.3) of
 60 this subsection, no tax levied pursuant to this Code section shall be levied or collected
 61 at a rate exceeding 3 percent of the charge to the public for the furnishings.

62 (2) A county or municipality levying a tax as provided in paragraph (1) of this subsection
 63 shall in each fiscal year beginning on or after July 1, 1987, expend for the purpose of

64 promoting tourism, conventions, and trade shows a percentage of the total taxes collected
 65 under this Code section which is not less than the percentage of such tax collections
 66 expended for such purposes during the immediately preceding fiscal year. In addition,
 67 if during such immediately preceding fiscal year any portion of such tax receipts was
 68 expended for such purposes through a grant to or a contract or contracts with the state,
 69 a department of state government, a state authority, or a private sector nonprofit
 70 organization, then in each fiscal year beginning on or after July 1, 1987, at least the same
 71 percentage shall be expended through a contract or contracts with one or more such
 72 entities for the purpose of promoting tourism, conventions, and trade shows. The
 73 expenditure requirements of this paragraph shall cease to apply to a county or
 74 municipality which levies a tax at a rate in excess of 3 percent, as authorized under
 75 paragraphs (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), ~~(3.6)~~, (3.7), (4), (4.1), (4.2),
 76 (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), and (5.3) of this subsection; and in such
 77 case the expenditure requirements of such paragraph of this subsection pursuant to which
 78 such tax is levied shall apply instead."

79 **SECTION 2.**

80 Said article is further amended in said Code section by revising paragraph (3.6) of
 81 subsection (a) as follows:

82 "(3.6) ~~Reserved~~ On and after July 1, 2018, a county (within the territorial limits of the
 83 special district located within the county) that contains not less than five and not more
 84 than ten miles of a primary interstate highway of the United States and levies a tax under
 85 paragraph (3) of this subsection shall only be authorized to levy a tax under this Code
 86 section at a rate of 8 percent and expend the proceeds in accordance with the following:

87 (A) Such counties shall expend, in each fiscal year during which the tax is collected
 88 under this paragraph, an amount equal to the amount by which the total taxes collected
 89 under this Code section exceed the taxes which would be collected between a rate of 3
 90 percent without exceeding such amount and a rate of 5 percent for the purpose of:

91 (i) Promoting tourism, conventions, and trade shows;

92 (ii) Supporting a facility owned or operated by a state authority for convention and
 93 trade show purposes or any other similar or related purposes;

94 (iii) Supporting a facility owned or operated by a local government or local authority
 95 for convention and trade show purposes or any other similar or related purposes, if a
 96 written agreement to provide such support was in effect on January 1, 1987, and if
 97 such facility is substantially completed and in operation prior to July 1, 1987;

98 (iv) Supporting a facility owned or operated by a local government or local authority
 99 for convention and trade show purposes or any other similar or related purposes if

100 construction of such facility is funded or was funded prior to July 1, 1990, in whole
 101 or in part by a grant of state funds or is funded on or after July 1, 1990, in whole or
 102 substantially by an appropriation of state funds;

103 (v) Supporting a facility owned by a local government or local authority for
 104 convention and trade show purposes and any other similar or related purposes if
 105 construction of such facility is substantially funded or was substantially funded on or
 106 after February 28, 1985, by a special county 1 percent sales and use tax authorized by
 107 Article 3 of Chapter 8 of this title, as amended and if such facility was substantially
 108 completed and in operation prior to December 31, 1993; or

109 (vi) For some combination of such purposes;

110 (B) Such counties shall expend, in each fiscal year during which the tax is collected
 111 under this paragraph, an amount equal to the amount by which the total taxes collected
 112 under this Code section exceed the taxes which would be collected at a rate of 5 percent
 113 for the purpose of compensation for local law enforcement services; and

114 (C) Amounts so expended shall be expended only through a contract or contracts with
 115 the state, a department of state government, a state authority, a convention and visitors
 116 bureau authority created by local Act of the General Assembly for a municipality, or
 117 a private sector nonprofit organization, or through a contract or contracts with some
 118 combination of such entities, except that amounts expended for purposes (iii) and (iv)
 119 of subparagraph (A) of this paragraph may be so expended in any otherwise lawful
 120 manner."

