

HOUSE BILL REPORT

ESHB 2038

As Passed House

March 15, 1997

Title: An act relating to excise taxation of lodging.

Brief Description: Changing lodging tax authority.

Sponsors: By House Committee on Finance (originally sponsored by Representative B. Thomas).

Brief History:

Committee Activity:

Finance: 2/27/97, 3/7/97 [DPS].

Floor Activity:

Passed House: 3/15/97, 92-4.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives B. Thomas, Chairman; Carrell, Vice Chairman; Mulliken, Vice Chairman; Dunshee, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; Boldt; Butler; Conway; Kastama; Mason; Morris; Pennington; Schoesler and Van Luven.

Staff: Bob Longman (786-7139).

Background: A "hotel-motel" tax is a special sales tax on lodging rentals by hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities. A local option hotel-motel tax was first authorized in 1967 for King County to build the Kingdome. The rate was 2 percent, but the tax was credited against the regular state sales tax which is imposed on lodging charges. Therefore, the total amount of tax paid by the consumer was not increased as a result of this tax. Authority to impose a hotel-motel tax was broadened, first in 1970 to include the cities of Tacoma and Spokane, and then in 1973 to include all municipalities (counties, cities, and towns) except some in King and Yakima counties.

The "double dip": Generally, a county hotel-motel tax must allow a credit for the amount of a hotel-motel tax levied by a city within the county, thus preventing both the city and county from taxing the same lodging transaction. However, this credit

requirement does not apply to a county that issued bonds before June 26, 1975, and pledged hotel-motel tax revenue for retirement of these bonds. King and Yakima counties met this deadline. In addition, cities in those counties are prohibited from imposing a hotel-motel tax, unless the city also imposed the tax and pledged the revenues for bonds before the deadline. The cities of Bellevue and Yakima met this deadline. As a result, in King and Yakima counties, the only cities imposing hotel-motel taxes are the cities of Bellevue and Yakima. The 2 percent taxes imposed by these cities is credited against the state sales tax, as is the usual rule. However, King and Yakima counties also impose 2 percent taxes county-wide, without granting a credit for city taxes as is required for other counties. These county taxes are also credited against the state sales tax. Thus, the state gives up 4 percent of the state sales tax on lodging rentals in these cities. This is known as the "double-dip."

The "double-dip" expires January 1, 2013. At that time, King and Yakima counties must allow a credit for taxes imposed by cities, as do other counties. At the same time, all cities in King and Yakima counties will be authorized to impose 2 percent hotel-motel taxes, credited against the state sales tax.

Expansion to other uses: The Legislature has amended the hotel-motel tax statutes several times to expand the allowed uses of hotel-motel tax revenue. Allowed uses for all municipalities now include convention center facilities, performing arts facilities, visual arts center facilities, and promotion of tourism. Some municipalities have been granted specific authorizations to use the revenue for particular purposes, such as tall ship tourist attractions, ocean beach boardwalks, public restrooms, and community restrooms.

Increased rates for some municipalities: In recent years, the Legislature has authorized some municipalities to impose hotel-motel taxes at rates higher than 2 percent. These authorizations generally have been limited to narrowly-defined geographic descriptions that include only one or two cities or a county. The highest rate currently in effect under these authorizations is 5 percent. Only the first 2 percent of a municipality's hotel-motel tax is credited against the state sales tax. The original 2 percent hotel-motel tax authorization is now known as the "basic" or "state-shared" hotel-motel tax, to distinguish it from the newer hotel-motel taxes that are added to room charges in addition to general state and local sales taxes.

Public facility districts: A public facility district can be created in any county, coextensive with the boundaries of the county, for the purpose of providing sports, entertainment, or convention facilities. A public facility district, after voter approval, may impose a hotel-motel tax up to 2 percent. This tax is in addition to other hotel-motel taxes, and is not credited against the state sales tax. This tax cannot be imposed if it would cause total state and local excise taxes on lodging to exceed 11.5 percent. Based on current rates, this tax could not be imposed in King County. The only district imposing this tax currently is in Spokane County.

