

The House Committee on Ways and Means offers the following substitute to HB1094:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to provide for the comprehensive revision of the excise tax on rooms,
3 lodgings, and accommodations; to change certain provisions regarding sale and use tax
4 limitations in connection therewith; to provide for definitions; to provide for procedures,
5 conditions, and limitations for the imposition, collection, and expenditure of proceeds of the
6 tax; to provide for powers, duties, and authority of county and municipal governing
7 authorities; to provide for powers, duties, and authority of the state revenue commissioner;
8 to change the membership of the Hotel Motel Tax Performance Review Board; to provide
9 for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
13 amended by revising subsection (c.1) of Code Section 48-8-6, relating to the ceiling on local
14 sales and use taxes, as follows:

15 "(c.1) Where the exception specified in paragraph (2) of subsection (b) of this Code section
16 applies, on and after July 1, ~~2007~~ 2008, the aggregate amount of all excise taxes imposed
17 under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes
18 shall not exceed ~~14~~ 15 percent."

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

20 Said title is further amended by revising subsection (d) of Code Section 48-8-201, relating
21 to an intergovernmental contract for distribution of proceeds of the water and sewer projects
22 and costs tax, as follows:

23 "(d) On and after July 1, ~~2007~~ 2008, the aggregate amount of all excise taxes imposed
24 under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes
25 shall not exceed ~~14~~ 15 percent."

- 1 (B) Overnight or short-term sites for recreational vehicles, trailers, campers, or tents;
 2 (C) Meeting, convention, exhibit, and public assembly facilities;
 3 (D) Sports stadiums, arenas, and complexes;
 4 (E) Golf courses associated with a resort development that are open to the general
 5 public on a contract or fee basis;
 6 (F) Racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car
 7 racetracks or speedways;
 8 (G) Amusement centers, amusement parks, theme parks, or amusement piers;
 9 (H) Hunting preserves, trapping preserves, or fishing preserves or lakes;
 10 (I) Visitor information and welcome centers;
 11 (J) Wayfinding signage;
 12 (K) Permanent, nonmigrating carnivals or fairs;
 13 (L) Airplanes, helicopters, buses, vans, or boats for excursions or sightseeing;
 14 (M) Boat rentals, boat party fishing services, rowboat or canoe rentals, horse shows,
 15 natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for
 16 amusement, aerial tramways, rodeos, water slides, or wave pools;
 17 (N) Museums, planetariums, art galleries, botanical gardens, aquariums, or zoological
 18 gardens;
 19 (O) Parks, trails, and other recreational facilities; or
 20 (P) Performing arts facilities."

21 **SECTION 4.**

22 Said title is further amended in Code Section 48-13-51, relating to county and municipal
 23 levies on public accommodations charges for the promotion of tourism, conventions, and
 24 trade shows, by revising subparagraph (a)(1)(C) as follows:

25 ~~"(C)(i) The tax authorized by this Code section shall not apply to charges made for~~
 26 ~~any rooms, lodgings, or accommodations provided to any persons who certify that~~
 27 ~~they are staying in such room, lodging, or accommodation as a result of the~~
 28 ~~destruction of their home or residence by fire or other casualty. The tax authorized~~
 29 ~~by this Code section shall apply to the fees or charges for any rooms, lodgings, or~~
 30 ~~accommodations during the first ten days of continuous occupancy and shall not apply~~
 31 ~~to charges imposed for any continuous occupancy thereafter. The tax authorized by~~
 32 ~~this Code section shall not apply to charges made for the use of meeting rooms and~~
 33 ~~other such facilities or to any rooms, lodgings, or accommodations provided without~~
 34 ~~charge.~~

35 ~~(ii) The tax authorized by this Code section shall not apply to the charges for any~~
 36 ~~rooms, lodgings, or accommodations furnished for a period of one or more days for~~

1 use by Georgia state or local governmental officials or employees when traveling on
 2 official business. Notwithstanding the availability of any other means of identifying
 3 the person as a state or local government official or employee, whenever a person
 4 pays for any rooms, lodgings, or accommodations with a state or local government
 5 credit or debit card, such rooms, lodgings, or accommodations shall be deemed to
 6 have been furnished for use by a Georgia state or local government official or
 7 employee traveling on official business for purposes of the exemption provided by
 8 this division Reserved."

