

**As Reported by the House State Government Committee**

**124th General Assembly**

**Regular Session**

**2001-2002**

**Sub. H. B. No. 518**

**REPRESENTATIVES Schmidt, Cates**

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**A B I L L**

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 21  
regulations shall provide, after deducting the real and actual 22  
costs of administering the tax, for the return to each municipal 23  
corporation or township that does not levy an excise tax on ~~such~~ 24  
the transactions, a uniform percentage of the tax collected in the 25  
municipal corporation or in the unincorporated portion of the 26  
township from each ~~such~~ transaction, not to exceed thirty-three 27  
and one-third per cent. The remainder of the revenue arising from 28  
the tax shall be deposited in a separate fund and shall be spent 29  
solely to make contributions to the convention and visitors' 30  
bureau operating within the county, including a pledge and 31  
contribution of any portion of ~~such~~ the remainder pursuant to an 32  
agreement authorized by section 307.695 of the Revised Code. 33  
Except as provided in division (A)(2) ~~or~~, (3), ~~or~~ (4) of this 34  
section, on and after May 10, 1994, a board of county 35  
commissioners may not levy an excise tax pursuant to this division 36  
in any municipal corporation or township located wholly or partly 37  
within the county that has in effect an ordinance or resolution 38  
levying an excise tax pursuant to division (B) of this section. 39  
The board of a county that has levied a tax under division (C) of 40  
this section may, by resolution adopted within ninety days after 41  
July 15, 1985, by a majority of the members of the board, amend 42  
the resolution levying a tax under this division to provide for a 43  
portion of that tax to be pledged and contributed in accordance 44  
with an agreement entered into under section 307.695 of the 45  
Revised Code. A tax, any revenue from which is pledged pursuant to 46  
such an agreement, shall remain in effect at the rate at which it 47  
is imposed for the duration of the period for which the revenue 48  
~~therefrom~~ from the tax has been so pledged. 49

(2) A board of county commissioners that levies an excise tax 50  
under division (A)(1) of this section on June 30, 1997, at a rate 51  
of three per cent, and that has pledged revenue from the tax to an 52

agreement entered into under section 307.695 of the Revised Code, 53  
may amend the resolution levying that tax to provide for an 54  
increase in the rate of the tax up to five per cent on each 55  
transaction; to provide that revenue from the increase in the rate 56  
shall be spent solely to make contributions to the convention and 57  
visitors' bureau operating within the county to be used 58  
specifically for promotion, advertising, and marketing of the 59  
region in which the county is located; to provide that the rate in 60  
excess of the three per cent levied under division (A)(1) of this 61  
section shall remain in effect at the rate at which it is imposed 62  
for the duration of the period during which any agreement is in 63  
effect that was entered into under section 307.695 of the Revised 64  
Code by the board of county commissioners levying a tax under 65  
division (A)(1) of this section; and to provide that no portion of 66  
that revenue need be returned to townships or municipal 67  
corporations as would otherwise be required under division (A)(1) 68  
of this section. 69

(3) A board of county commissioners that levies a tax under 70  
division (A)(1) of this section on March 18, 1999, at a rate of 71  
three per cent may, by resolution adopted not later than 72  
forty-five days after March 18, 1999, amend the resolution levying 73  
the tax to provide for all of the following: 74

(a) That the rate of the tax shall be increased by not more 75  
than an additional four per cent on each transaction; 76

(b) That all of the revenue from the increase in the rate 77  
shall be pledged and contributed to a convention facilities 78  
authority established by the board of county commissioners under 79  
Chapter 351. of the Revised Code on or before November 15, 1998, 80  
and used to pay costs of constructing, maintaining, operating, and 81  
promoting a facility in the county, including paying bonds, or 82  
notes issued in anticipation of bonds, as provided by that 83  
chapter; 84

(c) That no portion of the revenue arising from the increase 85  
in rate need be returned to municipal corporations or townships as 86  
otherwise required under division (A)(1) of this section; 87

(d) That the increase in rate shall not be subject to 88  
diminution by initiative or referendum or by law while any bonds, 89  
or notes in anticipation of bonds, issued by the authority under 90  
Chapter 351. of the Revised Code to which the revenue is pledged, 91  
remain outstanding in accordance with their terms, unless 92  
provision is made by law or by the board of county commissioners 93  
for an adequate substitute therefor that is satisfactory to the 94  
trustee if a trust agreement secures the bonds. 95

Division (A)(3) of this section does not apply to the board 96  
of county commissioners of any county in which a convention center 97  
or facility exists or is being constructed on November 15, 1998, 98  
or of any county in which a convention facilities authority levies 99  
a tax pursuant to section 351.021 of the Revised Code on that 100  
date. 101

As used in division (A)(3) of this section, "~~costs~~ cost" and 102  
"facility" have the same meanings as in section 351.01 of the 103  
Revised Code, and "convention center" has the same meaning as in 104  
section 307.695 of the Revised Code. 105

