

321

Extraordinary Session

I N S E N A T E

June 23, 2009

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend chapter 693 of the laws of 1980, enabling the county of Albany to impose and collect taxes on occupancy of hotel or motel rooms in Albany county, in relation to revenues received from the collection of hotel or motel occupancy taxes and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 1 of chapter 693 of the laws of
2 1980, enabling the county of Albany to impose and collect taxes on occu-
3 pancy of hotel or motel rooms in Albany county, as amended by chapter
4 375 of the laws of 1985, is amended to read as follows:
5 (1) Notwithstanding any other provisions of law to the contrary, the
6 county of Albany is hereby authorized and empowered to adopt and amend
7 local laws imposing in such county a tax in addition to any tax author-
8 ized and imposed pursuant to article twenty-nine of the tax law such as
9 the legislature has or would have the power and authority to impose on
10 persons occupying hotel or motel rooms in such county. The rates of such
11 tax shall be [three] SIX percent of the per diem rental rate charged to
12 occupants for each room, provided, however, such tax shall not be appli-
13 cable to a permanent resident of a hotel or motel. For the purposes of
14 this section the term "permanent resident" shall mean a person occupying
15 any room or rooms in a hotel or motel for at least thirty consecutive
16 days.
17 S 2. Subdivision 9 of section 1 of chapter 693 of the laws of 1980,
18 enabling the county of Albany to impose and collect taxes on occupancy
19 of hotel or motel rooms in Albany county, as amended by chapter 375 of
20 the laws of 1985, is amended to read as follows:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD04662-09-9

(9) All revenues resulting from the imposition of the tax under the local law shall be paid into the treasury of the county of Albany and shall be credited to and deposited into [two] THREE special funds as follows:

(a) UNTIL THE COMPLETION DATE AS DEFINED IN SUBPARAGRAPH FOUR OF THIS PARAGRAPH:

(1) Revenues from the tax imposed by such local law up to an amount equal to [one-third] ONE-SIXTH of such total revenue shall be credited to and deposited in a special fund for convention and tourist development provided, however, that such local law shall provide that the county shall be authorized to retain up to a maximum of ten per centum of such revenue to defray the necessary expenses of the county in administering such tax. The revenue derived from THIS PORTION OF the tax, after deducting the amount provided for administering such tax, as so authorized by local law, shall be allocated to pay for services performed subject to the terms and conditions contained in contracts which may be entered into between the county and the Albany County Convention and Visitors Bureau, Inc. The funds so allocated shall be used for the purpose of promoting Albany county, its cities, towns and villages, in order to increase convention/trade show and tourist business.

[(b)] (2) Revenues from the tax imposed by such local law equal to two-thirds of such total revenue shall be credited to and deposited in a special account to be known as the "civic center debt service fund" to be created by the county of Albany therefor and to be maintained separate and apart from any other funds and accounts of the county. Moneys in such account shall be deposited in one or more of the banks designated in the manner provided by law, as a depository of the funds of such county. Pending expenditure from such fund, moneys therein may be invested in the manner provided in section 6-f of the general municipal law or in a successor statute to such section authorizing the types of investments which may be made by political subdivisions. Any interest earned or capital gain realized on the moneys so deposited or invested shall accrue and become part of the fund. Such local law may provide that any moneys in such fund shall be used, subject to appropriation, solely for the purpose of making debt service payments on obligations issued by the county to finance the acquisition, development (including construction), operation and repair and continuing use and maintenance of a civic center and ancillary facilities therefor (the "Albany project") at a site located in the city of Albany, county of Albany and state of New York, bounded generally by the South Mall Arterial and South Pearl, Howard and Eagle streets (the "Albany site") which ancillary facilities shall include but not be limited to, any buildings, structures, parking facilities, machinery, equipment, facilities and appurtenances incidental thereto.