9 SECTION 5.

10 Said title is further amended in Code Section 48-13-51, relating to county and municipal
 11 levies on public accommodations charges for the promotion of tourism, conventions, and
 12 trade shows, by revising paragraph (6) of subsection (a) as follows:

13 "~~(6) At no time shall a county or municipality levy a tax under more than one paragraph~~
 14 ~~of this subsection.~~ Following the termination of a tax under paragraph (2.1), (2.2), (3.1),
 15 (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), (5.2),
 16 or (5.3) of this subsection, any county or municipality which has levied a tax pursuant to
 17 paragraph (2.1), (2.2), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5),
 18 (4.6), (4.7), (5), (5.1), (5.2), or (5.3) of this subsection shall be authorized to levy a tax
 19 in the manner and at the rate authorized by either paragraph (1), paragraph (3), or
 20 paragraph (4) of this subsection but shall not thereafter be authorized to again levy a tax
 21 under paragraph (2.1), (2.2), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4),
 22 (4.5), (4.6), (4.7), (5), (5.1), (5.2), or (5.3) of this subsection levy any future taxes under
 23 this Code section in a manner authorized by subsection (b) of this Code section."

24 SECTION 6.

25 Said title is further amended in Code Section 48-13-51, relating to county and municipal
 26 levies on public accommodations charges for the promotion of tourism, conventions, and
 27 trade shows, by revising paragraph (7) of subsection (a) as follows:

28 "(7) As used in this ~~Code section~~ subsection, the term: 'fund'

29 (A) 'Fund and 'funding' shall include means the cost and expense of all things deemed
 30 necessary by a state authority for the construction and operation of a multipurpose
 31 domed stadium including but not limited to the study, operation, marketing, acquisition,
 32 construction, finance, development, extension, enlargement, or improvement of land,
 33 waters, property, streets, highways, buildings, structures, equipment, or facilities, and
 34 the repayment of any obligation incurred by an authority in connection therewith.

1 (B) 'Obligation' means ~~The term 'obligation' shall include~~ bonds, notes, or any
 2 instrument creating an obligation to pay or reserve moneys incurred prior to January 1,
 3 1991, and having an initial term of not more than 30 years.

4 (C) 'Multipurpose ~~The term 'multipurpose domed stadium facility' shall mean~~ means
 5 a multipurpose domed stadium facility and any associated parking areas or
 6 improvements originally owned or operated incident to the ownership or operation of
 7 a facility used for convention and trade show purposes by the state, a department or
 8 agency of the state, a state authority, or a combination thereof."

9 SECTION 7.

10 Said title is further amended in Code Section 48-13-51, relating to county and municipal
 11 levies on public accommodations charges for the promotion of tourism, conventions, and
 12 trade shows, by revising paragraph (8) of subsection (a) as follows:

13 ~~"(8)(A) For purposes of this Code section, a 'private sector nonprofit organization' shall~~
 14 ~~be a chamber of commerce, a convention and visitors bureau, a regional travel~~
 15 ~~association, or any other private group organized for similar purposes which is exempt~~
 16 ~~from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986;~~
 17 ~~provided, however, that a county or municipality which has prior to April 1, 1990,~~
 18 ~~contracted for a required expenditure under this Code section with a private group~~
 19 ~~which is exempt from federal income tax under provisions of Section 501(c) of the~~
 20 ~~Internal Revenue Code other than Section 501(c)(6) may continue to contract for~~
 21 ~~required expenditures with such a private group.~~

22 ~~(B) For purposes of this Code section, 'state authority' shall mean an authority created~~
 23 ~~by state law which serves a state-wide function including, but not limited to, the Geo.~~
 24 ~~L. Smith II Georgia World Congress Center Authority, but shall not mean an authority~~
 25 ~~created for support of a local government or a local purpose or function and shall not~~
 26 ~~include authorities such as area planning and development commissions and any~~
 27 ~~organizational entities they may create, regional development centers and any~~
 28 ~~organizational entities they may create, or local water and sewer authorities Reserved."~~

29 SECTION 8.

30 Said title is further amended in Code Section 48-13-51, relating to county and municipal
 31 levies on public accommodations charges for the promotion of tourism, conventions, and
 32 trade shows, by revising subparagraph (a)(9)(A) as follows:

33 "(A) A county or municipality imposing a tax under paragraph (1), (2), (2.1), (2.2), (3),
 34 (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),
 35 (5.1), (5.2), or (5.3) of this subsection shall prior to the imposition of the tax (if the tax

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

8 SECTION 9.

9 Said title is further amended in Code Section 48-13-51, relating to county and municipal
 10 levies on public accommodations charges for the promotion of tourism, conventions, and
 11 trade shows, by revising paragraph (11) of subsection (a) as follows:

12 ~~"(11) Nothing in this Code section shall be construed to impair, or authorize or require~~
 13 ~~the impairment of, any existing contract or contractual rights~~ Reserved."

