COMMITTEE REPORT

March 11, 2009

**S. 483**

Introduced by Senators Rankin, Cleary, McGill and Elliott

S. Printed 3/11/09--S.

Read the first time February 25, 2009.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 483) to amend the Code of Laws of South Carolina, 1976, by adding Article 9 to Chapter 10, Title 4 enacting the “Local Option Tourism Development Fee Act” so, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 3, by adding after line 37:

/ (F) The gross proceeds of sales of tangible personal property delivered after the imposition date of the fee levied under this article in a county, either under the terms of a construction contract executed before the imposition date, or a written bid submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, are exempt from the fee provided in this article if a verified copy of the contract is filed with the Department of Revenue within six months after the imposition date of the fee provided for in this article.

(G) Notwithstanding the imposition date of the fee authorized pursuant to this article, with respect to services that are billed regularly on a monthly basis, the fee authorized pursuant to this article is imposed beginning on the first day of the billing period beginning on or after the imposition date. /

Amend the bill further, as and if amended, pages 3‑5, by striking Sections 4‑10‑960 and 4‑10‑970 in their entirety and inserting:

/ Section 4‑10‑960. The Department of Revenue shall furnish data to the State Treasurer and to the county and municipal treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to counties and 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 4‑10‑970. (A)(1) Except as provided in item (2) of this subsection, all revenues of the fee must be used exclusively for tourism advertisement and promotion directed at non‑South Carolina residents.

(2) Revenues received in the fourth year of imposition must be used as provided in item (1) except that up to ten percent may be used for property tax rollbacks or tourism‑related capital projects, or a combination of these purposes. After year four, the ten percent use allowed pursuant to this item may be increased to twenty percent. No capital project is eligible to be funded directly or indirectly with fee revenues unless the project consists of construction of new or renovation of existing tourism‑related facilities intended to grow or maintain the overnight tourism market in the county or city.

(3) The additional uses of fee revenue allowed pursuant to item (2) of this subsection are allowed only by ordinance enacted by a recorded vote of at least a two‑thirds majority of the members of the governing body.

(B) The county or municipality shall designate one or more organizations within the county area to receive the revenues and conduct the promotional activities provided pursuant to subsection (A)(1). This organization must be a nonprofit destination marketing organization representing a broad cross‑section of tourism interests within the county or municipality imposing the fee. In addition, before an organization may be designated, it must certify to the imposing county or 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 or municipality imposing the fee;

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

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

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill is expected to increase local option tourism development fee revenue by $59,197,158 in FY 2009-10 if the full one percent fee were imposed for the full fiscal year in all counties and municipalities that are eligible to impose this fee.

**Explanation**

This bill allows a county in which at least fourteen million dollars of State accommodations tax revenues have been collected in a fiscal year and a municipality located in such a county to impose a fee not to exceed one percent of items subject to the South Carolina Sales and Use Tax Act. The fee may not last longer than ten years. According to Fiscal Year 2007-08 State accommodations tax collections, Horry county is the only county in the State with at least fourteen million dollars in State accommodations tax collections. Based on the current estimate for statewide sales tax revenue inflated to FY 2009-10, we expect this bill to increase local option tourism development fee revenue by $59,197,158 in FY 2009-10 if the full one percent fee were imposed for the full fiscal year in all counties and municipalities that are eligible to impose this fee.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Revenue reports this bill will have no fiscal impact on the General Fund of the State or on federal and/or other funds.

**LOCAL GOVERNMENT IMPACT:**

The bill is permissive in nature and does not require the imposition of a sales tax increase. However, local expenditures could increase to the extent additional revenue is generated by those counties affected by this bill.

**SPECIAL NOTES:**

The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this or any other bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 10, TITLE 4 ENACTING THE “LOCAL OPTION TOURISM DEVELOPMENT FEE ACT” SO AS TO ALLOW A COUNTY IN WHICH AT LEAST FOURTEEN MILLION DOLLARS OF STATE ACCOMMODATIONS TAX REVENUES HAVE BEEN COLLECTED IN A FISCAL YEAR AND A MUNICIPALITY LOCATED IN SUCH A COUNTY 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 THE COUNTY MAY IMPOSE THE FEE BY ORDINANCE IN THE UNINCORPORATED AREAS OF THE COUNTY AND A MUNICIPALITY MAY IMPOSE THE FEE BY ORDINANCE IN THE MUNICIPALITY, 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 ROLLBACK, AND CAPITAL PROJECTS PROMOTING TOURISM CAUSES.

