**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3787**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Owens, Bowen, Bikas, Norman, Simrill, G.R. Smith and Loftis

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Introduced in the House on March 3, 2011

Currently residing in the House Committee on **Ways and Means**

Summary: Counties and municipalities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/3/2011 House Introduced and read first time ([House Journal‑page 12](file:///h:\hj%20archive\2011\03-03-11.docx))

3/3/2011 House Referred to Committee on **Ways and Means** ([House Journal‑page 12](file:///h:\hj%20archive\2011\03-03-11.docx))

4/6/2011 House Member(s) request name added as sponsor: Loftis

6/14/2011 House Member(s) request name removed as sponsor: Henderson

**VERSIONS OF THIS BILL**

[3/3/2011](file:///p:\pprever\2011-12\3787_20110303.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6‑4‑27 SO AS TO REQUIRE COUNTIES AND MUNICIPALITIES TO MAKE EXPENDITURES PURSUANT TO CHAPTER 4, TITLE 6, AND TO VEST JURISDICTION TO HEAR CERTAIN LEGAL CHALLENGES WITH THE ADMINISTRATIVE LAW COURT; TO AMEND SECTION 6‑4‑10, AS AMENDED, RELATING TO THE ALLOCATION, MANAGEMENT, AND USE OF THE SPECIAL FUND FOR TOURISM, SO AS TO DELETE THE SOUTH CAROLINA ACCOMMODATIONS TAX OVERSIGHT COMMITTEE APPROVAL REQUIREMENT FOR GRANTING CERTAIN TIME EXTENSIONS; TO AMEND SECTION 6‑4‑25, RELATING TO ANNUAL REPORTS TO THE SOUTH CAROLINA ACCOMMODATIONS TAX OVERSIGHT COMMITTEE, SO AS TO DELETE THE REQUIREMENT THAT MUNICIPALITIES AND COUNTIES SUBMIT ANNUAL REPORTING REQUIREMENTS; AND TO REPEAL SECTION 6‑4‑35 RELATING TO THE TOURISM EXPENDITURE REVIEW COMMITTEE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 4, Title 6 of the 1976 Code is amended by adding:

“Section 6‑4‑27. (A) The municipality or county is required to make expenditures pursuant to this chapter. Legal challenges asserting noncompliance by a municipality or county are under the jurisdiction of the Administrative Law Court.

(B) A final determination by the court that a municipality or county has expended funds in noncompliance with this chapter shall result in an order directing the municipality or county to repay a sum equal to the improperly expended funds back into the accommodations tax account administered by the State Treasurer for that municipality or county. The municipality or county found to be expending funds in noncompliance also shall pay a penalty for a first offense of twenty percent of the improperly expended funds, or one thousand dollars, whichever is lesser. A second or subsequent finding of expending funds in noncompliance within five years of an earlier offense shall require the municipality or county to pay a total penalty of forty percent of the improperly expended funds, or two thousand and five hundred dollars, whichever is lesser. The penalty must be remitted to the accommodations tax account administered by the State Treasurer and reallocated proportionately to all other recipients. Additionally, the municipality or county found to be in violation must be responsible for all court costs.

(C) No portion of a penalty or court costs may be paid out of funds received or interest accrued from accommodation tax receipts.”

SECTION 2. Section 6‑4‑10(4) of the 1976 Code is amended to read:

“(4)(a) The remaining balance plus earned interest received by a municipality or county must be allocated to a special fund and used for tourism‑related expenditures. This section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism‑related expenditures.

(b) The funds received by a county or municipality, which has a high concentration of tourism activity, may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality, but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists.

‘Tourism‑related expenditures’ include:

~~1.~~(i) advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;

~~2.~~(ii) promotion of the arts and cultural events;

~~3.~~(iii) construction, maintenance, and operation of facilities for civic and cultural activities, including construction and maintenance of access and other nearby roads and utilities for the facilities;

~~4.~~(iv) the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;

~~5.~~(v) public facilities such as restrooms, dressing rooms, parks, and parking lots;

~~6.~~(vi) tourist shuttle transportation;

~~7.~~(vii) control and repair of waterfront erosion;

~~8.~~(viii) operating visitor information centers.

(c) Allocations to the special fund must be spent by the municipality or county within two years of receipt~~. If the allocations are not spent within two years, the municipality or county is subject to the provisions of Section 6‑4‑30(6).~~ ; however, the time limit may be extended upon the recommendation of the county or municipality ~~and approval of the South Carolina Accommodations Tax Oversight Committee in Section 6‑4‑30~~. An extension must include provisions that funds be committed for a specific project or program.

(d) In the expenditure of these funds, counties and municipalities are required to promote tourism and make tourism‑related expenditures primarily in the geographical areas of the county or municipality in which the proceeds of the tax are collected where it is practical.”

SECTION 3. Section 6‑4‑25 of the 1976 Code is amended to read:

“Section 6‑4‑25. (A) A municipality or county receiving more than fifty thousand dollars in revenue from the accommodations tax in county areas collecting more than fifty thousand dollars shall appoint an advisory committee to make recommendations on the expenditure of revenue generated from the accommodations tax. The advisory committee consists of seven members with a majority being selected from the hospitality industry of the municipality or county receiving the revenue. At least two of the hospitality industry members must be from the lodging industry where applicable. One member shall represent the cultural organizations of the municipality or county receiving the revenue. For county advisory committees, members shall represent the geographic area where the majority of the revenue is derived. However, if a county ~~which~~ receives more in distributions of accommodations taxes than it collects in accommodations taxes, the membership of its advisory committee must be representative of all areas of the county with a majority of the membership coming from no one area.

(B) A municipality or county and its advisory committee shall adopt guidelines to fit the needs and time schedules of the area. The guidelines must include the requirements for applications for funds from the special fund used for tourism‑related expenditures. A recipient’s application must be reviewed by an advisory committee before it receives funds from a county or municipality.

(C) Advisory committees shall submit written recommendations to a municipality or county at least once annually. The recommendations must be considered by the municipality or county in conjunction with the requirements of this chapter.

~~(D)~~ ~~Municipalities and counties annually shall submit to the South Carolina Accommodations Tax Oversight Committee:~~

~~(1)~~ ~~end‑of‑the‑year report detailing advisory committee accommodations tax recommendations;~~

~~(2)~~ ~~municipality’s or county’s action following the recommendations;~~

~~(3)~~ ~~list of how funds from the accommodations tax are spent, except for the first twenty‑five thousand dollars and five percent of the balance in Section 6‑4‑10(2) allocated to the general fund. The list is due before October first and must include funds received and dispersed during the previous fiscal year;~~

~~(4)~~ ~~list of advisory committee members noting the chairman, business address if applicable, and representation of the hospitality industry including the lodging industry and cultural interests.~~

~~(E)~~ ~~The regional tourism agencies in Section 6‑4‑20 annually shall submit reports on their budgets and annual expenditure of accommodations tax funds pursuant to this chapter to the Accommodations Tax Oversight Committee.~~”

SECTION 4. Section 6‑4‑35 of the 1976 Code is repealed.

SECTION 5. This act takes effect upon approval by the Governor.

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