14 SECTION 10.

15 Said title is further amended in Code Section 48-13-51, relating to county and municipal
 16 levies on public accommodations charges for the promotion of tourism, conventions, and
 17 trade shows, by revising paragraph (12) of subsection (a) as follows:

18 ~~"(12) Any action by a local governing authority to impose or change the rate of the tax~~
 19 ~~authorized under this Code section shall become effective no sooner than the first day of~~
 20 ~~the second month following its adoption by the local governing authority~~ Reserved.

21 SECTION 11.

22 Said title is further amended in Code Section 48-13-51, relating to county and municipal
 23 levies on public accommodations charges for the promotion of tourism, conventions, and
 24 trade shows, by revising subsection (b) as follows:

25 "(b)(1) Except as provided in paragraphs (2) and (3) of subsection (a) of this Code
 26 section, excise taxes levied pursuant to this Code section after July 1, 2008, shall be
 27 levied pursuant to this subsection.

28 (2) The governing authority of each municipality in this state may levy an excise tax
 29 pursuant to this subsection at a rate not to exceed 8 percent of the charge for the
 30 furnishing for value to the public of any room or rooms, lodgings, or accommodations
 31 furnished by any person or legal entity licensed by, or required to pay business or
 32 occupation taxes to, the municipality for operating a hotel, motel, inn, lodge, tourist
 33 camp, tourist cabin, campground, or any other place in which rooms, lodgings, or
 34 accommodations are regularly or periodically furnished for value.

1 (3) Within the territorial limits of the special district located within the county, each
2 county in this state may levy an excise tax pursuant to this subsection at a rate not to
3 exceed 8 percent of the charge for the furnishing for value to the public of any room or
4 rooms, lodgings, or accommodations furnished by any person or legal entity licensed by,
5 or required to pay business or occupation taxes to, the county for operating within the
6 special district a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any
7 other place in which rooms, lodgings, or accommodations are regularly or periodically
8 furnished for value.

9 (4) The levy of an excise tax pursuant to this subsection shall be conditioned upon the
10 county or municipality adopting a resolution which specifies the subsequent tax rate,
11 identifies the projects or tourism product development purposes, and specifies the
12 allocation of proceeds and, subsequent to such resolution, the enactment of a local Act
13 by the General Assembly.

14 (5) In accordance with the terms of the resolution adopted by the county or municipality,
15 the local Act of the General Assembly shall provide that:

16 (A) In each fiscal year during which a tax is collected under paragraph (2) or (3) of this
17 subsection, an amount equal to not less than 50 percent of the total amount of taxes
18 collected that exceed the amount of taxes that would be collected at the rate of 5 percent
19 shall be expended for promoting tourism, conventions, and trade shows by the
20 destination marketing organization designated by the county or municipality levying
21 tax; and

22 (B) The remaining amount of taxes collected that exceed the amount of taxes that
23 would be collected at the rate of 5 percent which are not otherwise expended under
24 subparagraph (A) of this paragraph shall be expended for tourism product development.

25 (6) A county or municipality levying a tax pursuant to this subsection shall expend an
26 amount equal to the amount of total taxes collected under this subsection which would
27 have been collected at a rate of 5 percent in accordance with the provisions of paragraph
28 (3) of subsection (a) of this Code section.

29 (c) Nothing in this article shall be construed to impair, or authorize or require the
30 impairment of, any existing contract or contractual rights.

31 (d) At no time shall a county or municipality levy more than one tax under this article.