121 **SECTION 3.**

122 Said article is further amended in said Code section by revising paragraphs (9) and (10) of
 123 subsection (a) as follows:

124 "(9)(A) A county or municipality imposing a tax under paragraph (1), (2), (2.1), (2.2),
 125 (3), (3.1), (3.2), (3.3), (3.4), (3.5), ~~(3.6)~~, (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6),
 126 (4.7), (5), (5.1), (5.2), or (5.3) of this subsection shall, prior to the imposition of the tax
 127 (if the tax is imposed on or after July 1, 1990) and prior to each fiscal year thereafter
 128 in which the tax is imposed, adopt a budget plan specifying how the proceeds of the tax
 129 shall be expended. Prior to the adoption of such budget plan, the county or
 130 municipality shall obtain from the authorized entity with which it proposes to contract
 131 to meet the expenditure requirements of this Code section a budget for expenditures to
 132 be made by such organization; and such budget shall be made a part of the county or
 133 municipal budget plan.

134 (B)(i) The determination as to whether a county or municipality has complied with
 135 the expenditure requirements of paragraph (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3),

136 (3.4), (3.5), (3.6), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2),
 137 or (5.3) of this subsection shall be made for each fiscal year beginning on or after
 138 July 1, 1987, and, as of the end of each fiscal year, shall be prominently reflected in
 139 the audit required under Code Section 36-81-7 and shall disclose:

140 (I) The amount of funds expended or contractually committed for expenditure as
 141 provided in paragraph (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.6),
 142 (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), or (5.3) of this
 143 subsection, whichever is applicable, during the fiscal year;

144 (II) The amount of tax receipts under this Code section during such fiscal year; and

145 (III) Expenditures as a percentage of tax receipts.

146 (ii) A county or municipality contractually expending funds to meet the expenditure
 147 requirements of paragraph (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.6),
 148 (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), or (5.3) of this
 149 subsection shall require the contracting party to provide audit verification that the
 150 contracting party makes use of such funds in conformity with the requirements of this
 151 subsection. If the audit required by Code Section 36-81-7 identifies noncompliance
 152 with the applicable expenditure requirements of this Code section, such
 153 noncompliance shall be reported in accordance with paragraph (2) of subsection (c)
 154 of Code Section 36-81-7. The state auditor shall report all instances of
 155 noncompliance with this subparagraph noted in the audit report to the Department of
 156 Community Affairs upon completion of the report review required by paragraph (2)
 157 of subsection (d) of Code Section 36-81-7. The state auditor shall furnish a copy of
 158 all documents submitted by the local government or the local government's auditor
 159 pertaining to noncompliance with this subparagraph to the Department of Revenue.

160 The Department of Community Affairs shall submit a copy of such documents to the
 161 performance review board.

162 (10) Nothing in this article shall be construed to limit the power of a county or
 163 municipality to expend more than the required amounts, or all, of the total taxes collected
 164 under this Code section for the purposes described in paragraph (2), (2.1), (2.2), (3), (3.1),
 165 (3.2), (3.3), (3.4), (3.5), (3.6), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5),
 166 (5.1), (5.2), or (5.3) of this subsection."

167 SECTION 4.

168 Said article is further amended in said Code section by revising paragraph (1) of
 169 subsection (b) as follows:

170 "(b)(1) Except as provided in paragraphs (2) ~~and~~, (3), ~~and~~ (3.6) of subsection (a) of this
 171 Code section, any new excise taxes which are first levied pursuant to this Code section

172 after July 1, 2008, or any new excise tax which is first levied following the termination
173 of a previous levy pursuant to this Code section after July 1, 2008, shall be levied
174 pursuant to this subsection."

175 **SECTION 5.**

176 All laws and parts of laws in conflict with this Act are repealed.