The state convention and trade center: In 1982, the Legislature imposed an additional hotel-motel tax to fund construction and operation of the Washington State Convention and Trade Center. The rate of this state tax is 7 percent in Seattle and 2.8 percent in the remainder of King County. This tax is in addition to the general state sales tax and the hotel-motel taxes imposed by King County and Bellevue.

Local-option hotel-motel rates: For most municipalities, the hotel-motel rate is 2 percent, credited against the state sales tax. Higher rates in effect for local-option hotel-motel taxes are:

3 percent - Leavenworth

4 percent - Chelan, Wenatchee, Cowlitz County, East Wenatchee, Pasco, Pierce County, Snohomish County, Spokane County (including 2 percent by public facility district)

5 percent - Grays Harbor County, Bellevue, City of Yakima, Winthrop

For each of the above taxes, 2 percent of the total rate is credited against the state sales tax, so the additional tax paid by lodging consumers (in addition to general sales taxes) is 2 percent or 3 percent.

Some municipalities are not imposing the full rate authorized by the particular statute applicable to the municipality:

Pierce county and the cities in that county are authorized to impose 7 percent, but none imposes more than 4 percent.

Chelan is authorized to impose 5%, but imposes 4%.

Leavenworth is authorized to impose 5%, but imposes 3%.

Hotel-motel rates including the state convention and trade center tax: The state convention and trade center tax is imposed only in King County. The following rates include the local option rates above and the state convention and trade center tax:

9.0 percent - Seattle

7.8 percent - Bellevue

4.8 percent - Remainder of King County

Again, for each of the above taxes, 2 percent of the total rate is credited against the state sales tax, so the additional tax paid by lodging consumers (in addition to general sales taxes) is 2 percent less than the above amounts.

Total sales taxes on lodgings: After adding hotel-motel taxes to state and local general sales taxes, and deducting the credit against the state tax for the basic 2 percent hotel-motel tax, the total tax rate added to consumers bill is as follows:

- 15.2 percent - Seattle
- 14.0 percent - Bellevue
- 11.0 percent - Remainder of King County
- 7.0 percent to 10.9 percent - Other areas, depending on local-option tax rates.

Summary of Bill: Every municipality (county, city or town) is authorized to impose hotel-motel taxes, under a single section. Separate hotel-motel tax authorizations for particular municipalities are repealed. The authority for hotel-motel taxes by public facility districts is not altered.

Maximum rates: With some exceptions, the maximum local option hotel-motel tax rate is 4 percent, with 2 percent credited against the state sales tax. The exceptions are:

- (a) If a municipality imposes hotel-motel taxes at a total rate exceeding 4 percent on January 1, 1998, it may continue the higher rate. Thus, those jurisdictions with 5 percent or 7 percent authorizations may continue to impose those higher rates if the rate is in effect on January 1, 1998.
- (b) If a county imposed hotel-motel taxes at a total rate of 4 percent or more on January 1, 1997, a city or town in that county cannot increase its hotel-motel tax rate over 2 percent. Snohomish and Cowlitz counties meet this criteria.
- (c) A municipality with a population of 400,000 or more in a county with a population of 1 million or more cannot impose hotel-motel taxes at a rate that would cause total sales taxes on lodgings to exceed 15.2 percent. Based on current population estimates, Seattle is subject to this restriction. Seattle does not impose hotel-motel taxes currently and the total sales tax rate on lodging in Seattle is 15.2 percent, so this provision effectively bars additional hotel-motel taxes in Seattle until January 1, 2013, when the King County hotel-motel tax is no longer imposed county-wide.
- (d) A municipality not subject to (a), (b), or (c) cannot impose hotel-motel taxes at a rate that would cause total sales taxes on lodgings to exceed 12 percent. This provision affects cities in King County other than Seattle and Bellevue. In these cities, the total sales tax rate on lodgings is 11 percent. Therefore, these cities could impose 1 percent hotel-motel taxes.
- (e) The authority for King and Yakima counties to impose 2 percent hotel-motel taxes county-wide without allowing a credit for city or town

taxes continues until January 1, 2013. Otherwise, a county tax must allow a credit for any city or town tax on the same sale of lodging.

