

HOUSE BILL REPORT

ESSB 6592

As Passed House - Amended:
March 6, 2020

Title: An act relating to tourism authorities.

Brief Description: Concerning tourism authorities.

Sponsors: Senate Committee on Local Government (originally sponsored by Senators Holy, Hunt, Takko and Keiser).

Brief History:

Committee Activity:

Innovation, Technology & Economic Development: 2/26/20, 2/28/20 [DPA];
Finance: 3/2/20 [DPA(FIN w/o ITED)].

Floor Activity:

Passed House - Amended: 3/6/20, 89-8.

**Brief Summary of Engrossed Substitute Bill
(As Amended by House)**

- Amends the definition of a "legislative authority" to allow a county with a population of 40,000 or less, or any city or town within the county, to form a Tourism Promotion Area (TPA).
- Allows legislative authorities of TPAs to impose an additional charge of up to \$3 per room per night on lodging businesses located in the area.
- Requires signatures to be provided from lodging businesses that would pay 60 percent or more of the proposed charges in order for a legislative authority to impose an additional charge.
- Allows lodging businesses in a TPA to petition to remove charges imposed by the legislative authority.

**HOUSE COMMITTEE ON INNOVATION, TECHNOLOGY & ECONOMIC
DEVELOPMENT**

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.

Majority Report: Do pass as amended. Signed by 8 members: Representatives Hudgins, Chair; Kloba, Vice Chair; Smith, Ranking Minority Member; Boehnke, Assistant Ranking Minority Member; Entenman, Slatter, Tarleton and Wylie.

Minority Report: Without recommendation. Signed by 1 member: Representative Van Werven.

Staff: Kyle Raymond (786-7190).

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended by Committee on Finance and without amendment by Committee on Innovation, Technology & Economic Development. Signed by 12 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Frame, Macri, Orwall, Springer, Stokesbary, Vick and Wylie.

Staff: Tracey O'Brien (786-7152).

Background:

Tourism Promotion Areas.

Legislation was passed in 2003 that authorized the creation of Tourism Promotion Areas (TPA). The legislative body of any county with a population of more than 40,000, or any city or town within such a county, may form a TPA to generate revenue for tourism promotion. Counties with a population of 40,000 or less, and cities or towns within those counties, are not eligible to form a TPA.

A TPA may include the entire jurisdiction or a portion of a jurisdiction. Multiple jurisdictions may establish a joint TPA through interlocal agreement. However, a county TPA may only include previously unincorporated areas, unless the county has signed an interlocal agreement with one or more cities to form a joint TPA. In a county with a population of 1 million or more, the legislative body must be comprised of two or more jurisdictions acting under an interlocal agreement. In 2015 the Legislature created an exception for Federal Way to form a single-jurisdiction TPA.

Formation of a TPA is initiated by a petition to the legislative body of the city or county. The petition must describe the proposed TPA boundaries, the total estimated revenues, the proposed uses of the revenues, and contain the signatures of people who operate lodging businesses in the proposed TPA who would pay at least 60 percent of the proposed charges. The legislative body must hold a public hearing on the establishment of the TPA.

Within the TPA, the legislative body may impose a charge up to \$2 per room per night on lodging businesses with 40 or more rooms. The legislative body may establish up to six different lodging classifications, each with different rates. The classifications must be based on geographic location, number of rooms, or room revenue. Lodging businesses with less than 40 rooms are exempt and may not be assessed, and some jurisdictions have established other exemptions by policy.

The lodging businesses collect the charges and remit them to the Department of Revenue, which deposits the revenues into the Local Tourism Promotion Account. The State Treasurer distributes money in the account monthly to the legislative authority on whose behalf the money was collected.

The revenue must be used for "tourism promotion," which is defined as activities and expenditures designed to increase tourism and convention business, including but not limited to advertising, publicizing, or otherwise distributing information to attract and welcome tourists, and operating tourism destination marketing organizations.

The legislative body may appoint an existing advisory board, or create a new advisory board, to make recommendations on the use of the revenues, but the legislative body has sole discretion as to how the funds are used to promote tourism. The legislative authority may contract with tourism destination marketing organizations or other similar organizations to administer the operation of the area.

Lodging Tax.

Cities and counties are permitted to adopt a local sales tax on charges for lodging at hotels, motels, rooming houses, private campgrounds, recreational vehicle parks, and similar facilities for a continuous period of less than one month.

The lodging tax is a credit against the state retail sales tax rate of 6.5 percent. The maximum tax rate is 2 percent. All 281 cities and 39 counties that levy the lodging tax have adopted the maximum rate.

Cities and counties may use local lodging tax revenue for expenditures for activities, operations, and expenditures designed to increase tourism, including tourism marketing and the acquisition and operation of tourism-related facilities.

