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ENGROSSED SUBSTITUTE HOUSE BILL 1253

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State of Washington

63rd Legislature

2013 Regular Session

**By** House 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)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to the lodging tax; amending RCW 67.28.1816 and  
2 67.28.1817; reenacting and amending RCW 67.28.080; creating a new  
3 section; providing an effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2007 the  
6 legislature passed Substitute Senate Bill No. 5647, which expanded the  
7 allowable uses of lodging tax revenues for tourism promotion. The  
8 legislature further finds that the 2007 legislation was temporary but  
9 required the analysis of the economic impact of the expanded uses of  
10 lodging tax revenues. The legislature further finds that hoteliers are  
11 the cornerstone of the tourism industry and are the entities that  
12 generate lodging tax revenues that benefit the local jurisdictions  
13 throughout the state. The legislature further finds that lodging tax  
14 revenues stimulate economic activity when the use of revenues is  
15 specific and targeted based on the differing needs of local  
16 jurisdictions.

17 (2) Because of the diverging needs of local jurisdictions, the  
18 legislature intends to continue to allow the expanded uses of lodging  
19 tax revenues to promote tourism and increase economic activity for

1 local jurisdictions. The legislature further intends to subject the  
2 use of lodging tax revenues to a periodic review to ensure that the  
3 incremental economic benefit is measured and that the use of lodging  
4 tax revenues continues to increase tourism and generate revenue for  
5 local jurisdictions.

6 **Sec. 2.** RCW 67.28.1816 and 2008 c 28 s 1 are each amended to read  
7 as follows:

8 (1) Lodging tax revenues under this chapter may be used, directly  
9 by local jurisdictions or indirectly through a convention and visitors  
10 bureau or destination marketing organization, for the marketing and  
11 operations of special events and festivals designed to attract tourists  
12 and local travelers and to support the operations and capital  
13 expenditures of tourism-related facilities, designed to attract  
14 tourists and local travelers, owned or operated by public entities, or  
15 nonprofit organizations described under section 501(c)(3) and section  
16 501(c)(6) of the internal revenue code of 1986, as amended. In  
17 counties with a population of one million five hundred thousand or  
18 less, lodging tax revenues may not be used for debt service on bonds  
19 issued on or after the effective date of this section. Lodging tax  
20 revenues used for capital expenditures under this section may not  
21 supplant existing funding for capital expenditures for tourism-related  
22 facilities.

23 ~~(2) ((Local jurisdictions that use the lodging tax revenues under~~  
24 ~~this section must submit an annual economic impact report to the~~  
25 ~~department of community, trade, and economic development for~~  
26 ~~expenditures made beginning January 1, 2008. These reports must~~  
27 ~~include the expenditures by the local jurisdiction for tourism~~  
28 ~~promotion purposes and what is used by a nonprofit organization exempt~~  
29 ~~from taxation under 26 U.S.C. Sec. 501(c)(3) or 501(c)(6). This~~  
30 ~~economic impact report, at a minimum, must include: (a) The total~~  
31 ~~revenue received under this chapter for each year; (b) the list of~~  
32 ~~festivals, special events, or nonprofit 501(c)(3) or 501(c)(6)~~  
33 ~~organizations that received funds under this chapter; (c) the list of~~  
34 ~~festivals, special events, or tourism facilities sponsored or owned by~~  
35 ~~the local jurisdiction that received funds under this chapter; (d) the~~  
36 ~~amount of revenue expended on each festival, special event, or~~  
37 ~~tourism-related facility owned or sponsored by a nonprofit 501(c)(3) or~~

1 ~~501(c)(6) organization or local jurisdiction; (e) the estimated number~~  
2 ~~of tourists, persons traveling over fifty miles to the destination,~~  
3 ~~persons remaining at the destination overnight, and lodging stays~~  
4 ~~generated per festival, special event, or tourism-related facility~~  
5 ~~owned or sponsored by a nonprofit 501(c)(3) or 501(c)(6) organization~~  
6 ~~or local jurisdiction; and (f) any other measurements the local~~  
7 ~~government finds that demonstrate the impact of the increased tourism~~  
8 ~~attributable to the festival, special event, or tourism-related~~  
9 ~~facility owned or sponsored by a nonprofit 501(c)(3) or 501(c)(6)~~  
10 ~~organization or local jurisdiction.~~

11 ~~(3) The joint legislative audit and review committee must report to~~  
12 ~~the legislature and the governor on the use and economic impact of~~  
13 ~~lodging tax revenues by local jurisdictions since January 1, 2008, to~~  
14 ~~support festivals, special events, and tourism-related facilities owned~~  
15 ~~or sponsored by a nonprofit organization under section 501(c)(3) or~~  
16 ~~501(c)(6) of the internal revenue code of 1986, as amended, or a local~~  
17 ~~jurisdiction, and the economic impact generated by these festivals,~~  
18 ~~events, and facilities. This report shall be due September 1, 2012.~~

19 ~~(4) Reporting under this section must begin with calendar year~~  
20 ~~2008.~~

21 ~~(5) This section expires June 30, 2013.))~~ (a) Except as provided in  
22 (b) of this subsection, applicants applying for use of revenues in this  
23 chapter must provide the legislative body of the municipality to which  
24 they are applying estimates of how any moneys received will result in  
25 increases in:

26 (i) The number of tourists and local travelers visiting the  
27 municipality including anticipated overnight stays; and

28 (ii) Tourism-related and local traveler-related economic activity  
29 benefiting the municipality.

