

House Bill 374 (AS PASSED HOUSE AND SENATE)

By: Representatives Geisinger of the 48th, Jones of the 46th, Martin of the 47th, and Willard of the 49th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to
2 county and municipal levies on public accommodations charges for promotion of tourism,
3 conventions, and trade shows, so as to extend the time for the levy and collection of a tax for
4 the purpose of construction and expansion of a system of bicycle or pedestrian greenways,
5 trails, walkways, or any other combination thereof connecting a downtown historic or
6 business district and surrounding areas under certain circumstances; to provide that certain
7 counties may levy and collect such a tax at the rate of 5 percent; to provide that funds shall
8 be expended in a certain way; to provide for requirements and limitations with respect
9 thereto; to provide for related matters; to provide an effective date; to repeal conflicting laws;
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and
14 municipal levies on public accommodations charges for promotion of tourism, conventions,
15 and trade shows, is amended by striking subparagraph (a)(1)(D) and inserting in its place a
16 new subparagraph (D) to read as follows:

17 "(D) Except as provided in paragraphs (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7),
18 (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~and (5.2)~~, and (5.3) of this
19 subsection, no tax levied pursuant to this Code section shall be levied or collected at a
20 rate exceeding 3 percent of the charge to the public for the furnishings."

21 style="text-align:center">**SECTION 2.**

22 Said Code section is further amended by striking paragraph (2) of subsection (a) and
23 inserting in its place a new paragraph (2) to read as follows:

24 "(2) A county or municipality levying a tax as provided in paragraph (1) of this
25 subsection shall in each fiscal year beginning on or after July 1, 1987, expend for the

1 purpose of promoting tourism, conventions, and trade shows a percentage of the total
 2 taxes collected under this Code section which is not less than the percentage of such tax
 3 collections expended for such purposes during the immediately preceding fiscal year. In
 4 addition, if during such immediately preceding fiscal year any portion of such tax receipts
 5 was expended for such purposes through a grant to or a contract or contracts with the
 6 state, a department of state government, a state authority, or a private sector nonprofit
 7 organization, then in each fiscal year beginning on or after July 1, 1987, at least the same
 8 percentage shall be expended through a contract or contracts with one or more such
 9 entities for the purpose of promoting tourism, conventions, and trade shows. The
 10 expenditure requirements of this paragraph shall cease to apply to a county or
 11 municipality which levies a tax at a rate in excess of 3 percent, as authorized under
 12 paragraphs (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4),
 13 (4.5), (4.6), (4.7), (5), (5.1), ~~and (5.2)~~, and (5.3) of this subsection; and in such case the
 14 expenditure requirements of such paragraph of this subsection pursuant to which such tax
 15 is levied shall apply instead."

16 **SECTION 3.**

17 Said Code section is further amended by striking paragraph (4) of subsection (a) and
 18 inserting in its place a new paragraph (4) to read as follows:

19 "(4) Notwithstanding any other provision of this subsection, a county (within the
 20 territorial limits of the special district located within the county) or municipality may levy
 21 a tax under this Code section at a rate of 6 percent. A county or municipality levying a
 22 tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is
 23 collected under this paragraph (4)) an amount equal to at least 43 1/3 percent of the total
 24 taxes collected at the rate of 6 percent for the purpose of: (A) promoting tourism,
 25 conventions, and trade shows; (B) supporting a facility owned or operated by a state
 26 authority for convention and trade show purposes or any other similar or related
 27 purposes; (C) supporting a facility owned or operated by a local authority or local
 28 government for convention and trade show purposes or any other similar or related
 29 purposes, if a written agreement to provide such support was in effect on January 1, 1987,
 30 and if such facility is substantially completed and in operation prior to July 1, 1987; (D)
 31 supporting a facility owned or operated by a local government or local authority for
 32 convention and trade show purposes or any other similar or related purposes if
 33 construction of such facility is funded or was funded prior to July 1, 1990, in whole or
 34 in part by a grant of state funds or is funded on or after July 1, 1990, in whole or
 35 substantially by an appropriation of state funds; (E) supporting a facility owned by a local
 36 government or local authority for convention and trade show purposes and any other