32 (e)(1) Except as otherwise provided in paragraph (2) of this subsection, for any excise
33 tax levied pursuant to subsection (b) of this Code section, a county or municipality
34 imposing a tax under this article shall, prior to the imposition of the tax or changing the
35 rate of the levy of the tax and prior to each fiscal year thereafter in which the tax is
36 imposed, adopt a budget plan specifying how the proceeds of such tax are to be
37 expended. Prior to the adoption of such budget plan, the county or municipality shall

1 obtain from the destination marketing organization or state authority with which it
2 proposes to contract to meet the expenditure requirements of this paragraph a budget plan
3 for expenditures to be made by such organization. Such destination marketing
4 organization or state authority expenditure budget plan shall be made a part of the county
5 or municipal budget plan.

6 (2) This paragraph shall apply to a county or municipality which is levying the tax under
7 subsection (a) of this Code section on January 1, 2008, and is expending the proceeds of
8 the tax through a contract or contracts with an authorized entity or entities other than a
9 destination marketing organization. In the event such county or municipality ceases such
10 levy in order to levy an excise tax under subsection (b) of this Code section, it may
11 continue to expend the proceeds of the tax through a contract or contracts with the same
12 entity or entities other than a destination marketing organization if, prior to each fiscal
13 year in which the tax is imposed, the county or municipality adopts a budget plan
14 specifying how the proceeds of such tax are to be expended. Prior to the adoption of such
15 budget plan, such county or municipality shall obtain from such entity or entities with
16 which it proposes to contract to meet the expenditure requirements of this paragraph a
17 budget plan for expenditures to be made by such entity or entities. The budget plan of
18 such entity or entities shall be made a part of the county or municipal budget plan.

19 (f) A county or municipality expending funds of the tax levied under subsection (b) of this
20 Code section pursuant to a contract shall require the destination marketing organization or
21 state authority to provide audit verification that such destination marketing organization
22 or state authority makes use of such funds in conformity with the requirements of this
23 subsection. If the audit required by Code Section 36-81-7 identifies noncompliance with
24 the applicable expenditure requirements of this Code section, such noncompliance shall be
25 reported in accordance with paragraph (2) of subsection (c) of Code Section 36-81-7. The
26 state auditor shall report all instances of noncompliance with this subsection noted in the
27 audit report to the Department of Community Affairs upon completion of the report review
28 required by paragraph (2) of subsection (d) of Code Section 36-81-7. The state auditor
29 shall furnish a copy of all documents submitted by the local government or the local
30 government's auditor pertaining to noncompliance with this subsection to the Department
31 of Community Affairs. The Department of Community Affairs shall submit a copy of such
32 documents to the performance review board.

33 (g)(1) Any action by a local governing authority to impose or change the rate of the tax
34 authorized under this article shall become effective no sooner than the first day of the
35 second month following its action by the local governing authority.

36 (2) In the case of a county or municipality which has adopted an ordinance ceasing the
37 levy under the applicable paragraph of subsection (a) of this Code section in order to levy

1 an excise tax under subsection (b) of this Code section, such levy under subsection (b)
 2 of this Code section shall become effective no sooner than the first day of the second
 3 month following its action by the local governing authority.

4 (h) The tax authorized by this article shall not apply to:

5 (1) Charges made for any rooms, lodgings, or accommodations provided to any persons
 6 who certify that they are staying in such room, lodging, or accommodation as a result of
 7 the destruction of their home or residence by fire or other casualty;

8 (2) The use of meeting rooms and other such facilities or any rooms, lodgings, or
 9 accommodations provided without charge;

10 (3) Any rooms, lodgings, or accommodations furnished for a period of one or more days
 11 for use by Georgia state or local governmental officials or employees when traveling on
 12 official business. Notwithstanding the availability of any other means of identifying the
 13 person as a state or local government official or employee, whenever a person pays for
 14 any rooms, lodgings, or accommodations with a state or local government credit or debit
 15 card, such rooms, lodgings, or accommodations shall be deemed to have been furnished
 16 for use by a Georgia state or local government official or employee traveling on official
 17 business for purposes of the exemption provided by this paragraph. For purpose of the
 18 exemption provided under this paragraph, a local government official or employee shall
 19 include officials or employees of counties, municipalities, consolidated governments, or
 20 county or independent school districts; or

21 (4) Charges made for continuous use of any rooms, lodgings, or accommodations after
 22 the first 30 days of continuous occupancy.

