THE CITY OF POUGHKEEPSIE
NEW YORK
SPECIAL COMMON COUNCIL MEETING MINUTES

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

Vice Chair Shook called the meeting to order at 6:01 p.m.

I. Welcome

II. Roll Call

III. **R-23-50,** Resolution adopting the Municipal Home Rule Law

Councilmember Menist made a motion to amend the sponsoring councilmember of the Resolution from Chairwoman Brown to Councilmember Menist. The motion was seconded by Vice Chair Shook.

RESOLUTION
(R-23-50)

INTRODUCED BY COUNCILMEMBER MENIST________________________:

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 VICE-CHAIR SHOOK ___________________.

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 (county, city, town or village) of POUGHKEEPSIE (name) requests the enactment of Senate / Assembly (strike out one) bill (no. A6555/S6679), 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, ... (print or type name), do hereby certify that I am Clerk of the .... (local legislative body) .... of the .... (county, city, town or village) of .... (name) and that on the .... day of ....,

20____, such legislative body, at least two-thirds / a majority (strike out one) of the total membership having voted in favor thereof, approved the foregoing request.

(SEAL OF LOCAL GOVERNMENT)

(Signed)..
(clerk)

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

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:

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

§ 1202-nn. Hotel or motel taxes in the city of Poughkeepsie. (1) Notwithstanding any other provisions of law to the contrary, the city of Poughkeepsie, in the county of Dutchess, is hereby authorized and empowered to adopt and amend local laws imposing in such city a tax, in addition to any other tax authorized and imposed pursuant to this article such as the legislature has or would have the power and authority to impose upon persons occupying hotel or motel rooms in such city. For the purposes of this section, the term "hotel" or "motel" shall mean and include any facility consisting of rentable units and providing lodging on an overnight basis and shall include those facilities designated and commonly known as "bed and breakfast" and "tourist" facilities. The rates of such tax shall not exceed five percent of the per diem rental rate for each room, provided however, that such tax shall not be applicable to a permanent resident of a hotel or motel. For the purposes of this section the term "permanent resident" shall mean a person occupying any room or rooms in a hotel or motel for at least ninety consecutive days.

(2) Such tax may be collected and administered by the chief fiscal officer of the city of Poughkeepsie by such means and in such manner as other taxes which are now collected and administered by such officer or 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.

LBD10676-01-3

(3) Such local laws may provide that any tax imposed shall be paid by the person liable therefor to the owner of the hotel or motel room occupied or to the person entitled to be paid the rent or charge for the hotel or motel room occupied for and on account of the city of Poughkeepsie imposing the tax and that such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel or motel room, or in respect to nonpayment of the tax by the person occupying the hotel or motel room, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge; provided, however, that the chief fiscal officer of the city, specified in such local law, shall be joined as a party in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge.

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

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

a. The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the state;

b. The United States of America, insofar as it is immune from taxation;

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately and shall expire and be 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:

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

§ 1202-nn. Hotel or motel taxes in the city of Poughkeepsie. (1) Notwithstanding any other provisions of law to the contrary, the city of Poughkeepsie, in the county of Dutchess, is hereby authorized and empowered to adopt and amend local laws imposing in such city a tax, in addition to any other tax authorized and imposed pursuant to this article such as the legislature has or would have the power and authority to impose upon persons occupying hotel or motel rooms in such city. For the purposes of this section, the term "hotel" or "motel" shall mean and include any facility consisting of rentable units and providing lodging on an overnight basis and shall include those facilities designated and commonly known as "bed and breakfast" and "tourist" facilities. The rates of such tax shall not exceed five percent of the per diem rental rate for each room, provided however, that such tax shall not be applicable to a permanent resident of a hotel or motel. For the purposes of this section the term "permanent resident" shall mean a person occupying any room or rooms in a hotel or motel for at least ninety consecutive days.

(2) Such tax may be collected and administered by the chief fiscal officer of the city of Poughkeepsie by such means and in such manner as other taxes which are now collected and administered by such officer or 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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(3) Such local laws may provide that any tax imposed shall be paid by the person liable therefor to the owner of the hotel or motel room occupied or to the person entitled to be paid the rent or charge for the hotel or motel room occupied for and on account of the city of Poughkeepsie imposing the tax and that such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel or motel room, or in respect to nonpayment of the tax by the person occupying the hotel or motel room, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge; provided, however, that the chief fiscal officer of the city, specified in such local law, shall be joined as a party in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge.

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

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

a. The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the state;

b. The United States of America, insofar as it is immune from taxation;

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

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

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

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

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

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

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

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

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

R-23-50– VOICE VOTE			Yes/Aye	No/Nay	Abstain	Absent
☑ Accepted ☐ Defeated ☐ Tabled	Councilmember Grant	Voter	☑	☐	☐	☐
	Councilmember Long	Voter	☐	☐	☐	☑
	Councilmember Flowers	Voter	☑	☐	☐	☐
	Councilmember Deichler	Voter	☑	☐	☐	☐
	Councilmember Thompson	Voter	☑	☐	☐	☐
	Councilmember Johnson	Voter	☐	☐	☐	☑
	Councilmember Menist	Voter	☑	☐	☐	☐
	Councilmember Shook	Voter	☑	☐	☐	☐
	Chairwoman Brown	Voter	☐	☐	☐	☑

IV. Adjournment

A motion was made by Councilmember Menist and seconded by Councilmember Deichler to adjourn the meeting at 6:07 PM.

Dated: May 31, 2023.

I hereby certify that this true and correct copy of the Minutes of the Special Informational Meeting held on May 30, 2023.

Respectfully submitted,

Jasmin Nicole Davis
City Chamberlain