(3) REVENUES FROM THE TAX IMPOSED BY SUCH LOCAL LAW EQUAL TO ONE-SIXTH OF SUCH TOTAL REVENUE SHALL BE CREDITED TO AND DEPOSITED IN A SPECIAL FUND TO BE KNOWN AS THE "ALBANY CONVENTION CENTER AUTHORITY FUND" TO BE CREATED BY THE COUNTY OF ALBANY THEREFOR AND TO BE MAINTAINED SEPARATE AND APART FROM ANY OTHER FUNDS AND ACCOUNTS OF THE COUNTY. MONEYS IN SUCH ACCOUNT SHALL BE DEPOSITED IN ONE OR MORE OF THE BANKS DESIGNATED IN THE MANNER PROVIDED BY LAW, AS A DEPOSITORY OF THE FUNDS OF SUCH COUNTY. PENDING EXPENDITURE FROM SUCH FUND, MONEYS THEREIN MAY BE INVESTED IN THE MANNER PROVIDED IN SECTION 6-F OF THE GENERAL MUNICIPAL LAW OR IN A SUCCESSOR STATUTE TO SUCH SECTION AUTHORIZING THE TYPES OF INVESTMENTS WHICH MAY BE MADE BY POLITICAL SUBDIVISIONS. ANY INTEREST EARNED OR CAPITAL GAIN REALIZED ON THE MONEYS SO DEPOSITED OR INVESTED

1 SHALL ACCRUE AND BECOME PART OF THE FUND. MONEYS IN THIS FUND SHALL BE
2 USED SOLELY AND EXCLUSIVELY BY THE ALBANY CONVENTION CENTER AUTHORITY
3 FOR THE DEVELOPMENT OF A CONVENTION CENTER PROJECT TO BE LOCATED IN THE
4 CITY OF ALBANY. THE COUNTY SHALL PAY THE MONEYS IN SUCH FUND OVER TO
5 SUCH AUTHORITY UPON APPLICATION FOR SUCH MONEYS BY THE AUTHORITY.

6 (4) AS USED IN THIS SUBDIVISION, THE TERM "COMPLETION DATE" SHALL MEAN
7 THE DATE ON WHICH THE ARCHITECT FOR THE CONVENTION CENTER PROJECT ISSUES
8 A CERTIFICATE OF SUBSTANTIAL COMPLETION IN SUBSTANTIAL CONFORMITY WITH
9 AIA DOCUMENT G704-2000 STATING THAT THE CONVENTION CENTER FACILITY IS
10 SUFFICIENTLY COMPLETE IN ACCORDANCE WITH THE CONTRACT OR CONTRACTS FOR
11 CONSTRUCTION THAT THE OWNER CAN OCCUPY OR UTILIZE THE CONVENTION CENTER
12 FACILITY FOR ITS INTENDED USE.

13 (B) ON AND AFTER THE COMPLETION DATE AS DEFINED IN SUBPARAGRAPH FOUR
14 OF PARAGRAPH (A) OF THIS SUBDIVISION:

15 (1) REVENUES FROM THE TAX IMPOSED BY SUCH LOCAL LAW UP TO AN AMOUNT
16 EQUAL TO ONE-SIXTH OF SUCH TOTAL REVENUE SHALL BE CREDITED TO AND DEPOS-
17 ITED IN A SPECIAL FUND FOR CONVENTION AND TOURISM DEVELOPMENT PROVIDED,
18 HOWEVER, THAT SUCH LOCAL LAW SHALL PROVIDE THAT THE COUNTY SHALL BE
19 AUTHORIZED TO RETAIN UP TO A MAXIMUM OF TEN PER CENTUM OF SUCH REVENUE
20 TO DEFRAY THE NECESSARY EXPENSES OF THE COUNTY IN ADMINISTERING SUCH
21 TAX. THE REVENUE DERIVED FROM THIS PORTION OF THE TAX, AFTER DEDUCTING
22 THE AMOUNT PROVIDED FOR ADMINISTERING SUCH TAX, AS SO AUTHORIZED BY
23 LOCAL LAW, SHALL BE ALLOCATED TO PAY FOR SERVICES PERFORMED SUBJECT TO
24 THE TERMS AND CONDITIONS CONTAINED IN CONTRACTS WHICH MAY BE ENTERED
25 INTO BETWEEN THE COUNTY AND THE ALBANY COUNTY CONVENTION AND VISITORS
26 BUREAU, INC. THE FUNDS SO ALLOCATED SHALL BE USED FOR THE PURPOSE OF
27 PROMOTING ALBANY COUNTY, ITS CITIES, TOWNS AND VILLAGES, IN ORDER TO
28 INCREASE CONVENTION/TRADE SHOW AND TOURISM BUSINESS; AND

