

RESOLUTION NO. _____

**RESOLUTION OF THE
SANTA BARBARA COUNTY BOARD OF SUPERVISORS
PROPOSING TO INCREASE THE TRANSIENT OCCUPANCY TAX RATE
FROM EIGHT PERCENT (8%) TO TEN PERCENT (10%), SUBMITTING THE
PROPOSED LANGUAGE FOR INCREASE TO THE ELECTORATE FOR
APPROVAL, AND REQUESTING AND ORDERING CONSOLIDATION WITH
THE JUNE 8, 2010 GENERAL ELECTION ON SAID TAX RATE INCREASE**

WHEREAS, Article XIII C, Section 2 of the California Constitution, and Government Code Section 53723 authorize the Board of Supervisors of the County of Santa Barbara to impose, extend or increase a general tax upon a majority vote of the population; and

WHEREAS, Revenue and Taxation Code Section 7280 authorizes the County to levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist homes or house, motel, or other lodging; and

WHEREAS, the Board of Supervisors may submit to the voters, without petition, an ordinance for the repeal, amendment, or enactment of any ordinance pursuant to Election Code Section 9140; and

WHEREAS, in 1978, the Board of Supervisors amended the Santa Barbara County Code to set a transient occupancy tax in the amount of eight percent (8%) of the rent charged by the operator of any hotel or similar structure designed for transient occupancy; and

WHEREAS, in 1990, by Ordinance No. 3889, the Board of Supervisors amended the Santa Barbara County Code to increase the transient occupancy tax to ten percent (10%) of the rent charged by the operator of any hotel or similar structure designed for transient occupancy; and

WHEREAS, the California Supreme Court has now held that the continued imposition and collection of a general tax starts a new statute of limitations period for Proposition 62 legal challenges to the tax that is collected; and

WHEREAS, on _____, 2010, the Board of Supervisors repealed Ordinance No. 3889, decreasing the transient occupancy tax rate from ten percent (10%) to eight percent (8%) (the rate established in 1978, prior to Proposition 62), and desires to submit an increase of the transient occupancy tax rate from eight percent (8%) to ten percent (10%) to a vote of the people; and

WHEREAS, if the increase is not approved by the voters, then the transient occupancy tax would remain at the rate of eight percent (8%).

NOW, THEREFORE, BE IT RESOLVED that:

1. The Board of Supervisors of the County of Santa Barbara hereby proposes the ordinance attached hereto as Exhibit "A" to increase the transient occupancy tax rate from eight percent (8%) to ten percent (10%) for general governmental purposes.

2. The Board of Supervisors of the County of Santa Barbara hereby submits the ordinance and proposed tax to the electorate for approval, calls an election for June 8, 2010 for approval of the ordinance and the proposed tax, and requests and orders that this election be consolidated with the general election to be held on that date.

3. The transient occupancy tax is a general tax imposed upon transients for the privilege of occupying defined hotels located within the unincorporated territory of Santa Barbara County. If approved by a majority of the electorate voting on the measure, the ordinance will increase the transient occupancy tax rate from eight percent (8%) to ten percent (10%). If rejected by the electorate voting on the measure, the transient occupancy tax would remain at the tax rate of eight percent (8%) (the pre-Proposition 62 tax rate). The tax would be collected by hotel operators, in the same manner as it has historically been collected. The collection of the tax from hotel operators would be administered by the Santa Barbara County Tax Collector as provided in Section 32-15 of the Santa Barbara County Code.

4. The transient occupancy tax imposed by the ordinance is a general tax within the meaning of Government Code Section 53721 and Article XIII C, Section 1(a) of the California Constitution. The revenue generated by this general tax is available for general governmental purposes.

5. The measure shall be submitted to the voters in the following form:

Shall an ordinance to amend Section 32-12 of the Santa Barbara County Code to increase the transient occupancy tax rate from eight percent (8%) to ten percent (10%) upon transients occupying defined hotels located only within the unincorporated area of Santa Barbara County be approved?	Yes
	No

6. The County Clerk is hereby authorized, instructed, and directed to provide and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct an election.

