

SENATE BILL REPORT

SB 5262

As Reported by Senate Committee On:
Trade & Economic Development, February 21, 2013

Title: An act relating to the lodging tax.

Brief Description: Concerning the lodging tax.

Sponsors: Senators Fraser, Dammeier, Ranker, King, Eide, Becker, Hasegawa and Shin.

Brief History:

Committee Activity: Trade & Economic Development: 2/14/13, 2/19/13, 2/21/13 [DPS-WM].

SENATE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5262 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Braun, Chair; Smith, Vice Chair; Baumgartner, Holmquist Newbry, Schlicher and Shin.

Staff: Edward Redmond (786-7471)

Background: A hotel-motel tax is a special sales tax on lodging rentals by hotels, motels, rooming houses, private campgrounds, RV parks, and other 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 a special hotel-motel tax.

Prior to 2007, lodging taxes were to be used only for tourism purposes. Tourism purposes included tourism promotion and tourism facilities. Tourism promotion included expenditures designed to increase tourism, such as advertising, publicizing, and other methods of distributing information to attract tourists. Tourism-related facilities were defined 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 or performing arts or to accommodate tourist activities.

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.

In 2007, SSB 5647 expanded the allowed uses for tourism promotion to include operations. This allowed lodging tax revenues to be used for operations expenditures for tourism promotion as well as to fund and operate festivals and special events. The definition of tourism-related facility was amended to mean property that is owned by a public entity or a nonprofit organization, which includes both 501(c)(3) and 501(c)(6) nonprofit organizations. This authorized local lodging tax revenues to be used for tourism-related facilities owned by a public entity or a nonprofit organization, including organizations such as business organizations, destination marketing organizations, main street organizations, lodging associations, and chambers of commerce. The legislation also required annual accountability reports on the use of funds for festivals, special events, and tourism-related facilities owned by a nonprofit organization. The data in the report must include the following: total lodging tax collected for the year; list of events and organizations that received funds; list of events or tourism facilities either owned or sponsored by the local jurisdiction that received funds; the estimated number of tourists and overnight guests generated by the events and tourism facilities; and any other data that demonstrates an impact from the increased tourism that can be attributed to the events or tourism-related facilities.

A report by the Joint Legislative Audit and Review Committee (JLARC) to the Legislature and Governor was submitted on May 17, 2012, regarding the expenditures and economic impact of the festivals, special events, and tourism-related facilities owned by nonprofit organizations. JLARC's report stated that approximately 8 percent of lodging tax revenues were spent on the newly authorized purposes, and 92 percent of revenues were spent on previously allowed purposes. They were not, however, able to determine an economic impact from these changes due to incomplete reporting by local governments and concerns about the reliability of the tourist-related data that local governments collected. Moreover, local governments were not asked to collect and report information on tourist spending, which the JLARC study found was necessary for estimating economic impact. The JLARC study concluded that if the Legislature wishes to obtain reliable information for estimating the impact of these expenditures, additional data, collection guidance, and oversight would be needed; however, there would be costs associated with improved data collection and oversight, particularly for collecting reliable information on tourist spending.

The expanded uses for tourism promotion and reporting requirements created under SSB 5647 expire on June 30, 2013.

Summary of Bill (Recommended Substitute): The June 30, 2013, expiration date is removed. Local jurisdictions may use lodging tax revenues to fund festivals and special events designed to attract tourism and to fund the operations of tourism-related facilities owned by nonprofit organizations.

The specified measurement requirements under current law are removed. Applicants must instead supply the local jurisdiction with estimates of how the lodging tax funds result in increases to: tourists visiting the jurisdiction including anticipated overnight stays, and economic benefits to the jurisdictions from such tourist visits.

Applicants in a municipality with a population of over 5000 must submit their applications to the local tax advisory committee. The local tax advisory committee must select candidates and recommended amounts of funding and provide a list of those candidates to the local

jurisdiction for final determination. The local jurisdiction is only authorized to choose recipients from the list provided by the local tax advisory committee.

All applicants must submit to the local jurisdiction a report comparing the estimated tourism benefits with the actual outcomes to the local jurisdiction. Local jurisdictions receiving the post report must make it available to the local legislative body and the public, and must distribute copies of the report to COM and the local lodging tax advisory committees.

On a biennial basis, JLARC must use the reports distributed to COM to determine the economic impacts of the lodging tax revenues. JLARC must brief the Legislature on this report beginning 2015.