29 (2) REVENUE FROM THE TAX IMPOSED BY SUCH LOCAL LAW EQUAL TO ONE-THIRD
30 OF SUCH TOTAL REVENUE SHALL BE CREDITED TO AND DEPOSITED IN A SPECIAL
31 ACCOUNT TO BE KNOWN AS THE "CIVIC CENTER DEBT SERVICE FUND" TO BE
32 CREATED BY THE COUNTY OF ALBANY THEREFOR AND TO BE MAINTAINED SEPARATE
33 AND APART FROM ANY OTHER FUNDS AND ACCOUNTS OF THE COUNTY. MONEYS IN
34 SUCH ACCOUNT SHALL BE DEPOSITED IN ONE OR MORE OF THE BANKS DESIGNATED
35 IN THE MANNER PROVIDED BY LAW, AS A DEPOSITORY OF THE FUNDS OF SUCH
36 COUNTY. PENDING EXPENDITURE FROM SUCH FUND, MONEYS THEREIN MAY BE
37 INVESTED IN THE MANNER PROVIDED IN SECTION 6-F OF THE GENERAL MUNICIPAL
38 LAW OR IN A SUCCESSOR STATUTE TO SUCH SECTION AUTHORIZING THE TYPES OF
39 INVESTMENTS WHICH MAY BE MADE BY POLITICAL SUBDIVISIONS. ANY INTEREST
40 EARNED OR CAPITAL GAIN REALIZED ON THE MONEYS SO DEPOSITED OR INVESTED
41 SHALL ACCRUE AND BECOME PART OF THE FUND. SUCH LOCAL LAW MAY PROVIDE
42 THAT ANY MONEYS IN SUCH FUND SHALL BE USED, SUBJECT TO APPROPRIATION,
43 SOLELY FOR THE PURPOSE OF MAKING DEBT SERVICE PAYMENTS ON OBLIGATIONS
44 ISSUED BY THE COUNTY TO FINANCE THE ACQUISITION, DEVELOPMENT (INCLUDING
45 CONSTRUCTION), OPERATION AND REPAIR AND CONTINUING USE AND MAINTENANCE
46 OF A CIVIC CENTER AND ANCILLARY FACILITIES THEREFOR (THE "ALBANY
47 PROJECT") AT A SITE LOCATED IN THE CITY OF ALBANY, COUNTY OF ALBANY AND
48 STATE OF NEW YORK, BOUNDED GENERALLY BY THE SOUTH MALL ARTERIAL AND
49 SOUTH PEARL, HOWARD AND EAGLE STREETS (THE "ALBANY SITE") WHICH ANCIL-
50 LARY FACILITIES SHALL INCLUDE BUT NOT BE LIMITED TO, ANY BUILDINGS,
51 STRUCTURES, PARKING FACILITIES, MACHINERY, EQUIPMENT, FACILITIES AND
52 APPURTENANCES INCIDENTAL THERETO; AND

53 (3) REVENUES FROM THE TAX IMPOSED BY SUCH LOCAL LAW EQUAL TO ONE-HALF
54 OF SUCH TOTAL REVENUE SHALL THEREAFTER BE CREDITED TO AND DEPOSITED IN
55 THE "ALBANY CONVENTION CENTER AUTHORITY FUND" AND SHALL BE MAINTAINED
56 SEPARATE AND APART FROM ANY OTHER FUNDS AND ACCOUNTS OF THE COUNTY.

