

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

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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:

1     Section 1. Subdivision 9 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     194 of the laws of 2006, is amended to read as follows:  
5     (9) All revenues resulting from the imposition of the tax under the  
6     local law shall be paid into the treasury of the county of Albany and  
7     shall be credited to and deposited into three special funds as follows:  
8     (a) UNTIL THE COMPLETION DATE AS DEFINED IN SUBPARAGRAPH FOUR OF THIS  
9     PARAGRAPH:  
10    (1) Revenues from the tax imposed by such local law up to an amount  
11    equal to one-sixth of such total revenue shall be credited to and depos-  
12    ited in a special fund for convention and tourist development provided,  
13    however, that such local law shall provide that the county shall be  
14    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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1 to defray the necessary expenses of the county in administering such  
2 tax. The revenue derived from THIS PORTION OF the tax, after deducting  
3 the amount provided for administering such tax, as so authorized by  
4 local law, shall be allocated to pay for services performed subject to  
5 the terms and conditions contained in contracts which may be entered  
6 into between the county and the Albany County Convention and Visitors  
7 Bureau, Inc. The funds so allocated shall be used for the purpose of  
8 promoting Albany county, its cities, towns and villages, in order to  
9 increase convention/trade show and [tourist] TOURISM business.

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

34 [(c)] (3) Revenues from the tax imposed by such local law equal to  
35 one-sixth of such total revenue shall be credited to and deposited in a  
36 special fund to be known as the "Albany convention center authority  
37 fund" to be created by the county of Albany therefor and to be main-  
38 tained separate and apart from ANY OTHER funds and accounts of the coun-  
39 ty. Moneys in such account shall be deposited in one or more of the  
40 banks designated in the manner provided by law, as a depository of the  
41 funds of such county. Pending expenditure from such fund, moneys therein  
42 may be invested in the manner provided in section 6-f of the general  
43 municipal law or in a successor statute to such section authorizing the  
44 types of investments which may be made by political subdivisions. Any  
45 interest earned or capital gain realized on the moneys so deposited or  
46 invested shall accrue and become part of the fund. Moneys in this fund  
47 shall be used solely and exclusively by the Albany convention center  
48 authority for the development of a convention center project to be  
49 located in the city of Albany. The county shall pay the moneys in such  
50 fund over to such authority upon application for such moneys by the  
51 authority.

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

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

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

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

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

43 (3) REVENUES FROM THE TAX IMPOSED BY SUCH LOCAL LAW EQUAL TO ONE-HALF  
44 OF SUCH TOTAL REVENUE SHALL THEREAFTER BE CREDITED TO AND DEPOSITED IN  
45 THE "ALBANY CONVENTION CENTER AUTHORITY FUND" AND SHALL BE MAINTAINED  
46 SEPARATE AND APART FROM ANY OTHER FUNDS AND ACCOUNTS OF THE COUNTY.  
47 MONEYS IN SUCH ACCOUNT SHALL BE DEPOSITED IN ONE OR MORE OF THE BANKS  
48 DESIGNATED IN THE MANNER PROVIDED BY LAW, AS A DEPOSITORY OF THE FUNDS  
49 OF SUCH COUNTY. PENDING EXPENDITURE FROM SUCH FUND, MONEYS THEREIN MAY  
50 BE INVESTED IN THE MANNER PROVIDED IN SECTION 6-F OF THE GENERAL MUNICI-  
51 PAL LAW OR IN A SUCCESSOR STATUTE TO SUCH SECTION AUTHORIZING THE TYPES  
52 OF INVESTMENTS WHICH MAY BE MADE BY POLITICAL SUBDIVISIONS. ANY INTEREST  
53 EARNED OR CAPITAL GAIN REALIZED ON THE MONEYS SO DEPOSITED OR INVESTED  
54 SHALL ACCRUE AND BECOME PART OF THE FUND. MONEYS IN THIS FUND SHALL BE  
55 USED SOLELY AND EXCLUSIVELY BY THE ALBANY CONVENTION CENTER AUTHORITY  
56 FOR THE DEVELOPMENT (INCLUDING CONSTRUCTION), OPERATION, REPAIR, CONTIN-

1 UING USE AND MAINTENANCE OF A CONVENTION CENTER PROJECT TO BE LOCATED IN  
2 THE CITY OF ALBANY AND SHALL INCLUDE PAYMENT OF DEBT SERVICE FOLLOWING  
3 COMPLETION OF CONSTRUCTION OF SUCH CONVENTION CENTER PROJECT. THE COUNTY  
4 SHALL PAY THE MONEYS IN SUCH FUND OVER TO SUCH AUTHORITY UPON APPLICA-  
5 TION FOR SUCH MONEYS BY THE AUTHORITY.

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

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

25 S 2. Section 3 of chapter 531 of the laws of 2005 amending chapter 693  
26 of the laws of 1980, enabling the county of Albany to impose and collect  
27 taxes on occupancy of hotel or motel rooms in Albany county relating to  
28 revenues received from the collection of hotel or motel occupancy taxes  
29 is amended to read as follows:

30 S 3. This act shall take effect immediately, provided, however, the  
31 provisions of this act shall expire and be deemed repealed December 31,  
32 [2008] 2010.

33 S 3. Notwithstanding the provisions of article 5 of the general  
34 construction law, the provisions of subdivision 9 of section 1 of chap-  
35 ter 693 of the laws of 1980, as amended by chapter 194 of the laws of  
36 2006, are hereby revived and shall continue in full force and effect as  
37 they existed on December 31, 2008.

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