23 ~~(b)~~(i) No tax under this article may be levied or collected by a county outside the territorial
 24 limits of the special district located within the county.

25 (j) Any requirement that a tax under this article be expended in the fiscal year in which it
 26 is collected shall be satisfied so long as fiscal year expenditures conform with the budget
 27 plan required in either paragraph (9) of subsection (a) or subsection (b) of this Code
 28 section."

29 SECTION 12.

30 Said title is further amended by revising Code Section 48-13-54, relating to collection,
 31 remittance, and use of certain funds regarding certain rooms, facilities, or cabins operated
 32 under jurisdiction of Department of Natural Resources, as follows:

33 "48-13-54.

34 Any state park operated under the jurisdiction of the Department of Natural Resources, or
 35 a state authority that is administratively attached to the Department of Natural Resources,
 36 which state park or authority regularly furnishes for value lodge rooms as well as meals and

1 conference or meeting facilities or has a minimum of 20 cabins and which ~~is~~ rooms,
 2 facilities, or cabins located in a county or municipality levying a tax under this article shall,
 3 as provided in this Code section, agree to collect and remit to the county or municipality
 4 within whose taxing jurisdiction the facility is located amounts which are equal to, or
 5 partially equal to, the amounts which would be collected and remitted to the county or
 6 municipality under the tax levied by the county or municipality under Code Section
 7 48-13-51 if ~~the lodges~~ such rooms, facilities, or cabins were privately operated. The sums
 8 so collected and remitted shall only be expended for development, promotion, and
 9 advertising of ~~the lodges~~ such rooms, facilities, or cabins from which the money was
 10 collected and remitted or for similar purposes of promoting, advertising, stimulating, and
 11 developing conventions and tourism in the county or municipality in which ~~the~~ such rooms,
 12 facilities, or cabins of the state park ~~is operated as~~ or state authority are located so long as
 13 said promotion or advertising prominently features the state park ~~facilities or similar~~
 14 ~~facilities operated under the jurisdiction of the Department of Natural Resources~~ or state
 15 authority rooms, facilities, or cabins."

16 SECTION 13.

17 Said title is further amended by revising subsections (a) and (b) of Code Section 48-13-56.1,
 18 relating to the Hotel Motel Tax Performance Review Board, as follows:

19 "(a)(1) There is created the Hotel Motel Tax Performance Review Board which shall
 20 consist of 11 members.

21 (2) The commissioner of community affairs shall appoint five persons to serve as
 22 members of the performance review board as follows:

23 (A) A designee of the commissioner;

24 (B) A representative of the private sector tourism industry who shall be an innkeeper;

25 (C) A representative of municipal government;

26 (D) A representative of county government; and

27 (E) A representative of a ~~tourism~~ destination marketing organization.

28 (3) The Governor shall appoint one member of the board.

29 (4) The Speaker of the House of Representatives shall appoint one member of the board.

30 (5) ~~The President Pro Tempore of the Senate~~ Lieutenant Governor shall appoint one
 31 member of the board.

32 (6) The state auditor shall appoint one member of the board.

33 (7) The commissioner of economic development shall appoint one member of the board.

34 (8) The state revenue commissioner shall appoint one member of the board.

35 (b)(1) ~~The initial members of the board shall be appointed not later than August 1, 2004.~~

36 The member of the board who is appointed under subparagraph (a)(2)(A) of this Code

1 section shall serve for a term of office of five years. Members of the board who are
2 appointed under subparagraphs (a)(2)(B), (a)(2)(C), (a)(2)(D), and (a)(2)(E) of this Code
3 section shall serve for terms of office of three years each. Members of the board who are
4 appointed under paragraphs (3), (4), and (5) of subsection (a) of this Code section shall
5 serve for terms of office of three years each. Members of the board who are appointed
6 under paragraphs (6), (7), and (8) of subsection (a) of this Code section shall serve for
7 terms of office of five years each. Members of the board shall serve for the terms of
8 office specified in this subsection and until their respective successors are appointed and
9 qualified. Members of the board may be reappointed to the board upon the expiration of
10 their terms of office if they otherwise continue to meet the qualifications for such office.
11 (2) If a vacancy occurs in the membership of the board, the appropriate appointing entity
12 shall appoint a successor for the remainder of the unexpired term and until a successor
13 is appointed and qualified."

14 **SECTION 14.**

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