AMENDED

January 20, 2010

**H. 4344**

Introduced by Reps. Herbkersman and Chalk

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Read the first time January 14, 2010.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 10 TO CHAPTER 10, TITLE 4 ENACTING THE “ALTERNATE LOCAL OPTION TOURISM DEVELOPMENT FEE ACT” SO AS TO ALLOW A MUNICIPALITY LOCATED WITHIN A COUNTY IN WHICH AT LEAST FIVE MILLION DOLLARS OF STATE ACCOMMODATIONS TAX REVENUES HAVE BEEN COLLECTED IN A FISCAL YEAR AND COUNTY ANNUAL PER CAPITA PERSONAL INCOME IS AT LEAST FORTY THOUSAND DOLLARS TO IMPOSE A FEE NOT TO EXCEED ONE PERCENT OF AMOUNTS SUBJECT TO TAX PURSUANT TO CHAPTER 36, TITLE 12, THE SOUTH CAROLINA SALES AND USE TAX ACT, FOR NOT MORE THAN TEN YEARS, TO PROVIDE THAT A MUNICIPALITY MAY IMPOSE THE FEE BY ORDINANCE, TO PROVIDE FOR THE ADMINISTRATION OF THE FEE, AND TO PROVIDE USES FOR WHICH THE FEE REVENUE MUST BE APPLIED, INCLUDING TOURISM PROMOTION, PROPERTY TAX CREDITS, AND CAPITAL PROJECTS PROMOTING TOURISM CAUSES.

Amend Title To Conform

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

SECTION 1. Chapter 10, Title 4 of the 1976 Code is amended by adding:

“Article 10

Alternate Local Option Tourism Development Fee

Section 4‑10‑1010. This article may be cited as the ‘Alternate Local Option Tourism Development Fee Act’.

Section 4‑10‑1020. For purposes of this article:

(1) ‘County’ means a county in which revenues of the state accommodations tax imposed pursuant to Section 12‑36‑920 have aggregated at least five million dollars in a fiscal year and a per capita personal income of at least forty thousand dollars.

(2) ‘Fee’ means the local option tourism development fee allowed to be imposed as provided in this article.

(3) ‘Municipality’ means a municipal corporation created pursuant to Chapter 1, Title 5 or a municipal government or governing body as the use of the term dictates, located in a county as defined by item (1) of this section.

(4) ‘Per capita personal income’ means the latest reported per capita personal income as calculated by the Bureau of Economic Analysis of the United States Department of Commerce.

Section 4‑10‑1030. Subject to the requirements of this article, a municipality by ordinance may impose in the municipality a fee not to exceed one percent for not more than ten years for the purposes provided in Section 4‑10‑1060.

Section 4‑10‑1040. (A) The fee allowed by this article is an amount not to exceed one percent of the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12.

(B) The fee imposed pursuant to this article must be administered and collected by the Department of Revenue in the same manner that sales and use taxes are collected. The department may prescribe amounts that may be added to the sales price because of the fee.

(C) The fee authorized by this article is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the municipality subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons are exempt from the fee imposed by this article. The fee imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12.

(D) The provisions of subsections (C), (D), (E), (F), and (G) of Section 4‑10‑350 apply for fee payors and the fee allowed to be imposed pursuant to this article, including further identification of point of sale jurisdictions, mutatis mutandis.

(E) The revenues of the fee imposed pursuant to this article must be remitted to the department and placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. Earnings on this fund must be credited to it and earnings are considered fee revenues. After deducting the amount of any refunds made and costs to the department of administering the tax, not to exceed one percent of the revenues, the State Treasurer shall distribute the fee revenues quarterly to the treasurer of the municipality in which the fee is imposed and the revenues must be used only for the purposes provided in Section 4‑10‑1060. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these adjustments must be made in the same fiscal year as the misallocations. However, allocations made as a result of municipal code errors must be corrected prospectively.

Section 4‑10‑1050. The Department of Revenue shall furnish data to the State Treasurer and to the municipal treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12‑54‑240. A person violating this section is subject to the penalties provided in Section 12‑54‑240.

Section 4‑10‑1060. (A)(1) Except as provided in item (2) of this subsection, fee revenues must be used exclusively for tourism advertisement and promotion directed at non‑South Carolina residents.

(2) Fee revenues received each year of imposition must be used as provided in item (1) except that up to thirty percent may be used to provide credits against municipal property taxes in the manner that the municipality shall provide by ordinance and no more than twenty percent of the fee revenues may be used to fund capital projects as provided in subsection (D) of this section.

(B) The municipality shall designate no more than two organizations within the county to receive fee revenues to conduct the promotional activities provided pursuant to subsection (A)(1). These organizations must be nonprofit destination marketing organizations representing a broad cross section of tourism interests within the county. In addition, before an organization may be designated, it must certify to the imposing municipality that:

(1) its promotional and advertising programs are based on research‑based outcomes;

(2) the organization has a proven record of success in creating new and repeat visitation to the county;

(3) it has sufficient resources to create, plan, implement, and measure the marketing program generated by the fee revenues and the infrastructure to assure proper business controls; and

(4) it will use the funds only for the purposes provided pursuant to subsection (B)(1) or (D) of this section.

(C) the receiving organization must present an annual marketing plan and budget to the municipal council or its designee for review and approval before implementation.

(D) Capital projects funded by fee revenues must directly relate to the promotion of tourism and must grow or maintain the overnight tourism market in the municipality. Examples of qualifying capital improvements include visitor centers, arts and cultural facilities, waterfront renourishment and renaturalization projects, and youth recreational facilities.

(E) Municipalities located in the same county that are imposing a fee pursuant to this article jointly may designate a regional tourism promoter located in the county jointly to promote tourism in the municipalities imposing the fee. The regional tourism promoter must be designated in the manner provided in subsection (B) and may only promote tourism to non‑South Carolina residents.”

SECTION 2. This act takes effect upon approval by the Governor.

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