



City of Poughkeepsie Common Council Special Meeting

Tuesday, May 30, 2023, 6:00 pm
Common Council Chambers

AGENDA:

- I. Welcome
 - II. Roll Call
 - III. **R-23-50**, Resolution adopting the Municipal Home Rule Law
 - IV. Adjournment
-

RESOLUTION
(R-23-50)

INTRODUCED BY CHAIRWOMAN BROWN _____:

WHEREAS, the City of Poughkeepsie wishes to have the authority to collect a tax on renters of lodging on an overnight basis such as hotels, motels, bed and breakfast and other short term rental facilities; and

WHEREAS, the Common Council wishes to request official action of the state legislature through §40 of the Municipal Home Rule Law; and

WHEREAS, Senator Rolison and Assemblyman Jacobson have drafted legislation that has been introduced in both the Senate and the Assembly, and such legislation has been printed by both the Senate and the Assembly as Senate Bill No. S06679 and as Assembly Bill No. A06555, copies of which are annexed hereto;

NOW, THEREFORE,

BE IT RESOLVED, as follows:

- 1. The Common Council and the Mayor of the City of Poughkeepsie hereby issue this Home Rule Request for Senate Bill No. S06679 and Assembly Bill No. A06555 entitled "An Act to Amend the tax law, in relation to authorizing the City of Poughkeepsie to impose a hotel and motel tax; and providing for the repeal of such provisions upon expiration thereof;" and**
- 2. The City Chamberlain and/or Corporation Counsel be and hereby are authorized and directed to forward a certified copy of this resolution and Home Rule Request Form with appropriate transmittal letter to Senator Rolison and Assemblyman Jacobson for the New York State Legislature.**

SECONDED BY COUNCILMEMBER _____.

IMPORTANT: READ INSTRUCTIONS ON REVERSE SIDE
HOME RULE REQUEST
(Request by a Local Government for Enactment of a Special Law)

To the Legislature:

Pursuant to Article IX of the Constitution, the CITY of
POUGHKEEPSIE (county, city, town or village)
requests the enactment of Senate bill (no. A6555/S6679),
Assembly (strike out one),
entitled "

**AN ACT TO AMEND THE TAX LAW, IN RELATION TO AUTHORIZING THE CITY
OF POUGHKEEPSIE TO IMPOSE A HOTEL AND MOTEL TAX; AND PROVIDING
FOR THE REPEAL OF SUCH PROVISIONS UPON EXPIRATION THEREOF.**

It is hereby declared that a necessity exists for the enactment of such legislation, and that the facts establishing such necessity are as follows: (Check appropriate box)

- ☒ The local government does not have the power to enact such legislation by local law.
☐ Other facts, as set forth in the following "Explanation" establish such necessity.

EXPLANATION

(If space below is not sufficient, use separate sheet and attach here)

Such request is made by: (Check appropriate box)

- ☐ The chief executive officer of such local government, concurred in by a majority of the total membership of the local legislative body. (See paragraph A below)
☐ The local legislative body of such local government, at least two-thirds of the total membership thereof having voted in favor of such request. (See paragraph B below)

READ BEFORE SIGNING

- A. If the request is made by the chief executive officer and concurred in by a majority of the total membership of the local legislative body, *both* the chief executive officer *and* the clerk of the local legislative body must sign below. In such case use the word "majority" below even though the vote may have been greater.
B. If the request is made by the local legislative body, at least two-thirds of the total membership thereof having voted in favor of such request, *only* the clerk of the local legislative body must sign below. In such case use the words "two-thirds" below.

CHIEF EXECUTIVE OFFICER'S SIGNATURE

(Signed).....
(chief executive officer)

.....
(Print or type name below signature)

Date:..... 20.....
(Title of chief executive officer)

CLERK'S CERTIFICATION

I,, do hereby certify that I am Clerk of the
(print or type name) (local legislative body)
..... of the
(county, city, town or village)
of and that on the day of
(name)
20____, such legislative body, at least two-thirds of the total membership having voted in favor thereof,
a majority (strike out one)
approved the foregoing request.

