

# HOUSE BILL REPORT

## ESHB 1253

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### As Amended by the Senate

**Title:** An act relating to the lodging tax.

**Brief Description:** Concerning the lodging tax.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Blake, Orcutt, Takko, Dahlquist, Haigh, Hunt, Walsh, Lytton, Nealey, Morris, Hudgins, McCoy, Zeiger, Maxwell, Pettigrew, Bergquist, Van De Wege, Upthegrove and Freeman).

**Brief History:**

**Committee Activity:**

Finance: 1/28/13, 2/28/13 [DPS].

**Floor Activity:**

Passed House: 3/13/13, 71-26.

Senate Amended.

Passed Senate: 4/15/13, 47-1.

### Brief Summary of Engrossed Substitute Bill

- Allows lodging tax revenues to continue to be used for operation expenditures for special events or festivals.
- Allows property owned by a nonprofit organization to continue to be considered a "tourism-related facility."
- Prohibits local jurisdictions with a population of 1.5 million or less from using lodging tax revenues to pay off bonds issued after July 1, 2013.
- Prohibits lodging tax revenues from replacing existing funding for capital expenditures for tourism-related facilities.
- Modifies reporting and application requirements for recipients of lodging tax revenues.
- Requires the Joint Legislative Audit and Review Committee to report to the Legislature on a biannual basis, on the economic impact of lodging tax revenues.
- Changes the definition of tourist and provides a new definition for "local travelers."

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*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.*

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Fitzgibbon, Lytton, Pollet, Reykdal, Springer, Vick and Wilcox.

**Minority Report:** Do not pass. Signed by 1 member: Representative Hansen.

**Staff:** Dominique Meyers (786-7150).

### **Background:**

#### Lodging Tax.

A hotel-motel tax is a special sales tax on lodging rentals by hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities. Cities and counties are authorized to levy a basic, or state-shared hotel-motel tax of up to 2 percent. These taxes are credited against the state sales tax on the furnishing of lodging. Other hotel-motel taxes are imposed in addition to ordinary state and local sales taxes and are added to the amount paid by the customer. The latter type is often referred to as special hotel-motel taxes.

Initially authorized in 1967 to provide King County with a funding source for the building of the Kingdome, the state-shared lodging tax was incrementally expanded over the years to cover additional cities, counties and fund uses. The additional (special) lodging tax was initially authorized in 1982. 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.

#### Attorney General Opinion 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:

1. Must a municipality have an ownership interest in a tourism-related facility in order to allocate lodging tax revenues for its operation?
2. May a municipality spend lodging tax revenues on operating expenses of special events and festivals designed to attract tourists, which are operated by nonmunicipal entities?
3. 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 Attorney General (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-government 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 (JLARC) 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 Engrossed Substitute 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." Lodging tax revenues can be used for capital expenditures, but cannot replace current funding or be used to pay off bonds issued after July 1, 2013.

Jurisdictions no longer have to provide an annual report of the use of lodging tax revenues to the Department of Commerce. 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 and also provide the application to the local lodging tax advisory committee. The definition of tourist is modified and a definition for "local-traveler" is included. A post-event report must be submitted to the local jurisdiction evaluating the actual benefits from the estimated benefits in the application.

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment removes the use of lodging tax revenues for capital expenditures for tourism facilities owned by nonprofit organizations only allowing revenues for capital expenditures for facilities owned or operated by a municipality or public facility district. The legislative intent language is eliminated along with the new definition of "local traveler" and

the current definition of tourist is removed. Specific reporting requirements for those applying to use lodging tax revenues are modified.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on April 10, 2013.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2013.

**Staff Summary of Public Testimony:**

(In support) Community festivals are critical to the economic activity in smaller communities. The Central Fair brings over 300,000 visitors to Yakima each year. Other special events brought in people from all over Washington and even northern California. These types of events provide the opportunity to bring economic value to the community and "heads-in-beds." Many cities relied on the expanded use of lodging dollars. One example would include the use of revenues for the 2012 summer Olympic trials, which brought people to the city and put "heads-in-beds." The bill is vital for downtown Renton. The lodging taxes were very critical for Renton to obtain the visitor center in the downtown area.

(In support with amendment(s)) Historically, fairs qualified because of the interpretation that nonprofits qualify if they are acting as an agent for the local government. It would be beneficial if the bill were amended so fairs owned or operated by a nonprofit would continue to qualify.

(Opposed) Lodging is a risky business with small margins that needs all the marketing dollars it can get. Tourism is important to the restaurant industry. Restaurants rely heavily on tourism dollars that provide restaurants a steady stream of diners, but not by the one-time festivals or events. Since the state no longer has a state tourist office, the dollars need to be spent on marketing to help build the pot. The intent of lodging tax dollars is for marketing to drive tourists into communities to spend money and then generate revenue for that community. The definition of tourist needs to be amended so it will not include a traveler that goes from Olympia to Lacey. Lodging tax revenues are already spent on marketing fairs and special events, including once-a-year events. The money needs to stay in marketing.

**Persons Testifying:** (In support) Representative Blake, prime sponsor; Dini Duclos, City of Federal Way; Ryan Miller, Hampton Suites; Audrey Godwin, Renton Chamber of Commerce and Visitor's Center; Brent Camann, Marriott Hotels; Dawn Smith, Cowlitz County Tourism Bureau; Mark Smith, Eco Park Resort; Frank Wright, Emerald Queen Casino; Doug Levy, Cities of Fife and Renton; Josh Weiss, Washington State Association of Counties; and Mike Bruner, Grays Harbor County Tourism.

(In support with amendment(s)) Ron Newbry and Dick Zais, Central Washington Fair Association.

(Opposed) Monique Trudinowski; Becky Bogard, Washington State Destination Marketing Organization; Cheryl Kilday, Washington State Destination Marketing Organization and Visit Spokane; Steven Gear, Oxford Suites Kitsap VCB; Sandra Miller, Governor Hotel; Andy

Olsen, Columbia Hospitality Washington Lodging Association; Claus Hagstromer, Bainbridge Island Lodging Association; and Arthur West.

**Persons Signed In To Testify But Not Testifying:** None.