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 9

Local Option Tourism Development Fee

Section 4‑10‑910. This article may be cited as the ‘Local Option Tourism Development Fee Act’.

Section 4‑10‑920. For purposes of this article:

(1) ‘County area’ means a county and all municipalities within its geographical boundaries in which revenues of the state accommodations tax imposed pursuant to Section 12‑36‑920 have aggregated at least fourteen million dollars in a fiscal year.

(2) ‘County’ means the unincorporated areas of a county area or county government as the use of the term dictates.

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

(4) ‘Municipality’ means a municipal corporation created pursuant to Chapter 1, Title 5 or a municipal government as the use of the term dictates.

Section 4‑10‑930. (A) Subject to the requirements of this article:

(1) a county by ordinance may impose in the county a fee not to exceed one percent for not more than ten years for the purposes provided pursuant to Section 4‑10‑970;

(2) 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 4‑10‑970.

(B) The imposition date of the fee allowed pursuant to this article is the first day of the first month beginning more than sixty days after the county or municipality files a certified copy of the imposition ordinance with the South Carolina Department of Revenue.

(C) Once a certified copy of the ordinance is filed with the Department of Revenue, for the period of imposition provided in that ordinance, the department may not accept as filed any additional ordinance from the county or municipality that in any way relates to the fee allowed to be imposed pursuant to this chapter except an ordinance reducing or repealing the existing fee. The department shall accept for filing a certified copy of an ordinance reducing or repealing the fee and that reduction or repeal applies in the manner provided in Section 4‑10‑930(B) for imposition.

Section 4‑10‑940. (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 applicable area that is 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 State 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 of Revenue and placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. After deducting the amount of any refunds made and costs to the Department of Revenue of administering the tax, not to exceed one percent of the revenues, the State Treasurer shall distribute the revenues quarterly based on point of collection to the treasurer of the county or municipality in which the fee is imposed and the revenues must be used only for the purposes provided in Section 4‑10‑970. 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 or county code errors must be corrected prospectively.

Section 4‑10‑960. The Department of Revenue shall furnish data to the State Treasurer and to the county and municipal treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to counties and 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 4‑10‑970. (A)(1) Except as provided in item (2) of this subsection, all revenues of the fee must be used exclusively for tourism advertisement and promotion directed at non‑South Carolina residents.

(2) Revenues received in the fourth year of imposition must be used as provided in item (1) except that up to ten percent may be used for property tax rollbacks or tourism‑related capital projects, or a combination of these purposes. After year four, the ten percent use allowed pursuant to this item may be increased to twenty percent. No capital project is eligible to be funded directly or indirectly with fee revenues unless the project consists of construction of new or renovation of existing tourism‑related facilities intended to grow or maintain the overnight tourism market in the county or city.

(3) The additional uses of fee revenue allowed pursuant to item (2) of this subsection are allowed only by ordinance enacted by a recorded vote of at least a two‑thirds majority of the members of the governing body but not less than three‑fifths of the total membership of the governing body.

(B) The county or municipality shall designate one organization within the county area to receive the revenues and conduct the promotional activities provided pursuant to subsection (A)(1). This organization must be a nonprofit destination marketing organization representing a broad cross‑section of tourism interests within the county or municipality imposing the fee. In addition, before an organization may be designated, it must certify to the imposing county or 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 or municipality imposing the fee;

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

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

(C) The accommodations tax committee established pursuant to Section 6‑4‑25 for the jurisdiction imposing the fee allowed by this article shall:

(1) exercise oversight of the expenditures by the organization designated pursuant to subsection (B) of this section;

(2) submit an annual report of its oversight of these expenditures to the governing body of the county or municipality in which the fee is imposed.”

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

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