S T A T E O F N E W Y O R K

S. 2096 A. 5222

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

February 11, 2009

IN SENATE -- Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. McENENY, CANESTRARI -- read once and referred to the Committee on Ways and Means

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 to amend chapter 531 of the laws of 2005 amending 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 relating to revenues received from the collection of hotel or motel occupancy taxes, in relation to the effectiveness thereof

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

Section 1. Subdivision 9 of section 1 of 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, as amended by chapter 194 of the laws of 2006, is amended to read as follows:

(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 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-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

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

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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] TOURISM 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.

[(c)] (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 shall accrue and become part of the fund. Moneys in this fund shall be used solely and exclusively by the Albany convention center authority for the development of a convention center project to be located in the city of Albany. The county shall pay the moneys in such fund over to such authority upon application for such moneys by the authority.

(4) AS USED IN THIS SUBDIVISION, THE TERM "COMPLETION DATE" SHALL MEAN THE DATE ON WHICH THE ARCHITECT FOR THE CONVENTION CENTER PROJECT ISSUES A CERTIFICATE OF SUBSTANTIAL COMPLETION IN SUBSTANTIAL CONFORMITY WITH AIA DOCUMENT G704-2000 STATING THAT THE CONVENTION CENTER FACILITY IS SUFFICIENTLY COMPLETE IN ACCORDANCE WITH THE CONTRACT OR CONTRACTS FOR

CONSTRUCTION THAT THE OWNER CAN OCCUPY OR UTILIZE THE CONVENTION CENTER FACILITY FOR ITS INTENDED USE.

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

(1) REVENUES FROM THE TAX IMPOSED BY SUCH LOCAL LAW UP TO AN AMOUNT EQUAL TO ONE-SIXTH OF SUCH TOTAL REVENUE SHALL BE CREDITED TO AND DEPOSITED IN A SPECIAL FUND FOR CONVENTION AND TOURISM 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 TOURISM BUSINESS; AND

(2) REVENUE FROM THE TAX IMPOSED BY SUCH LOCAL LAW EQUAL TO ONE-THIRD 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; AND

(3) REVENUES FROM THE TAX IMPOSED BY SUCH LOCAL LAW EQUAL TO ONE-HALF OF SUCH TOTAL REVENUE SHALL THEREAFTER BE CREDITED TO AND DEPOSITED IN THE "ALBANY CONVENTION CENTER AUTHORITY FUND" AND SHALL 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. MONEYS IN THIS FUND SHALL BE USED SOLELY AND EXCLUSIVELY BY THE ALBANY CONVENTION CENTER AUTHORITY FOR THE DEVELOPMENT (INCLUDING CONSTRUCTION), OPERATION, REPAIR, CONTIN-

UING USE AND MAINTENANCE OF A CONVENTION CENTER PROJECT TO BE LOCATED IN THE CITY OF ALBANY AND SHALL INCLUDE PAYMENT OF DEBT SERVICE FOLLOWING COMPLETION OF CONSTRUCTION OF SUCH CONVENTION CENTER PROJECT. THE COUNTY SHALL PAY THE MONEYS IN SUCH FUND OVER TO SUCH AUTHORITY UPON APPLICATION FOR SUCH MONEYS BY THE AUTHORITY.

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

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

S 2. Section 3 of chapter 531 of the laws of 2005 amending 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 relating to revenues received from the collection of hotel or motel occupancy taxes is amended to read as follows:

S 3. This act shall take effect immediately, provided, however, the provisions of this act shall expire and be deemed repealed December 31, [2008] 2010.

S 3. Notwithstanding the provisions of article 5 of the general construction law, the provisions of subdivision 9 of section 1 of chapter 693 of the laws of 1980, as amended by chapter 194 of the laws of 2006, are hereby revived and shall continue in full force and effect as they existed on December 31, 2008.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after December 31, 2008; provided, however, that the amendments to subdivision 9 of section 1 of chapter 693 of the laws of 1980 made by section one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.