1 similar or related purposes if construction of such facility is substantially funded or was
2 substantially funded on or after February 28, 1985, by a special county 1 percent sales
3 and use tax authorized by Article 3 of Chapter 8 of this title, as amended, and such
4 facility was substantially completed and in operation prior to December 31, 1993; or (F)
5 for some combination of such purposes. Amounts so expended shall be expended only
6 through a contract or contracts with the state, a department of state government, a state
7 authority, a convention and visitors bureau authority created by local Act of the General
8 Assembly for a municipality, or a private sector nonprofit organization, or through a
9 contract or contracts with some combination of such entities, except that amounts
10 expended for purposes (C) and (D) may be so expended in any otherwise lawful manner.
11 In addition to the amounts required to be expended above, a county or municipality
12 levying a tax pursuant to this paragraph (4) shall further expend (in each fiscal year
13 during which the tax is collected under this paragraph (4)) an amount equal to at least 1
14 percent of the total taxes collected at the rate of 6 percent for the purpose of supporting
15 a museum of aviation and aviation hall of fame or an amount equal to at least 16 2/3
16 percent of the total taxes collected at the rate of 6 percent for the purpose of construction
17 or expansion of either: (A) a facility owned or operated by a state authority for
18 convention and trade show purposes or any other similar or related purposes; (B) a
19 facility owned or operated by a local authority or local government for convention and
20 trade show purposes or any other similar or related purposes, if such support is provided
21 to a governmental entity with which the county or municipality levying the tax had in
22 effect on January 1, 1987, a contractual agreement concerning governmental support of
23 a convention and trade show facility; (C) a facility owned or operated for convention and
24 trade show purposes, visitor welcome center purposes, or any other similar or related
25 purposes by a convention and visitors bureau authority created by local Act of the
26 General Assembly for a municipality; (D) a facility owned or operated for convention and
27 trade show purposes or any other similar or related purposes by a coliseum and exhibit
28 hall authority created by local Act of the General Assembly for a county and one or more
29 municipalities therein; (E) a facility owned by a local government or local authority for
30 convention and trade show purposes and any other similar or related purposes if
31 construction of such facility is substantially funded or was substantially funded on or
32 after February 28, 1985, by a special county 1 percent sales and use tax authorized by
33 Article 3 of Chapter 8 of this title, as amended, and such facility was substantially
34 completed and in operation prior to December 31, 1993; (F) a system of bicycle or
35 pedestrian trails or walkways or both connecting a historic district within the levying
36 county or municipality and surrounding areas (and with respect to this purpose (F)
37 construction and expansion shall include acquisition and development), if not later than

1 December 1, 1993, the county or municipality has adopted ordinances, resolutions, or
2 contracts which: (i) designate such historic district; (ii) obligate the county or
3 municipality to provide funds to promote tourism to a historic district owners and
4 business association which qualifies as a private sector nonprofit organization under
5 subparagraph (a)(8)(A) of this Code section and Section 501(c)(6) of the Internal
6 Revenue Code; (iii) provide a 'comprehensive plan' as provided for in Chapters 70 and
7 71 of Title 36; (iv) provide a transportation plan as a component of such comprehensive
8 plan; and (v) provide a recreation plan which is designed to identify recreation needs
9 through the year 2000 and which includes provisions for such system of trails or
10 walkways or both; provided that the authority to expend funds for such system of trails
11 or walkways or both shall expire when all capital costs of the initial acquisition,
12 construction, and development of such system as identified in the relevant plan have been
13 paid and in no event later than July 1, 2002. Amounts so expended to meet such 16 2/3
14 percent expenditure requirement shall not be subject to the foregoing provisions of this
15 paragraph requiring expenditure through a contract or contracts with certain entities; or
16 (G) a system of bicycle or pedestrian greenways, trails, walkways, or any combination
17 thereof connecting a downtown historic or business district within the levying county or
18 municipality and surrounding areas (and with respect to this purpose (G) construction and
19 expansion shall include acquisition and development), if not later than December 1, 2000,
20 the county or municipality has adopted ordinances, resolutions, or contracts which: (i)
21 designate such historic or downtown business district; (ii) obligate the county or
22 municipality to provide funds to promote tourism to a downtown business district owners
23 and business association or chamber of commerce which qualify as private sector
24 nonprofit organizations under subparagraph (a)(8)(A) of this Code section and Section
25 501(c)(6) of the Internal Revenue Code; (iii) provide a 'comprehensive plan' as provided
26 for in Chapters 70 and 71 of Title 36; (iv) provide a transportation plan as a component
27 of such comprehensive plan; and (v) provide a recreation plan as a component of such
28 comprehensive plan which includes provisions for such system of trails or walkways or
29 both; provided that the authority to expend funds for such system of trails or walkways
30 or both shall expire when all capital costs of the initial acquisition, construction, and
31 development of such system as identified in the relevant plan have been paid and in no
32 event later than July 1, ~~2005~~ 2025. Amounts so expended to meet such 16 2/3 percent
33 expenditure requirement shall not be subject to the foregoing provisions of this paragraph
34 requiring expenditure through a contract or contracts with certain entities."