30 (b) In a municipality with a population of five thousand or more,  
31 applicants applying for use of revenues in this chapter must submit  
32 their applications and estimates described under (a) of this subsection  
33 to the local lodging tax advisory committee.

34 (c)(i) All recipients must submit a report to the legislative body  
35 of the municipality reporting pertinent data evaluating tourism and  
36 local visitor benefits resulting from the use of the funds as compared  
37 with the estimates contained in the application. The legislative body  
38 of the municipality receiving a report must: Make such report

1 available to the public and furnish copies of the report to the joint  
2 legislative audit and review committee and members of the local lodging  
3 tax advisory committee by December 31st each year.

4 (ii) On a biennial basis, and in compliance with RCW 43.01.036, the  
5 joint legislative audit and review committee must submit a report to  
6 the economic development committees of the legislature that details the  
7 use and economic impact of lodging tax revenues by local jurisdictions  
8 based on the reports furnished to the joint legislative audit and  
9 review committee under (c)(i) of this subsection. Reporting under this  
10 subsection must begin in calendar year 2015.

11 (d) This section does not apply to the revenues of any lodging tax  
12 authorized under this chapter imposed by a county with a population of  
13 one million five hundred thousand or more.

14 **Sec. 3.** RCW 67.28.080 and 2007 c 497 s 1 are each reenacted and  
15 amended to read as follows:

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18 (1) "Acquisition" includes, but is not limited to, siting,  
19 acquisition, design, construction, refurbishing, expansion, repair, and  
20 improvement, including paying or securing the payment of all or any  
21 portion of general obligation bonds, leases, revenue bonds, or other  
22 obligations issued or incurred for such purpose or purposes under this  
23 chapter.

24 (2) "Local traveler" means a person who travels less than fifty  
25 miles from their residence or business, or a person who travels by  
26 ferry, to attend a special event or festival.

27 (3) "Local traveler economic impacts" means economic activity  
28 resulting from local travelers which may include meals, admissions  
29 fees, souvenirs, tours, and gifts.

30 (4) "Municipality" means any county, city or town of the state of  
31 Washington.

32 ~~((+3))~~ (5) "Operation" includes, but is not limited to, operation,  
33 management, and marketing.

34 ~~((+4))~~ (6) "Person" means the federal government or any agency  
35 thereof, the state or any agency, subdivision, taxing district or  
36 municipal corporation thereof other than county, city or town, any  
37 private corporation, partnership, association, or individual.

1        ~~((+5))~~ (7) "Tourism" means economic activity resulting from  
2 tourists, which may include sales of overnight lodging, meals, tours,  
3 gifts, or souvenirs.

4        ~~((+6))~~ (8) "Tourism promotion" means activities, operations, and  
5 expenditures designed to increase tourism, including but not limited to  
6 advertising, publicizing, or otherwise distributing information for the  
7 purpose of attracting and welcoming tourists; developing strategies to  
8 expand tourism; operating tourism promotion agencies; and funding the  
9 marketing of or the operation of special events and festivals designed  
10 to attract tourists.

11        ~~((+7))~~ (9) "Tourism-related facility" means real or tangible  
12 personal property with a usable life of three or more years, or  
13 constructed with volunteer labor that is: (a)(i) Owned by a public  
14 entity; (ii) owned by a nonprofit organization described under section  
15 501(c)(3) of the federal internal revenue code of 1986, as amended; or  
16 (iii) owned by a nonprofit organization described under section  
17 501(c)(6) of the federal internal revenue code of 1986, as amended, a  
18 business organization, destination marketing organization, main street  
19 organization, lodging association, or chamber of commerce and (b) used  
20 to support tourism, performing arts, or to accommodate tourist  
21 activities.

22        ~~((+8))~~ (10) "Tourist" means a person who travels ~~((from a place of~~  
23 ~~residence to a different town, city, county, state, or country, for~~  
24 ~~purposes of business, pleasure, recreation, education, arts, heritage,~~  
25 ~~or culture.~~

26        ~~(9) Amendments made in section 1, chapter 497, Laws of 2007 expire~~  
27 ~~June 30, 2013)) for business or pleasure on a trip: Away from their~~  
28 ~~place of residence or business and stays overnight in paid~~  
29 ~~accommodations; to a place fifty miles or more one way from their place~~  
30 ~~of residence or their business for the day or stays overnight; or from~~  
31 ~~another country or state outside of their place of residence or their~~  
32 ~~business.~~

33        **Sec. 4.** RCW 67.28.1817 and 1998 c 35 s 3 are each amended to read  
34 as follows:

35        (1) ~~((Before proposing imposition of a new tax under this chapter,~~  
36 ~~an increase in the rate of a tax imposed under this chapter, repeal of~~  
37 ~~an exemption from a tax imposed under this chapter, or a change in the~~

1 use of revenue received under this chapter, a municipality with a  
2 population of five thousand or more shall establish a lodging tax  
3 advisory committee under this section)) (a) A municipality with a  
4 population of five thousand or more must establish a lodging tax  
5 advisory committee under this section before either:

6 (i) Proposing imposition of a new tax under this chapter, an  
7 increase in the rate of a tax imposed under this chapter, or a repeal  
8 of an exemption from a tax imposed under this chapter; or

9 (ii) Approving an application for use of revenue received under  
10 this chapter.