Use of revenue: Hotel-motel tax revenue may be used only for tourism promotion or funding tourism-related capital facilities. "Tourism" is defined as economic activity resulting from tourists, which may include overnight lodgings, meals, gifts, and souvenirs. "Tourist" means a person who travels to a different town, city, county, state, or country, for purposes of business, pleasure, recreation, education, arts, heritage, or culture. "Tourism promotion" means activities and expenditures designed to increase tourism, including but not limited to advertising, publicizing, or otherwise distributing information for the purposes of attracting and welcoming tourists; developing strategies to expand tourism; operating tourism promotion agencies; and funding marketing of special events and festivals designed to attract tourists. "Tourism-related facility" means property with a usable life of three or more years, and a monetary value of \$10,000 or more, used to support tourism.

Advisory committee: Before imposing a hotel-motel tax, a municipality must create a lodging tax advisory committee with at least five members: two persons involved in activities funded by hotel-motel tax revenue; two persons representing lodging businesses; and an elected official as chair. If a municipality proposes new hotel-motel taxes, increases in hotel-motel taxes, or changes in the use of hotel-motel revenue, the proposal must be submitted to the advisory committee 45 days before final action on the proposal.

Reports: Municipalities imposing hotel-motel taxes must submit a report to the Department of Community, Trade, and Economic development on October 1, 1998, and October 1, 2000. The reports will include information on the rate, revenue, and uses of hotel-motel taxes. The department will summarize and analyze the data and submit reports to the Legislature. The department's report must include analysis of factors contributing to growth in hotel-motel tax revenue and the effects on tourism growth of expenditures of hotel-motel tax revenue.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 1998.

Testimony For: The bill has enough flexibility to allow local governments to decide what tourism is in their areas. The bill also has enough specificity to ensure that hotel-motel tax revenue is used for the proper purpose, which is to promote tourism. A cap on overall hotel-motel tax rates is important to the lodging industry. The bill has a process at the local level to determine how the

money should be used. This process will help prevent bills coming before the Legislature every year to authorize specific uses of revenue. It is in the state's best interest that these funds are applied to projects that are designed to attract tourists who will generate overnight stays. Heritage and tourism can fit together. The existing hotel-motel tax rates are continued into the future so that bond obligations can be met. The permissible uses of revenue are broad enough to support future projects such as performing arts centers and museums.

Concerns: The definition of tourism should more clearly include arts and heritage activities. The bill should be changed to allow the use of revenue for safety issues such as ladder trucks to protect people in high-rise hotels. The tax base for counties should be county-wide. The full amount of city taxes should not be credited against county taxes.

Testimony Against: The bill does not make it clear enough that currently funded arts and heritage activities will continue to be funded. The advisory committee should include arts and heritage representatives. The use of hotel-motel revenue should be limited to promotion of overnight stays.

Testified: (Pro): Karen Reed, City of Bellevue; Stacy Graven, Meydenbauer Center; Shirley Thompson and Jackie White, Association of Washington Cities; Jim Rowland, City of Richland; Van Youngquist, Cowlitz County; Judith Frolich, Association of Washington Counties; Nancy Watkins, Washington Association of Convention and Visitor Bureaus; Becky Bogard, Washington State Hotel-Motel Association; and Joe Daniels, City of SeaTac. (Pro, with concerns): Ralph Munro, Secretary of State; Rep. Val Ogden; and Susie Tracy and Jean Leonard, Washington State Arts Alliance. (Con): Julie O'Neil, Association of King County Historical Organizations; Bruce Weillepp, Pacific County Historical Society; and Glenna Magee O'Neil, Sequim Dungeness Valley Lodging Association.