(Signed).....
(clerk)

.....
(Print or type name below signature)

(SEAL OF LOCAL
GOVERNMENT)

Date:..... 20.....

STATE OF NEW YORK

6679

2023-2024 Regular Sessions

IN SENATE

May 4, 2023

Introduced by Sen. ROLISON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to authorizing the city of Poughkeepsie to impose a hotel and motel tax; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The tax law is amended by adding a new section 1202-nn to
2 read as follows:

3 § 1202-nn. Hotel or motel taxes in the city of Poughkeepsie. (1)
4 Notwithstanding any other provisions of law to the contrary, the city of
5 Poughkeepsie, in the county of Dutchess, is hereby authorized and
6 empowered to adopt and amend local laws imposing in such city a tax, in
7 addition to any other tax authorized and imposed pursuant to this arti-
8 cle such as the legislature has or would have the power and authority to
9 impose upon persons occupying hotel or motel rooms in such city. For the
10 purposes of this section, the term "hotel" or "motel" shall mean and
11 include any facility consisting of rentable units and providing lodging
12 on an overnight basis and shall include those facilities designated and
13 commonly known as "bed and breakfast" and "tourist" facilities. The
14 rates of such tax shall not exceed five percent of the per diem rental
15 rate for each room, provided however, that such tax shall not be appli-
16 cable to a permanent resident of a hotel or motel. For the purposes of
17 this section the term "permanent resident" shall mean a person occupying
18 any room or rooms in a hotel or motel for at least ninety consecutive
19 days.
20 (2) Such tax may be collected and administered by the chief fiscal
21 officer of the city of Poughkeepsie by such means and in such manner as
22 other taxes which are now collected and administered by such officer or
23 as otherwise may be provided by such local law.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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S. 6679

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1 (3) Such local laws may provide that any tax imposed shall be paid by
2 the person liable therefor to the owner of the hotel or motel room occu-
3 pied or to the person entitled to be paid the rent or charge for the
4 hotel or motel room occupied for and on account of the city of Pough-
5 keepsie imposing the tax and that such owner or person entitled to be
6 paid the rent or charge shall be liable for the collection and payment
7 of the tax; and that such owner or person entitled to be paid the rent
8 or charge shall have the same right in respect to collecting the tax
9 from the person occupying the hotel or motel room, or in respect to
10 nonpayment of the tax by the person occupying the hotel or motel room,
11 as if the tax were a part of the rent or charge and payable at the same
12 time as the rent or charge; provided, however, that the chief fiscal
13 officer of the city, specified in such local law, shall be joined as a
14 party in any action or proceeding brought to collect the tax by the
15 owner or by the person entitled to be paid the rent or charge.

16 (4) Such local laws may provide for the filing of returns and the
17 payment of the tax on a monthly basis or on the basis of any longer or
18 shorter period of time.

19 (5) This section shall not authorize the imposition of such tax upon
20 any transaction, by or with any of the following in accordance with
21 section twelve hundred thirty of this article:

22 a. The state of New York, or any public corporation (including a
23 public corporation created pursuant to agreement or compact with another
24 state or the Dominion of Canada), improvement district or other poli-
25 tical subdivision of the state;

26 b. The United States of America, insofar as it is immune from taxa-
27 tion;

28 c. Any corporation or association, or trust, or community chest, fund
29 or foundation organized and operated exclusively for religious, charita-
30 ble or educational purposes, or for the prevention of cruelty to chil-
31 dren or animals, and no part of the net earnings of which inures to the
32 benefit of any private shareholder or individual and no substantial part
33 of the activities of which is carrying on propaganda, or otherwise
34 attempting to influence legislation; provided, however, that nothing in
35 this paragraph shall include an organization operated for the primary
36 purpose of carrying on a trade or business for profit, whether or not
37 all of its profits are payable to one or more organizations described in
38 this paragraph.

