

FINAL BILL REPORT

ESHB 1253

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Synopsis as Enacted

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).

House Committee on Finance
Senate Committee on Trade & Economic Development
Senate Committee on Ways & Means

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 In 1997 the Legislature repealed the assortment of multiple uses for the lodging tax and instead required the future revenues to be used for tourism-related purposes.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?

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.

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.

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

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

Local jurisdictions using lodging tax revenues were 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 expire on June 30, 2013.

Summary:

The June 30, 2013, expiration date is removed. Therefore, lodging tax revenues may continue to be used for the operations related to tourism promotion, including operations related to special events and festivals. Nonprofit organizations may continue to own "tourism-related facilities." Lodging tax revenues may be used for capital expenditures for tourism-related facilities owned or operated by municipalities or public facility districts.

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 in jurisdictions with a population of 5,000 or more, must also provide the application to the local lodging tax advisory committee. A post-event report must be submitted to the local jurisdiction evaluating the actual benefits from the estimated benefits in the application. The definition of tourist is removed.

Votes on Final Passage:

House	71	26	
Senate	47	1	(Senate amended)
House	90	7	(House concurred)

Effective: July 1, 2013