1 MONEYS IN SUCH ACCOUNT SHALL BE DEPOSITED IN ONE OR MORE OF THE BANKS
2 DESIGNATED IN THE MANNER PROVIDED BY LAW, AS A DEPOSITORY OF THE FUNDS
3 OF SUCH COUNTY. PENDING EXPENDITURE FROM SUCH FUND, MONEYS THEREIN MAY
4 BE INVESTED IN THE MANNER PROVIDED IN SECTION 6-F OF THE GENERAL MUNICI-
5 PAL LAW OR IN A SUCCESSOR STATUTE TO SUCH SECTION AUTHORIZING THE TYPES
6 OF INVESTMENTS WHICH MAY BE MADE BY POLITICAL SUBDIVISIONS. ANY INTER-
7 EST EARNED OR CAPITAL GAIN REALIZED ON THE MONEYS SO DEPOSITED OR
8 INVESTED SHALL ACCRUE AND BECOME PART OF THE FUND. MONEYS IN THIS FUND
9 SHALL BE USED SOLELY AND EXCLUSIVELY BY THE ALBANY CONVENTION CENTER
10 AUTHORITY FOR THE DEVELOPMENT (INCLUDING CONSTRUCTION), OPERATION,
11 REPAIR, CONTINUING USE AND MAINTENANCE OF A CONVENTION CENTER PROJECT TO
12 BE LOCATED IN THE CITY OF ALBANY AND SHALL INCLUDE PAYMENT OF DEBT
13 SERVICE FOLLOWING COMPLETION OF CONSTRUCTION OF SUCH CONVENTION CENTER
14 PROJECT. THE COUNTY SHALL PAY THE MONEYS IN SUCH FUND OVER TO SUCH
15 AUTHORITY UPON APPLICATION FOR SUCH MONEYS BY THE AUTHORITY.

16 (C) THE STATE DOES HEREBY PLEDGE TO AND AGREE WITH THE HOLDERS OF THE
17 BONDS OR NOTES DESCRIBED IN PARAGRAPH (D) OF THIS SUBDIVISION THAT THE
18 STATE WILL NOT IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF THE BOND-
19 HOLDERS OR NOTEHOLDERS UNTIL SAID BONDS OR NOTES, TOGETHER WITH INTEREST
20 THEREON, WITH INTEREST ON ANY UNPAID INSTALLMENTS OR INTEREST AND ALL
21 COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDING BY OR ON
22 BEHALF OF THE BONDHOLDERS OR NOTEHOLDERS ARE FULLY MET AND DISCHARGED.

23 [(c)] (D) It is hereby determined that (1) the acquisition, develop-
24 ment (including construction), operation and repair and continuing use
25 and maintenance of the Albany project and the leasing of all or any part
26 of the Albany site and the issuance of bonds or notes by said county for
27 such purposes [is], AND (2) DEVELOPMENT (INCLUDING CONSTRUCTION) OF THE
28 ALBANY CONVENTION CENTER PROJECT AND THE LEASING OF ALL OR ANY PART OF
29 THE ALBANY CONVENTION CENTER PROJECT AND THE ISSUANCE OF BONDS OR NOTES
30 BY SAID AUTHORITY FOR SUCH PURPOSES ARE for a proper governmental
31 purpose and [is] ARE for the benefit of the people of the CITY OF ALBA-
32 NY, THE county of Albany AND THE STATE OF NEW YORK and the same shall
33 continue to be regarded as used in the performance of a governmental
34 function in the exercise of the powers conferred by this act.

35 S 3. This act shall take effect upon the adoption by the county of
36 Albany of a local law imposing in such county the additional occupancy
37 tax authorized by this act and shall expire and be deemed repealed
38 December 31, 2010; provided that Albany county shall notify the legisla-
39 tive bill drafting commission upon the occurrence of the enactment of
40 such local law in order that the commission may maintain an accurate and
41 timely effective data base of the official text of the laws of the state
42 of New York in furtherance of effecting the provisions of section 44 of
43 the legislative law and section 70-b of the public officers law.