(4) A board of county commissioners that levies a tax under 106  
division (A)(1) of this section on June 30, 2002, at a rate of 107  
three per cent may, by resolution adopted not later than September 108  
30, 2002, amend the resolution levying the tax to provide for all 109  
of the following: 110

(a) That the rate of the tax shall be increased by not more 111  
than an additional three and one-half per cent on each 112  
transaction; 113

(b) That all of the revenue from the increase in rate shall 114  
be pledged and contributed to a convention facilities authority 115

established by the board of county commissioners under Chapter 116  
351. of the Revised Code on or before May 15, 2002, and be used to 117  
pay costs of constructing, expanding, maintaining, operating, or 118  
promoting a convention center in the county, including paying 119  
bonds, or notes issued in anticipation of bonds, as provided by 120  
that chapter; 121

(c) That no portion of the revenue arising from the increase 122  
in rate need be returned to municipal corporations or townships as 123  
otherwise required under division (A)(1) of this section; 124

(d) That the increase in rate shall not be subject to 125  
diminution by initiative or referendum or by law while any bonds, 126  
or notes in anticipation of bonds, issued by the authority under 127  
Chapter 351. of the Revised Code to which the revenue is pledged, 128  
remain outstanding in accordance with their terms, unless 129  
provision is made by law or by the board of county commissioners 130  
for an adequate substitute therefor that is satisfactory to the 131  
trustee if a trust agreement secures the bonds. 132

As used in division (A)(4) of this section, "cost" has the 133  
same meaning as in section 351.01 of the Revised Code, and 134  
"convention center" has the same meaning as in section 307.695 of 135  
the Revised Code. 136

(B)(1) The legislative authority of a municipal corporation 137  
or the board of trustees of a township that is not wholly or 138  
partly located in a county that has in effect a resolution levying 139  
an excise tax pursuant to division (A)(1) of this section may, by 140  
ordinance or resolution, levy an excise tax not to exceed three 141  
per cent on transactions by which lodging by a hotel is or is to 142  
be furnished to transient guests. The legislative authority of the 143  
municipal corporation or the board of trustees of the township 144  
shall deposit at least fifty per cent of the revenue from the tax 145  
levied pursuant to this division into a separate fund, which shall 146  
be spent solely to make contributions to convention and visitors' 147

bureaus operating within the county in which the municipal 148  
corporation or township is wholly or partly located, and the 149  
balance of ~~such~~ that revenue shall be deposited in the general 150  
fund. The municipal corporation or township shall establish all 151  
regulations necessary to provide for the administration and 152  
allocation of the tax. The regulations may prescribe the time for 153  
payment of the tax, and may provide for the imposition of a 154  
penalty or interest, or both, for late payments, provided that the 155  
penalty does not exceed ten per cent of the amount of tax due, and 156  
the rate at which interest accrues does not exceed the rate per 157  
annum prescribed pursuant to section 5703.47 of the Revised Code. 158  
The levy of a tax under this division is in addition to any tax 159  
imposed on the same transaction by a municipal corporation or a 160  
township as authorized by division (A) of section 5739.08 of the 161  
Revised Code. 162

(2) The legislative authority of the most populous municipal 163  
corporation located wholly or partly in a county in which the 164  
board of county commissioners has levied a tax under division 165  
(A)(4) of this section may amend, on or before September 30, 2002, 166  
that municipal corporation's ordinance or resolution that levies 167  
an excise tax on transactions by which lodging by a hotel is or is 168  
to be furnished to transient guests, to provide for all of the 169  
following: 170

(a) That the rate of the tax shall be increased by not more 171  
than an additional one per cent on each transaction; 172

(b) That all of the revenue from the increase in rate shall 173  
be pledged and contributed to a convention facilities authority 174  
established by the board of county commissioners under Chapter 175  
351. of the Revised Code on or before May 15, 2002, and be used to 176  
pay costs of constructing, expanding, maintaining, operating, or 177  
promoting a convention center in the county, including paying 178  
bonds, or notes issued in anticipation of bonds, as provided by 179

that chapter;

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(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.

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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.

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(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

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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

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does not exceed ten per cent of the amount of tax due, and the 244  
rate at which interest accrues does not exceed the rate per annum 245  
prescribed pursuant to section 5703.47 of the Revised Code. All 246  
revenues arising from the tax shall be expended in accordance with 247  
section 307.671 of the Revised Code and division (D) of this 248  
section. The levy of a tax imposed under this ~~section~~ division may 249  
not commence prior to the first day of the month next following 250  
the execution of the cooperative agreement authorized by section 251  
307.671 of the Revised Code by all parties to that agreement. ~~Such~~ 252  
The tax shall remain in effect at the rate at which it is imposed 253  
for the period of time described in division (C) of section 254  
307.671 of the Revised Code for which the revenue from the tax has 255  
been pledged by the county to the corporation pursuant to ~~such~~ 256  
that section, but, to any extent provided for in the cooperative 257  
agreement, for no lesser period than the period of time required 258  
for payment of the debt service charges on bonds, or notes in 259  
anticipation ~~thereof~~ of bonds, described in division (B)(1)(b) of 260  
that section. 261