All entities receiving lodging tax funds must provide estimates to their respective local government on how the funds received will result in increases in the number of people traveling for business or pleasure on a trip:

- away from their place of residence or business and staying overnight in paid accommodations;
- to a place 50 miles or more one way from their place of residence or business for the day or staying overnight; or
- from another country or state outside of their place of residence or their business.

Local governments are required to report the estimated increase in tourism from the use of lodging tax funds to the Joint Legislative Audit and Review Committee (JLARC) annually. The JLARC must report the use of lodging tax revenues by municipalities to the Legislature biennially.

Summary of Amended Bill:

A county with a population of 40,000 or less, and cities or towns within those counties, is eligible to form a Tourism Promotion Areas (TPA).

A legislative authority may impose an additional charge of up to \$3 per night per stay on the furnishing of lodging by a lodging business located in the area. This charge is in addition to the \$2 charge and expires July 1, 2027.

To impose the additional charge, signatures of the persons who operate lodging businesses that would pay 60 percent or more of the proposed charges must be provided. In addition, the following information must be provided:

- the proposed uses and projects to be funded through the charge;
- the total estimated costs;
- the estimated rate for the charge; and
- a proposed breakdown of charges by class of lodging business for the TPA's that use lodging rate classifications.

The legislative authority's use of revenue derived from the charge must be used to promote tourism that increases the number of tourists to the area.

If a majority of the lodging businesses assessed the charge petition to have the charge removed, the legislative authority must remove the charge within 12 months. The legislative authority may determine when to remove the charge so that the charge expiration date does not adversely impact existing contractual obligations. A legislative authority is not liable for any financial obligations, contractual obligations, or damages for removing the charge.

Each TPA must conduct a program review of the additional TPA charge. The review must be completed and submitted to the appropriate committees of the Legislature by January 1, 2026. The review must:

- analyze how TPA charge funds were used during the period when the additional charge was in place;
- identify additional marketing and promotional measures conducted or purchased with additional funds beyond the current \$2 charge;
- assess whether additional TPA charges above \$2 contributed to an actual increase in the number of tourists; and
- assess the average additional cost per visit per tourist due to additional TPA charges above \$2.

A "tourist" means a person who travels for business or pleasure on a trip:

- away from the person's place of residence or business and stays overnight in paid accommodations;
- to a place at least 50 miles away by driving distance from the person's place of residence or business, one way, for the day or stays overnight, except island communities without land access; or
- to another country or state outside of the person's place of residence or business.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Innovation, Technology & Economic Development):

(In support) The Tourism Promotion Areas (TPA) policy has been in place for 20 years because Washington has no direct tourism budget. Cities spend on tourism because the return on investment for tourism dollars spent is very high, about seven-to-one. The Legislature allows local tourism promotion areas to assess a \$2 charge to be used specifically for tourism. There are about 20 TPAs located throughout the state.

Before TPAs, the lodging tax was in place, but it was only being used to fund the development of facilities, such as convention centers and sports facilities. Tourist Promotion Areas created a new tool to invest resources into the marketing efforts of local destination marketing groups who had a better sense of how to best market their regions for tourism. One of the main advantages of TPAs is they encourage a partnership between the hotel industry, destination marketing organizations, and the legislative authority. In Spokane, this partnership has worked well and opened up the whole concept and value of tourism, while also reflecting how the needs of how tourism have changed. This bill would help bring TPAs into the new era of tourism marketing and reflect tourism needs on the regional and local level.

The TPA assessment is not a tax, but is instead an assessment brought to the local government by the hotels. The hotels impose the assessment on their guests. This bill does not impact the state lodging tax. No other businesses in the local region are assessed the TPA charge, and the additional tourism brought in helps support local economies, including spending at restaurants, retail locations, and local attractions.

Washington is a state that relies on sales tax, and tourism is a significant contributor for both state and local sales tax revenue. Competition for tourism is fierce, and most states and cities we compete against spend more on tourism. For example, California has a \$120 million statewide budget, which is in addition to cities' tourism budgets. Tourist Protection Areas are a great tool that generate funds that can be used in connection with the state tourism marketing program.

Tourist Protection Areas are a phenomenal tool that is not available to rural areas. There are currently 14 counties that do not have access to this tool, and some of these economies in the rural areas depend on tourism the most. In Pacific County, 52 cents of every taxable dollar is spent by a visitor. Through removing the current minimum population requirement, this bill would provide rural areas equal access to TPAs, which could help reduce the rural urban divide.