The definition of tourist is amended. Tourist means a person who travels for business or pleasure on a trip: away from their place of residence or business and stays overnight in paid accommodations; to a place 50 miles or more, one way, from their place of residence or their business for the day or stays overnight; or from another country or state outside of their place of residence or their business.

EFFECT OF CHANGES MADE BY TRADE & ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute):

- Clarifies that the funds are authorized to be used for special events and festivals designed to attract tourism.
- Removes capital expenditures as an authorized use.
- Provides that lodging tax revenues may be used to support the operation of tourism-related facilities owned or operated by nonprofit organizations.
- Provides that when applicants apply for funding they must give estimates on how the monies they receive will increase the number of tourists visiting the local jurisdiction including anticipated overnight stays.
- Provides that applicants in a municipality with a population of over 5000 must submit their applications to the local tax advisory committee. The local tax advisory committee must select candidates and recommended amounts of funding and provide a list of those candidates to the local jurisdiction for final determination. The local jurisdiction is only authorized to choose recipients from that list.
- Provides that the report submitted to the local jurisdiction be given to COM and that on a biennial basis JLARC must use such report to determine the economic impact of the lodging tax revenues. JLARC must brief the Legislature on this report beginning in 2015.
- Amends the definition of tourist.
- Makes a technical correction to clarify that recipients of funds, not applicants, must submit a report to the local jurisdiction concerning the outcomes from the received funds.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill is about a local option tax on lodging for the purpose of promoting tourism. The issue in this bill is what promotes tourism. A few years ago the state auditor made a determination that the lodging tax revenues could not be used for helping to put on an event. Following that determination, the Legislature passed a bill that said for up to five years funds could be used to help local nonprofit groups put on events that attract tourists. There are a lot of nonprofits across the state that put on such events but need financial assistance. This bill eliminates the June 30, 2013 sunset clause and permits local jurisdictions to continue to use a portion of their lodging tax revenues, at their discretion, to assist nonprofit organizations to put on events that attract tourists. If the sunset takes effect, there are only two ways the funds could be used. One is for advertising the event but not helping to put it on, and the second is for local jurisdictions to put on their own events without assisting a nonprofit. To help a nonprofit, all a local jurisdiction would be able to do is advertise the event.

CON: This is a special tax on one category of business. It is designed to promote tourism and that is how it should be aimed. Over the years some of the funding has been abused. There are lodging tax advisory committees that were created in the mid 1990s and they are supposed to review the uses of the lodging tax. In some communities, however, this does not happen. The JLARC report found that there was not enough data to determine if those added expenditures had any economic impacts. We should not continue these expanded uses if we cannot figure out, or the local jurisdictions did not care enough to report on, the economic impacts. This state does not have a tourism office. Since 2011, we are the only state in the nation without a statewide marketing program. The lodging tax revenues are the only tourism marketing funds the state provides. Local jurisdictions have been using them to work together to try and market the state in the absence of a tourism office.

Persons Testifying: PRO: Senator Fraser, prime sponsor; Ken Hays, Craig Ritchie, City of Sequim; Lee Grose, Lewis County Commissioner; Becky Bogard, WA State Destination Marketing Organizations; Johanna Jones, Andy Skinner, Lewis County Historical Museum; Ron Cridlebaugh, Kittitas County Chamber of Commerce; Skip Priest, Mayor of Federal Way; Ryan Miller, Hampton Inn and Suites; Joe Marine, City of Mukilteo; Glenn Hull, City of Fife Mayor Pro Tem; Fawn Bowles, Staybridge Suites, Mukilteo LTAC Committee; Jean Marie Trapp, Mukilteo Chamber of Commerce; John Binns, Bellingham Festival of Music; Walt Bowen, Greater Olympia Dixieland Jazz Society; Josh Weiss, WA State Assn. of Counties; Victoria Lincoln, Assn. of WA Cities; Greg Stewart, Ron Newbry, Central WA Fair Assn.; Eli Sterling, Earthbound Productions.

CON: Kris Kelley-Watkins, Tri Cities CVB; Jan Simon, WA Lodging Assn.; Andy Olsen, Columbia Hospitality; Sang Chae, Korean American Hotel Assn.; Sandra Miller, Governor Hotel, WA Lodging Assn.; Patrick Doherty, City of Federal Way; Arthur West, citizen.