



To: Center City Revenue Finance Committee Board of Directors
From: DMC Staff
Date: July 23, 2020
RE: Tourism Surcharge Incentive

BACKGROUND:

During the 2020 State Legislative session, Senator Akbari and Representative White sponsored SB2826/ HB 2111, Amendment # 15726 at the request of CCRFC. This legislation amended Local Tourism Development Zone Business Tax Act, Tenn. Code Ann. § 67-4-3001 et seq. (the “Surcharge Statute”) to permit the privilege tax authorized by the statute to apply to additional hotel projects located within a Tourism Development Zone. The goal was to provide an additional funding mechanism for these projects that does not rely on incremental tax revenues that would otherwise be available to pay for governmental services.

Specifically, the Surcharge Statute was amended to explicitly permit the imposition of a Surcharge of up to 5% of sales within projects that have not been designated Qualified Public Use Facilities by the State Building Commission but that meet the following criteria:

- a full service hotel with not less than 250 rooms and related retail, commercial and parking located in a tourism development zone; or
- a mixed use development including a full service hotel with not less than 150 rooms and including retail, office, apartment, condominium or other commercial or residential uses and located in a tourism development zone.

Under the proposed amendment, the Surcharge can be collected for up to 30 years after it is reasonably be anticipated that the facility will commence operations and used to repay the debt incurred to fund the project. This is a self-assessed tax that cannot be used by the taxing authority for any other purpose. The percentage is set on the front end for the thirty year term of the district or until the debt is paid, whichever occurs first. There is a 1% collection fee charged by the City Treasurer. The debt would be incurred through an Industrial Development Board such as CCRFC or EDGE.

Currently, Graceland and the Loews Convention Center Hotel have been approved by the State of Tennessee and City Council to use this Tourism Surcharge.

CCRFC has worked with EDGE to create a policy to administer this incentive across all Tourism Development Zones in Memphis in a consistent manner. Once approved by CCRFC or EDGE, the approving board will recommend approval to City Council, via passage of an Ordinance on a per-project basis.

ELIGIBILITY REQUIREMENTS In order to be eligible for the Program, applicants must meet the following requirements:

- The project must be located within a Tourism Development Zone (TDZ), established by the State of Tennessee.
- The value of the proposed building renovations, site improvements or new construction must be equal to or greater than \$5 million.
- Applicant must own the property or have an option or other right to purchase the property.
- The property and applicant must not have any outstanding code violations and must be current on all property taxes.

EQUAL BUSINESS OPPORTUNITY (EBO) PROGRAM

All projects that are approved to use the Tourism Surcharge shall use a "best faith effort" to reach no less than 25 percent Minority/Women Business Enterprise (MWBE) participation, and must be in compliance with the Downtown Memphis Commission's Equal Business Opportunity (EBO) Program (Appendices III-IV) if the project is approved by CCRFC.

RECOMMEDATION:

Staff recommends approval of the Tourism Surcharge incentive program for immediate use.

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State of Tennessee

PUBLIC CHAPTER NO. 752

SENATE BILL NO. 2826

By Akbari

Substituted for: House Bill No. 2111

By White, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 88, Part 1 and Title 67, Chapter 4, Part 30, relative to the Local Tourism Development Zone Business Tax Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-3002, is amended by deleting subdivision (7) and substituting instead the following:

(7) "Qualified public use facility" or "public use facility" means:

(A) A building, complex, center, or facility described by § 7-88-103;

(B) A full-service hotel with not less than two hundred fifty (250) rooms and related retail, commercial, and parking space that is located in a tourism development zone; or

(C) A mixed-use development, including a full-service hotel with not less than one hundred fifty (150) rooms and including any retail, office, apartment, condominium, or other commercial or residential uses, that is located in a tourism development zone;

SECTION 2. Tennessee Code Annotated, Section 67-4-3003, is amended by deleting subdivision (c)(1)(A) and substituting instead the following:

(A)(i) If such qualified public use facility is described in § 67-4-3002(7)(A), the date on which the cumulative amount, apportioned and distributed to the municipality under §§ 7-88-106(a) and 67-4-3005, equals either the cost of the qualified public use facility, plus any interest on indebtedness of the municipality or public authority related to the cost, or any lesser amount of the cost of the qualified public use facility and interest that may be established in authorizing the levy of the tax; or

(ii) If such qualified public use facility is described in § 67-4-3002(7)(B) or § 67-4-3002(7)(C), the date on which the cumulative amount, apportioned and distributed to the municipality under § 67-4-3005, equals either the cost of the qualified public use facility, plus any interest on indebtedness of the municipality or public authority related to the cost, or any lesser amount of the cost of the qualified public use facility and interest that may be established in authorizing the levy of the tax;

SECTION 3. Tennessee Code Annotated, Section 67-4-3005(a), is amended by deleting the subsection and substituting instead the following:

(a) The portion of the revenue received by the municipality from the tax, as is designated by the resolution of the municipality enacting the levy of tax set forth in this part, shall be deposited into a fund entitled the "qualified public use facility development fund," which shall be used:

(1) As set forth in § 7-88-106, if such qualified public use facility is described in § 67-4-3002(7)(A), for the purpose of paying the cost of the qualified public use

facility and the costs of bonded indebtedness, principal and interest, including expenses of the bond sale or sales, incurred by the municipality or public authority in financing, acquiring, constructing, leasing, equipping, and renovating a qualified public use facility. The remaining revenue shall be deposited in the general fund of the municipality; or

(2) As set forth in this section, if such qualified public use facility is described in § 67-4-3002(7)(B) or (7)(C), for the purpose of paying the cost of the qualified public use facility and the costs of bonded indebtedness, principal and interest, including expenses of the bond sale or sales, incurred by the municipality or public authority in financing, acquiring, constructing, leasing, equipping, and renovating a qualified public use facility. The remaining revenue shall be deposited in the general fund of the municipality.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 2826

PASSED: June 10, 2020



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 22nd day of June 2020



BILL LEE, GOVERNOR