7. The County Clerk is hereby further directed to take the necessary and appropriate actions to provide the necessary election officers, polling places, and voting precincts.

8. In accordance with the provisions of the Election Code, the County Counsel is authorized to prepare an impartial analysis of the measure, and the Auditor is directed to prepare a fiscal analysis.

9. The polls for said election shall be open during the hours required by law and said election, with respect to the foregoing ballot measure, shall be held and conducted as provided by law for the holding of County elections.

10. Notice of time and place of holding said election, together with any other notices required by law, shall be given by the County Clerk.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Santa Barbara held on this ___ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

CHAIR, BOARD OF SUPERVISORS

ATTEST:

MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
Deputy

APPROVED AS TO FORM:

DENNIS A. MARSHALL
COUNTY COUNSEL

By: _____
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

ROBERT GEIS
AUDITOR-CONTROLLER

By: _____
Deputy

EXHIBIT A

**PROPOSED ORDINANCE TO
INCREASE THE TRANSIENT
OCCUPANCY TAX RATE**

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA AMENDING THE PROVISIONS OF COUNTY CODE SECTION 32-12 TO INCREASE THE TRANSIENT OCCUPANCY TAX RATE FROM EIGHT PERCENT (8%) TO TEN PERCENT (10%)

THE PEOPLE OF THE COUNTY OF SANTA BARBARA ORDAIN AS FOLLOWS:

SECTION I: VOTER APPROVAL OF SANTA BARBARA COUNTY CODE SECTION 32-12. Section 32-12 of the Santa Barbara County Code is hereby set forth for voter approval to read as follows:

Sec. 32-12. Tax -- Imposed on Transients; Rate; When Payable

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the County which is extinguished only by payment to the operator or to the County. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax is not paid to the operator of the hotel, the County Tax Collector may require that such tax shall be paid directly to the County Tax Collector.

SECTION II: NATURE OF TAX. If approved by a majority of the electorate voting on the measure, the ordinance will increase the transient occupancy tax rate from

eight percent (8%) to ten percent (10%) of rent charged. The transient occupancy tax is a tax imposed upon transients for the privilege of occupying defined hotels located within the unincorporated territory of Santa Barbara County. The tax would be collected by hotel operators in the same manner as the current transient occupancy tax is collected. The collection of the tax from hotel operators would be administered by the Santa Barbara County Tax Collector as provided in Section 32-15 of the Santa Barbara County Code.

SECTION III: GENERAL TAX. The transient occupancy tax imposed by this ordinance is a general tax within the meaning of Government Code Section 53721 and Article XIII C, Section 1(a) of the California Constitution. The revenue generated by this general tax is available for general governmental purposes. To that end, the Auditor-Controller is instructed to deposit the revenue from the tax into the County General Fund and to include his estimate of the revenue from this general tax, together with his estimates of other revenue sources, in the tabulation that he is annually required to prepare by Government Code Section 29060. The revenue from this general tax shall be made available to the Board of Supervisors for annual appropriation in the County's budget for any lawful expenditure. Nothing in this ordinance nor in any other ordinance, advisory measure, resolution, or policy shall be construed as limiting, in any way, the amount or the objects of the appropriations and expenditures that can be made from the revenue of the tax nor be construed as creating a continuing appropriation.

SECTION IV: SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the

ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION V: ELECTION. An election shall be held on June 8, 2010, on the issue of increasing the transient occupancy tax rate from eight percent (8%) to ten percent (10%) of rent charged. If the measure is defeated, the transient occupancy tax will remain at the rate of eight percent (8%) of rent charged.

SECTION VI: EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption by a majority of the electorate voting on the ordinance at the June 8, 2010 general election.

Approved by resolution of the Board of Supervisors of the County of Santa Barbara on the ____ day of _____, 2010, by the following vote, for adoption by the electorate at the election of June 8, 2010:

AYES:

NOES:

ABSTAIN:

ABSENT:

CHAIR, BOARD OF SUPERVISORS

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
Deputy