

HOUSE BILL REPORT

HB 1254

As Reported by House Committee On:
Community & Economic Development & Trade

Title: An act relating to the use of lodging tax revenues for tourism promotion.

Brief Description: Concerning the use of lodging tax revenues for tourism promotion.

Sponsors: Representatives Bailey, B. Sullivan, Haler, Skinner, McDonald, Wallace, Condotta, Sump, Kristiansen, Strow, Pettigrew, McCune, P. Sullivan, Dunn and Morrell.

Brief History:

Committee Activity:

Community & Economic Development & Trade: 2/1/07, 2/19/07 [DPS].

Brief Summary of Substitute Bill

- Authorizes local lodging tax revenues to be used for tourism related facilities owned by a public entity or a nonprofit 501(c)(6) organization.
- Authorizes municipalities using local lodging tax revenues for tourism promotion to contract with nonprofit 501(c)(6) organizations for tourism promotion activities.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kenney, Chair; Pettigrew, Vice Chair; Bailey, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Chase, Darneille, Haler and P. Sullivan.

Minority Report: Without recommendation. Signed by 1 member: Representative Rolfes.

Staff: Tracey Taylor (786-7196).

Background:

Lodging Tax

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.

The lodging tax, also known as the local hotel-motel tax, is applied 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 tax rate is up to 2.0 percent and all cities and counties that levy the tax have adopted the maximum rate. The tax is credited against the state retail sales tax of 6.5 percent in order to prevent the customer from incurring 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 and 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 In 1997, the Legislature repealed the assortment of multiple uses for the lodging tax and instead required the future revenues to be used for tourism-related purposes.

In 2005, the lodging tax revenue was up 9.8 percent, distributing \$21.75 million to 141 cities and 35 counties.

Current Statutory Scheme

Any municipality is authorized to acquire and to operate tourism-related facilities. This can be done by the municipality individually or jointly. The statute defines "tourism-related facility" as "real or tangible personal property with a usable life of three or more years, or constructed with volunteer labor, and used to support tourism, performing arts, or to accommodate tourist activities." A municipality is authorized to levy and collect a lodging tax of up to 2 percent on the sale or charge made for the furnishment of lodging. All revenues from this tax shall be credited to a special fund and "used solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities." "Tourism promotion" is defined as "activities and expenditures designed to increase tourism, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose 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."

Recent Attorney General Opinion (AGO 2006 No. 4)

In response to an inquiry from Senator Fraser, Attorney General McKenna (AG) 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 opines that there still must be some governmental interest in the facilities receiving lodging tax funds. However, there is nothing prohibiting the Legislature from

amending the statute to expressly allow municipalities to expend lodging tax receipts on the operations of non-governmentally owned facilities.

The lodging statute currently expressly limits the use of lodging taxes on special events and festivals designed to attract tourists to marketing activities only. The AG concluded that there is no statutory exception to this express limitation of fund use. For a period of time in the 1990s, municipalities were allowed to use the proceeds directly for the funding of special events or festivals; however, the current limiting language was adopted in 1997.

The AG concluded also that advance payment of lodging tax revenues to tourist promotion agencies for tourist promotion activities is 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.

Summary of Substitute Bill:

Revenues from the lodging tax may be used for tourism-related facilities, including visitor information centers, owned by a public entity or a nonprofit 501(c)(6) organization. In addition, municipalities may contract with 501(c)(6) nonprofit organizations for tourism promotion activities.

Substitute Bill Compared to Original Bill:

Nonprofit 501(c)(3) organizations are deleted from the bill. In addition, visitor information centers are specifically authorized tourism-related facilities.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The AGO directly impacted the chambers of commerce, who operate many of the visitor information centers and are the prime method of communication with tourists for many communities. Due to the interpretation of the AGO by local government counsels, many visitor information centers have shut their door due to the loss of the lodging tax revenues. This bill merely clarifies that municipalities may contract with chambers of commerce and other 501(c)(6) organizations for tourism promotion.

(Opposed) By opening up the lodging tax revenues to 501(c)(3) organizations, the revenues could be used for events or facilities that do not directly increase the overnight stays which is one of the reasons why the lodging tax is linked to tourism promotion. The overall net effect

could be to decrease the available money for local tourism marketing. Chambers of commerce should already qualify for the tourism money just as convention and visitors bureaus are qualified, both being 501(c)(6) nonprofit organizations, especially if they are operating the visitor information center for the community.

Persons Testifying: (In support) Representative Bailey, prime sponsor; and Kristen Whitener, Washington Chambers of Commerce and Mount Vernon Chamber of Commerce.

(Opposed) Becky Bogard, Washington State Association of Convention and Visitors Bureaus.

Persons Signed In To Testify But Not Testifying: None.