39 (6) Any final determination of the amount of any tax payable hereunder
40 shall be reviewable for error, illegality or unconstitutionality or any
41 other reason whatsoever by a proceeding under article seventy-eight of
42 the civil practice law and rules if application therefor is made to the
43 supreme court within thirty days after the giving of the notice of such
44 final determination, provided, however, that any such proceeding under
45 article seventy-eight of the civil practice law and rules shall not be
46 instituted unless:

47 a. The amount of any tax sought to be reviewed, with such interest and
48 penalties thereon as may be provided for by local law shall be first
49 deposited and there is filed an undertaking, issued by a surety company
50 authorized to transact business in this state and approved by the super-
51 intendent of financial services of this state as to solvency and respon-
52 sibility, in such amount as a justice of the supreme court shall approve
53 to the effect that if such proceeding be dismissed or the tax confirmed
54 the petitioner will pay all costs and charges which may accrue in the
55 prosecution of such proceeding; or

S. 6679

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1 b. At the option of the petitioner such undertaking may be in a sum
2 sufficient to cover the taxes, interests and penalties stated in such
3 determination plus the costs and charges which may accrue against it in
4 the prosecution of the proceeding, in which event the petitioner shall
5 not be required to pay such taxes, interest or penalties as a condition
6 precedent to the application.

7 (7) Where any tax imposed hereunder shall have been erroneously, ille-
8 gally or unconstitutionally collected and application for the refund
9 thereof duly made to the proper fiscal officer or officers, and such
10 officer or officers shall have made a determination denying such refund,
11 such determination shall be reviewable by a proceeding under article
12 seventy-eight of the civil practice law and rules, provided, however,
13 that such proceeding is instituted within thirty days after the giving
14 of the notice of such denial, that a final determination of tax due was
15 not previously made, and that an undertaking is filed with the proper
16 fiscal officer or officers in such amount and with such sureties as a
17 justice of the supreme court shall approve to the effect that if such
18 proceeding be dismissed or the tax confirmed, the petitioner will pay
19 all costs and charges which may accrue in the prosecution of such
20 proceeding.

21 (8) Except in the case of a wilfully false or fraudulent return with
22 intent to evade the tax, no assessment of additional tax shall be made
23 after the expiration of more than three years from the date of the
24 filing of a return, provided, however, that where no return has been
25 filed as provided by law the tax may be assessed at any time.

26 (9) All revenues resulting from the imposition of the tax under the
27 local laws shall be paid into the treasury of the city of Poughkeepsie
28 and shall be credited to and deposited in the general fund of the city.
29 Such revenues may be used for any lawful purpose.

30 (10) If any provision of this section or the application thereof to
31 any person or circumstance shall be held invalid, the remainder of this
32 section and the application of such provision to other persons or
33 circumstances shall not be affected thereby.

34 § 2. This act shall take effect immediately and shall expire and be
35 deemed repealed 3 years after such date.

STATE OF NEW YORK

6555

2023-2024 Regular Sessions

IN ASSEMBLY

April 18, 2023

Introduced by M. of A. JACOBSON -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to authorizing the city of Poughkeepsie to impose a hotel and motel tax; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. The tax law is amended by adding a new section 1202-nn to
- 2 read as follows:
- 3 § 1202-nn. Hotel or motel taxes in the city of Poughkeepsie. (1)
- 4 Notwithstanding any other provisions of law to the contrary, the city of
- 5 Poughkeepsie, in the county of Dutchess, is hereby authorized and
- 6 empowered to adopt and amend local laws imposing in such city a tax, in
- 7 addition to any other tax authorized and imposed pursuant to this arti-
- 8 cle such as the legislature has or would have the power and authority to
- 9 impose upon persons occupying hotel or motel rooms in such city. For the
- 10 purposes of this section, the term "hotel" or "motel" shall mean and
- 11 include any facility consisting of rentable units and providing lodging
- 12 on an overnight basis and shall include those facilities designated and
- 13 commonly known as "bed and breakfast" and "tourist" facilities. The
- 14 rates of such tax shall not exceed five percent of the per diem rental
- 15 rate for each room, provided however, that such tax shall not be appli-
- 16 cable to a permanent resident of a hotel or motel. For the purposes of
- 17 this section the term "permanent resident" shall mean a person occupying
- 18 any room or rooms in a hotel or motel for at least ninety consecutive
- 19 days.
- 20 (2) Such tax may be collected and administered by the chief fiscal
- 21 officer of the city of Poughkeepsie by such means and in such manner as
- 22 other taxes which are now collected and administered by such officer or
- 23 as otherwise may be provided by such local law.