SECTION 4.

Said Code section is further amended in subsection (a) by adding a new paragraph immediately following paragraph (5.2), to be designated paragraph (5.3), to read as follows:

"(5.3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, a county (within the territorial limits of the special district located within the county) and municipalities within such a county in which a convention and visitor's bureau authority has been created by local Act of the General Assembly which was in existence on July 1, 2005, and which authority is established specifically by such local Act as a permissible, but not exclusive, entity for the transfer of hotel and motel tax funds by the taxing entities of the county for which such authority was created may levy a tax under this Code section at a rate of 5 percent.

(B) The provisions of paragraph (2) of this subsection relating to expenditures shall apply to this paragraph; provided, however, that a county or municipality levying a tax pursuant to this paragraph shall be authorized, but not required, to expend funds through a convention and visitor's bureau authority created by local Act of the General Assembly."

SECTION 5.

Said Code section is further amended by striking paragraph (6) of subsection (a) and inserting in its place a new paragraph (6) to read as follows:

"(6) At no time shall a county or municipality levy a tax under more than one paragraph of this subsection. Following the termination of a tax under paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2)~~, or (5.3) of this subsection, any county or municipality which has levied a tax pursuant to paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2)~~, or (5.3) of this subsection shall be authorized to levy a tax in the manner and at the rate authorized by either paragraph (1), paragraph (3), or paragraph (4) of this subsection but shall not thereafter be authorized to again levy a tax under paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2)~~, or (5.3) of this subsection."

SECTION 6.

Said Code section is further amended by striking paragraphs (9) and (10) of subsection (a) and inserting in their places new paragraphs (9) and (10) to read as follows:

"(9)(A) A county or municipality imposing a tax under paragraph (1), (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2)~~, or (5.3) of this subsection shall prior to the imposition of the tax (if the

1 tax is imposed on or after July 1, 1990) and prior to each fiscal year thereafter in which
 2 the tax is imposed adopt a budget plan specifying how the expenditure requirements of
 3 this Code section will be met. Prior to the adoption of such budget plan, the county or
 4 municipality shall obtain from the authorized entity with which it proposes to contract
 5 to meet the expenditure requirements of this Code section a budget for expenditures to
 6 be made by such organization; and such budget shall be made a part of the county or
 7 municipal budget plan.

8 (B)(i) The determination as to whether a county or municipality has complied with
 9 the expenditure requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4),
 10 (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2)~~, or (5.3)
 11 of this subsection shall be made for each fiscal year beginning on or after July 1,
 12 1987, as of the end of each fiscal year, shall be prominently reflected in the audit
 13 required under Code Section 36-81-7, and shall disclose:

14 (I) The amount of funds expended or contractually committed for expenditure as
 15 provided in paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1),
 16 (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2)~~, or (5.3) of this subsection,
 17 whichever is applicable, during the fiscal year;

18 (II) The amount of tax receipts under this Code section during such fiscal year; and

19 (III) Expenditures as a percentage of tax receipts.

20 (ii) A county or municipality contractually expending funds to meet the expenditure
 21 requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4),
 22 (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2)~~, or (5.3) of this
 23 subsection shall require the contracting party to provide audit verification that the
 24 contracting party makes use of such funds in conformity with the requirements of this
 25 subsection. If the audit required by Code Section 36-81-7 identifies noncompliance
 26 with the applicable expenditure requirements of this Code section, such
 27 noncompliance shall be reported in accordance with paragraph (2) of subsection (c)
 28 of Code Section 36-81-7. The state auditor shall report all instances of
 29 noncompliance with this subparagraph noted in the audit report to the Department of
 30 Community Affairs upon completion of the report review required by paragraph (2)
 31 of subsection (d) of Code Section 36-81-7. The state auditor shall furnish a copy of
 32 all documents submitted by the local government or the local government's auditor
 33 pertaining to noncompliance with this subparagraph to the Department of Revenue.
 34 The Department of Community Affairs shall submit a copy of such documents to the
 35 performance review board.

36 (10) Nothing in this article shall be construed to limit the power of a county or
 37 municipality to expend more than the required amounts, or all, of the total taxes collected

1 under this Code section for the purposes described in paragraph (2), (2.1), (3), (3.1), (3.2),
2 (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or~~ (5.2),
3 or (5.3) of this subsection."

4 **SECTION 7.**

5 This Act shall become effective upon its approval by the Governor or upon its becoming law
6 without such approval.

7 **SECTION 8.**

8 All laws and parts of laws in conflict with this Act are repealed.