11 (b)(i) A lodging tax advisory committee (~~shall~~) must consist of  
12 at least five members, appointed by the legislative body of the  
13 municipality, unless the municipality has a charter providing for a  
14 different appointment authority.

15 (ii) The committee membership (~~shall~~) must include:

16 ~~((a))~~ (A) At least two members who are representatives of  
17 businesses required to collect tax under this chapter; and

18 ~~((b))~~ (B) At least two members who are persons involved in  
19 activities authorized to be funded by revenue received under this  
20 chapter. Persons who are eligible for appointment under ~~((a))~~  
21 (b)(ii)(A) of this subsection are not eligible for appointment under  
22 (b)(ii)(B) of this subsection. Persons who are eligible for  
23 appointment under (b)(ii)(B) of this subsection are not eligible for  
24 appointment under ~~((a))~~ (b)(ii)(A) of this subsection.

25 (c) Organizations representing businesses required to collect tax  
26 under this chapter, organizations involved in activities authorized to  
27 be funded by revenue received under this chapter, and local agencies  
28 involved in tourism promotion may submit recommendations for membership  
29 on the committee. The number of members who are representatives of  
30 businesses required to collect tax under this chapter (~~shall~~) must  
31 equal the number of members who are involved in activities authorized  
32 to be funded by revenue received under this chapter. One member  
33 (~~shall~~) must be an elected official of the municipality who (~~shall~~)  
34 must serve as chair of the committee. An advisory committee for a  
35 county may include one nonvoting member who is an elected official of  
36 a city or town in the county. An advisory committee for a city or town  
37 may include one nonvoting member who is an elected official of the

1 county in which the city or town is located. The appointing authority  
2 (~~shall~~) must review the membership of the advisory committee annually  
3 and make changes as appropriate.

4 (2)(a) Any municipality that: (i) Proposes imposition of a tax  
5 under this chapter, an increase in the rate of a tax imposed under this  
6 chapter, or a repeal of an exemption from a tax imposed under this  
7 chapter(~~, or a change in the~~); or (ii) approves an application for  
8 use of revenue received under this chapter (~~shall~~), must submit (~~the~~  
9 proposal) all proposals and applications received pursuant to RCW  
10 67.28.1816(2) to the lodging tax advisory committee for review (~~and~~  
11 comment). The submissions (~~shall~~) must occur at least forty-five  
12 days before final action on or passage of the proposal by the  
13 municipality.

14 (b)(i) The advisory committee (~~shall~~) must submit comments on  
15 (~~the~~) any proposal (~~in a timely manner through generally applicable~~  
16 public comment procedures. The comments shall include an analysis of  
17 the extent to which the proposal will accommodate activities for  
18 tourists or increase tourism, and the extent to which the proposal will  
19 affect the long-term stability of the fund created under RCW  
20 67.28.1815. Failure of the advisory committee to submit comments  
21 before final action on or passage of the proposal shall not prevent the  
22 municipality from acting on the proposal. A municipality is not  
23 required to submit an amended proposal to an advisory committee under  
24 this section) for imposition of a tax under this chapter, an increase  
25 in the rate of a tax imposed under this chapter, repeal of an exemption  
26 from a tax imposed under this chapter, or an approval of an application  
27 for use of revenue received under this chapter in a timely manner  
28 through generally applicable public comment procedures.

29 (ii) The lodging tax advisory committee must prioritize all  
30 applications for use of revenue in this chapter and submit the  
31 prioritized list and funding levels to the legislative body of the  
32 municipality for final determination.

33 (iii) The lodging tax advisory committee must consider the extent  
34 to which the proposed use of the funds will affect the long-term  
35 stability of the fund created under RCW 67.28.1815.

36 (iv) The legislative body of the municipality may only choose  
37 recipients from the prioritized list of applications and funding levels  
38 provided by the local lodging tax advisory committee. The legislative

1 body of the municipality may only change the funding level after the  
2 lodging tax advisory committee has been given the opportunity to review  
3 the proposed change.

4 (v) Failure of the advisory committee to submit comments and a  
5 prioritized list before final action on a proposal or approval of  
6 applicants for use of the funds does not prevent the municipality from  
7 acting.

8 (c) The legislative body of the municipality is not required to  
9 submit an amended proposal to an advisory committee under this section.

10 (d) This section does not apply to any lodging tax authorized under  
11 this chapter imposed by a county with a population of one million five  
12 hundred thousand or more.

13 NEW SECTION. Sec. 5. This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and takes effect  
16 July 1, 2013.

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