A few technical items should be addressed in the bill. The bill doesn't explain what happens after lodging businesses petition to remove the charge, including how soon the charge must end and who is responsible if there are outstanding contracts or other financial obligations in place. The bill should include some clarification and flexibility for the legislative authority to wind down that charge and settle financial obligations to ensure costs are not passed to county and local governments.

The bill requires accountability and measurements that ensure funds used are actually generating more tourism. The definition of "tourist" is important because the lodging tax statute includes no definition of "tourist," but cities and counties are required to report how they spend funds on tourism. There are questions about some of the data reported. For example, the City of Aberdeen reported that they spent nearly \$50,000 on city park maintenance that brought in 5 million tourists.

The definition of "tourism" in the bill is critical to putting in place a metric that ensures the assessment is relevant and effective. The "tourism" definition would measure and evaluate the growth of tourism in a TPA. When the additional funding sunsets, TPAs that have imposed an additional fee over \$2 are mandated to report on the additional tourists, and this reporting would be challenging without a definition of a tourist.

The definition of "tourist" should be removed. Why you visit a place is much more important than how far you come from. This program has been working very well without having this definition in the statute.

(Opposed) None.

(Other) The bill should include a wind down provision to ensure no local government is obligated to cover any remaining costs.

The definition of "tourist" should be removed. If someone comes to an area from 30 miles away for a festival or a day trip, they are spending money and bettering the community and should be counted as a tourist. Under this bill, they would not be counted.

There is a long standing debate between primarily hotels and local governments about the definition of tourist. In 2013 negotiations between local governments and hotels over the lodging tax resulted in an agreement that the definition of a tourist would not be included in the lodging tax statute. Although this bill concerns a different statute, if the definition of tourist is included in this bill, the next conversation will be back to why the lodging tax statute should have the definition of a tourist applied. This is problematic for local governments.

There is a way to report the number of tourists in an area without including it in statute, and there is a current reporting metric for the lodging tax that is not in statute. The JLARC report on the lodging tax includes a measure of the number of people that are coming from more than 50 miles away that does not restrict the use of funds to the 50-mile limit. This lodging tax program has been working well without having the definition of "tourist" in statute.

The tourism statutes are messy, cumbersome, and bureaucratic because they have been formed as a result of a series of negotiations and compromises. If the Legislature is interested in revisiting that structure, local governments should be at the table to come up with a better structure. However, this change should not be done in a piecemeal way.

Staff Summary of Public Testimony (Finance):

(In support) Tourists in Washington spend approximately \$20 billion and account for over 170,000 jobs. For every \$1 spent in tourism promotion, \$7 is realized. The Tourism Promotion Areas (TPA) mechanism was enacted in 2003 and has worked well; however, there has never been a fee increase. This bill increases the TPA cap and opens up the eligibility for other jurisdictions to participate. There are accountability provisions. The fiscal impact was reduced by removing the Joint Legislative Audit and Review Committee review. Instead, each TPA has to report on how the funds are spent.

There are a couple of technical amendments that are needed, including the clarification on how a legislative authority will handle outstanding costs if the TPA fee is removed.

The bill includes a necessary definition of "tourist" that is based on a standard definition that was changed slightly to account for some of Washington's uniqueness, including our island communities. The definition is important to the performance metrics and should not be removed.

(Opposed) None.

(Other) This bill will allow more small jurisdictions to take advantage of TPAs. The definition of "tourist" is not needed and there is plenty of opportunity to decide what types of activities should be funded and benefit from TPA moneys without the definition. Moreover, it does not account for tourists who may be a "day tripper" and spend tourist dollars without an overnight stay. Hotels can collaborate on their own if they want to focus on tourists who travel a certain minimum distance. This is a situation where the government is being asked to allow for a fee to be imposed and therefore, the government needs to have a voice in how the money is used. No other taxing authority gets to demand how their tax payments are spent.

Persons Testifying (Innovation, Technology & Economic Development): (In support) Senator Holy, prime sponsor; Eric Sawyer, Spokane Sports; Meg Winchester, Visit Spokane; Andi Day, Long Beach Peninsula Visitors Bureau; Becky Bogard, Washington Destination Management Organizations; Julia Gorton, Washington Hospitality Association; and Candice Bock, Association of Washington Cities.

(Other) Mellani McAleenan, Washington State Association of Counties; Josh Weiss, City of Battle Ground; and Doug Levy, Cities of Renton and Fife.

Persons Testifying (Finance): (In support) Michael Transue, Visit Spokane; Becky Bogard, Washington Destination Management Organizations; Julia Gorton, Washington Hospitality Association; and Candice Bock, Association of Washington Cities.

(Other) Mellani McAleenan, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying (Innovation, Technology & Economic Development): None.

Persons Signed In To Testify But Not Testifying (Finance): None.