

As Reported by the Senate Ways and Means Committee

124th General Assembly

Regular Session

2001-2002

Sub. H. B. No. 518

REPRESENTATIVES Schmidt, Cates, Clancy, Britton, Driehaus, Barrett

A B I L L

To amend section 5739.09 of the Revised Code to 1
authorize the boards of county commissioners of 2
certain counties to levy an additional excise tax 3
on lodging and to allow the most populous municipal 4
corporation in those counties to levy an additional 5
excise tax on lodging as well. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5739.09 of the Revised Code be 7
amended to read as follows: 8

Sec. 5739.09. (A)(1) A board of county commissioners may, by 9
resolution adopted by a majority of the members of the board, levy 10
an excise tax not to exceed three per cent on transactions by 11
which lodging by a hotel is or is to be furnished to transient 12
guests. The board shall establish all regulations necessary to 13
provide for the administration and allocation of the tax. The 14
regulations may prescribe the time for payment of the tax, and may 15
provide for the imposition of a penalty or interest, or both, for 16
late payments, provided that the penalty does not exceed ten per 17
cent of the amount of tax due, and the rate at which interest 18
accrues does not exceed the rate per annum prescribed pursuant to 19
section 5703.47 of the Revised Code. Except as provided in 20

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 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 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;

180

(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.

181

182

183

184

185

186

187

188

189

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.

190

191

192

193

(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

194

195

196

197

198

199

200

201

202

203

204

205

206

207

208

209

210

211

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

212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243

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

301

(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