(E) For the purpose of paying the costs of acquiring, 262  
constructing, equipping, and improving a municipal educational and 263  
cultural facility, including debt service charges on bonds 264  
provided for in division (B) of section 307.672 of the Revised 265  
Code, and for ~~such~~ any additional purposes ~~as are~~ determined by 266  
the county in the resolution levying the tax or amendments ~~thereto~~ 267  
to the resolution, including subsequent amendments providing for 268  
paying costs of acquiring, constructing, renovating, 269  
rehabilitating, equipping, and improving a port authority 270  
educational and cultural performing arts facility, as defined in 271  
section 307.674 of the Revised Code, and including debt service 272  
charges on bonds provided for in division (B) of section 307.674 273  
of the Revised Code, the legislative authority of a county, by 274  
resolution adopted within ninety days after June 30, 1993, by a 275  
majority of the members of the legislative authority, may levy an 276

additional excise tax not to exceed one and one-half per cent on 277  
transactions by which lodging by a hotel is or is to be furnished 278  
to transient guests. The excise tax authorized by this division 279  
shall be in addition to any tax that is levied pursuant to 280  
divisions (A), (B), (C), and (D) of this section, to any excise 281  
tax levied pursuant to section 5739.08 of the Revised Code, and to 282  
any excise tax levied pursuant to section 351.021 of the Revised 283  
Code. The legislative authority of the county shall establish all 284  
regulations necessary to provide for the administration and 285  
allocation of the tax. The regulations may prescribe the time for 286  
payment of the tax, and may provide for the imposition of a 287  
penalty or interest, or both, for late payments, provided that the 288  
penalty does not exceed ten per cent of the amount of tax due, and 289  
the rate at which interest accrues does not exceed the rate per 290  
annum prescribed pursuant to section 5703.47 of the Revised Code. 291  
All revenues arising from the tax shall be expended in accordance 292  
with section 307.672 of the Revised Code and this division ~~(E)~~ of 293  
~~this section~~. The levy of a tax imposed under this division shall 294  
not commence prior to the first day of the month next following 295  
the execution of the cooperative agreement authorized by section 296  
307.672 of the Revised Code by all parties to that agreement. ~~Such~~ 297  
The tax shall remain in effect at the rate at which it is imposed 298  
for the period of time determined by the legislative authority of 299  
the county, but not to exceed fifteen years. 300

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(F) The legislative authority of a county that has levied a 302  
tax under division (E) of this section may, by resolution adopted 303  
within one hundred eighty days after January 4, 2001, by a 304  
majority of the members of the legislative authority, amend the 305  
resolution levying a tax under that division ~~(E)~~ of ~~this section~~ 306  
to provide for the use of the proceeds of that tax, to the extent 307  
that it is no longer needed for its original purpose as determined 308  
by the parties to a cooperative agreement amendment pursuant to 309

division (D) of section 307.672 of the Revised Code, to pay costs 310  
of acquiring, constructing, renovating, rehabilitating, equipping, 311  
and improving a port authority educational and cultural performing 312  
arts facility, including debt service charges on bonds provided 313  
for in division (B) of section 307.674 of the Revised Code, and to 314  
pay all obligations under any guaranty agreements, reimbursement 315  
agreements, or other credit enhancement agreements described in 316  
division (C) of section 307.674 of the Revised Code. The 317  
resolution may also provide for the extension of the tax at the 318  
same rate for the longer of the period of time determined by the 319  
legislative authority of the county, but not to exceed an 320  
additional twenty-five years, or the period of time required to 321  
pay all debt service charges on bonds provided for in division (B) 322  
of section 307.672 of the Revised Code and on port authority 323  
revenue bonds provided for in division (B) of section 307.674 of 324  
the Revised Code. All revenues arising from the amendment and 325  
extension of the tax shall be expended in accordance with section 326  
307.674 of the Revised Code, this division, and ~~divisions~~ division 327  
(E) ~~and (F)~~ of this section. 328

(G) For purposes of a tax levied by a county, township, or 329  
municipal corporation under this section or section 5739.08 of the 330  
Revised Code, a board of county commissioners, board of township 331  
trustees, or the legislative authority of a municipal corporation 332  
may adopt a resolution or ordinance at any time specifying that 333  
"hotel," as otherwise defined in section 5739.01 of the Revised 334  
Code, includes establishments in which fewer than five rooms are 335  
used for the accommodation of guests. The resolution or ordinance 336  
may apply to a tax imposed pursuant to this section prior to the 337  
adoption of the resolution or ordinance if the resolution or 338  
ordinance so states, but the tax shall not apply to transactions 339  
by which lodging by such an establishment is provided to transient 340  
guests prior to the adoption of the resolution or ordinance. 341

**Section 2.** That existing section 5739.09 of the Revised Code 343  
is hereby repealed. 344