

(124th General Assembly)  
(Substitute House Bill Number 518)

# AN ACT

To amend section 5739.09 of the Revised Code to authorize the boards of county commissioners of certain counties to levy an additional excise tax on lodging and to allow the most populous municipal corporation in those counties to levy an additional excise tax on lodging as well.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 5739.09 of the Revised Code be amended to read as follows:

Sec. 5739.09. (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except as provided in divisions (A)(2) ~~and~~, (3), and (4) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on ~~such~~ the transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each ~~such~~ transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of ~~such~~ the remainder pursuant to an agreement authorized by section 307.695 of the Revised Code. Except as provided in division (A)(2) ~~or~~, (3), or (4) of this section, on and after May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to this division in any municipal

orporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to division (B) of this section. The board of a county that has levied a tax under division (C) of this section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue therefrom from the tax has been so pledged.

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code, may amend the resolution levying that tax to provide for an increase in the rate of the tax up to five per cent on each transaction; to provide that revenue from the increase in the rate shall be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section; and to provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division (A)(1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that

chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

Division (A)(3) of this section does not apply to the board of county commissioners of any county in which a convention center or facility exists or is being constructed on November 15, 1998, or of any county in which a convention facilities authority levies a tax pursuant to section 351.021 of the Revised Code on that date.

As used in division (A)(3) of this section, "costs cost" and "facility" have the same meanings as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(4) A board of county commissioners that levies a tax under division (A)(1) of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their

terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

As used in division (A)(4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(B)(1) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may, by ordinance or resolution, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The legislative authority of the municipal corporation or the board of trustees of the township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the balance of such that revenue shall be deposited in the general fund. The municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The levy of a tax under this division is in addition to any tax imposed on the same transaction by a municipal corporation or a township as authorized by division (A) of section 5739.08 of the Revised Code.

(2) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under division (A)(4) of this section may amend, on or before September 30, 2002, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional one per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before

May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter:

(c) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law, by the board of county commissioners, or by the legislative authority, for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

As used in division (B)(2) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(C) For the purpose of making the payments authorized by section 307.695 of the Revised Code to construct and equip a convention center in the county and to cover the costs of administering the tax, a board of county commissioners of a county where a tax imposed under division (A)(1) of this section is in effect may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax authorized by this division shall be in addition to any tax that is levied pursuant to division (A) of this section, but it shall not apply to transactions subject to a tax levied by a municipal corporation or township pursuant to the authorization granted by division (A) of section 5739.08 of the Revised Code. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. A tax imposed under this section division shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue therefrom from the tax has been pledged pursuant to such that section.

(D) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction,

and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation thereof of bonds, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this section division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. Such The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to such that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation thereof of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for such any additional purposes ~~as~~are determined by the county in the resolution levying the tax or amendments thereto to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating,

rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county, by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative authority of the county shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and this division ~~(E)~~ of this section. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. ~~Such~~ The tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county, but not to exceed fifteen years.

(F) The legislative authority of a county that has levied a tax under division (E) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under that division ~~(E)~~ of this section to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section 307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements

described in division (C) of section 307.674 of the Revised Code. The resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code and on port authority revenue bonds provided for in division (B) of section 307.674 of the Revised Code. All revenues arising from the amendment and extension of the tax shall be expended in accordance with section 307.674 of the Revised Code, this division, and ~~divisions~~ division (E) and (F) of this section.

(G) For purposes of a tax levied by a county, township, or municipal corporation under this section or section 5739.08 of the Revised Code, a board of county commissioners, board of township trustees, or the legislative authority of a municipal corporation may adopt a resolution or ordinance at any time specifying that "hotel," as otherwise defined in section 5739.01 of the Revised Code, includes establishments in which fewer than five rooms are used for the accommodation of guests. The resolution or ordinance may apply to a tax imposed pursuant to this section prior to the adoption of the resolution or ordinance if the resolution or ordinance so states, but the tax shall not apply to transactions by which lodging by such an establishment is provided to transient guests prior to the adoption of the resolution or ordinance.

SECTION 2. That existing section 5739.09 of the Revised Code is hereby repealed.

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*Speaker \_\_\_\_\_ of the House of Representatives.*

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*President \_\_\_\_\_ of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_