
Finance Committee

HB 1253

Brief Description: Concerning the lodging tax.

Sponsors: Representatives Blake, Orcutt, Takko, Dahlquist, Haigh, Hunt, Walsh, Lytton, Nealey, Morris, Hudgins, McCoy, Zeiger, Maxwell, Pettigrew, Bergquist, Van De Wege, Upthegrove and Freeman.

Brief Summary of Bill

- Authorizes lodging tax revenues to continue to be used for the operation of special events or festivals.
- Allows property owned by a nonprofit organization to continue to be considered a “tourism-related facility.”
- Modifies and extends reporting requirements related to the expenditure of lodging tax revenues.

Hearing Date: 1/28/13

Staff: Dominique Meyers (786-7150).

Background:

Lodging Tax

The lodging tax, also known as the local hotel-motel tax, applies to charges for lodging at hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities for continuous periods of less than one month. The maximum tax rate is 2.0 percent. The tax is credited against the state retail sales tax of 6.5 percent; therefore, customers do not incur an additional tax.

Initially authorized in 1967 to provide King County with a funding source for the building of the Kingdome, the lodging tax was incrementally expanded over the years to cover additional cities, counties and fund uses. In 1997, the Legislature repealed the assortment of multiple uses for the lodging tax and instead required the future revenues to be used for tourism-related purposes.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Attorney General Opinion (AGO 2006 No. 4)

In 2006, the Attorney General issued a formal opinion (AGO) regarding the utilization of lodging tax revenues. Three questions were posed and answered:

- "Must a municipality have an ownership interest in a tourism-related facility in order to allocate lodging tax revenues for its operation?
- May a municipality spend lodging tax revenues on operating expenses of special events and festivals designed to attract tourists, which are operated by non-municipal entities?
- May a municipality enter into contracts with tourism promotion agencies that provide advance payment of hotel-motel revenues for tourist promotion?"

Citing lack of legislative clarity and action since the last AGO (AGO 2000 No. 9) on this subject, the AG opined that there must be some governmental interest in the facilities receiving lodging tax funds. However, there was nothing prohibiting the Legislature from amending the statute to allow municipalities to expend lodging tax receipts on the operations of non-governmentally owned facilities.

The lodging statute limited the use of lodging taxes on special events and festivals designed to attract tourists to marketing activities only. The AG concluded that there was no statutory exception to this express limitation of fund use. For a period in the 1990s, municipalities were allowed to use the proceeds directly for the funding of special events or festivals; however, limiting language was adopted in 1997. The AG also concluded that advance payment of lodging tax revenues to tourist promotion agencies for tourist promotion activities was prohibited under RCW 42.24.080. This statute requires that all claims presented against a municipality for any contractual purpose must be audited prior to payment.

Recent Legislation

In 2007, in response to the AGO, several changes were made to the lodging tax laws.

First, the permissible uses of lodging tax revenues were expanded to include expenditures for operations related to tourism promotion, including operations relating to special events and festivals.

Second, the definition of "tourism-related facility" was broadened to include property owned by various types of nonprofit organizations.

Third, local jurisdictions using lodging tax revenues are required to submit an annual economic impact report providing information on the amount and use of lodging tax revenues to the Department of Commerce. The Joint Legislative Audit and Review Committee was required to report to the Legislature by September 1, 2012 on the use and economic impact of lodging tax revenues.

All of these changes are set to expire on June 30, 2013.

Summary of Bill:

The June 30, 2013 expiration date is removed. Therefore, lodging tax revenues can continue to be used for the operations expenditures for tourism promotion, including the operation of special events and festivals. In addition, nonprofit organizations can continue to own “tourism-related facilities.”

Jurisdictions no longer have to provide, to the department of commerce, an annual report of the use of lodging tax revenues. However, an organization applying to a local jurisdiction for use of lodging tax revenues must include an estimate regarding benefits resulting from the use of such revenues. A post-event report must be submitted to the local jurisdiction evaluating the actual benefits from the estimated benefits in the application.

Appropriation: None.

Fiscal Note: Requested on 01/22/13.

Effective Date: July 1, 2013 (Emergency Clause)