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4 hotel or motel room occupied for and on account of the city of Pough-
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6 paid the rent or charge shall be liable for the collection and payment
7 of the tax; and that such owner or person entitled to be paid the rent
8 or charge shall have the same right in respect to collecting the tax
9 from the person occupying the hotel or motel room, or in respect to
10 nonpayment of the tax by the person occupying the hotel or motel room,
11 as if the tax were a part of the rent or charge and payable at the same
12 time as the rent or charge; provided, however, that the chief fiscal
13 officer of the city, specified in such local law, shall be joined as a
14 party in any action or proceeding brought to collect the tax by the
15 owner or by the person entitled to be paid the rent or charge.

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18 shorter period of time.

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20 any transaction, by or with any of the following in accordance with
21 section twelve hundred thirty of this article:

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23 public corporation created pursuant to agreement or compact with another
24 state or the Dominion of Canada), improvement district or other poli-
25 tical subdivision of the state;

26 b. The United States of America, insofar as it is immune from taxa-
27 tion;

28 c. Any corporation or association, or trust, or community chest, fund
29 or foundation organized and operated exclusively for religious, charita-
30 ble or educational purposes, or for the prevention of cruelty to chil-
31 dren or animals, and no part of the net earnings of which inures to the
32 benefit of any private shareholder or individual and no substantial part
33 of the activities of which is carrying on propaganda, or otherwise
34 attempting to influence legislation; provided, however, that nothing in
35 this paragraph shall include an organization operated for the primary
36 purpose of carrying on a trade or business for profit, whether or not
37 all of its profits are payable to one or more organizations described in
38 this paragraph.

39 (6) Any final determination of the amount of any tax payable hereunder
40 shall be reviewable for error, illegality or unconstitutionality or any
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42 the civil practice law and rules if application therefor is made to the
43 supreme court within thirty days after the giving of the notice of such
44 final determination, provided, however, that any such proceeding under
45 article seventy-eight of the civil practice law and rules shall not be
46 instituted unless:

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48 penalties thereon as may be provided for by local law shall be first
49 deposited and there is filed an undertaking, issued by a surety company
50 authorized to transact business in this state and approved by the super-
51 intendent of financial services of this state as to solvency and respon-
52 sibility, in such amount as a justice of the supreme court shall approve
53 to the effect that if such proceeding be dismissed or the tax confirmed
54 the petitioner will pay all costs and charges which may accrue in the
55 prosecution of such proceeding; or

A. 6555

3

1 b. At the option of the petitioner such undertaking may be in a sum
2 sufficient to cover the taxes, interests and penalties stated in such
3 determination plus the costs and charges which may accrue against it in
4 the prosecution of the proceeding, in which event the petitioner shall
5 not be required to pay such taxes, interest or penalties as a condition
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27 local laws shall be paid into the treasury of the city of Poughkeepsie
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29 Such revenues may be used for any lawful purpose.

30 (10) If any provision of this section or the application thereof to
31 any person or circumstance shall be held invalid, the remainder of this
32 section and the application of such provision to other persons or
33 circumstances shall not be affected thereby.

34 § 2. This act shall take effect immediately and shall expire and be
35 deemed repealed 3 years after such date.