



SENATE OF PENNSYLVANIA BILL SUMMARY

House Bill 794 Printer's No. 1842

Prime Sponsor: Representative Gillespie
Committee: Community, Economic and Recreational Development

SYNOPSIS:

Amends The County Code (Act 130 of 1955) by **repealing sections 1770.2** (relating to authorization of excise tax) **and 1770.6** (relating to authorization of hotel tax) and providing for a **Hotel Room Rental Tax** in 3rd through 8th class counties through the addition of {new} sections that would consolidate these provisions, incorporate various reforms, increase the maximum tax rate allowed **from 3% to 5%** and create a more specific process for the certification and decertification of recognized tourist promotion agencies.

SUMMARY:

House Bill 794, Printer's No. 1842, amends The County Code (Act 130 of 1955) as follows:

{Section 1}

Repeals sections 1770.2 (relating to authorization of excise tax) **and 1770.6** (relating to authorization of hotel tax).

{Section 2}

Adds a {new} **section 1770.10** (relating to Hotel Room Rental Tax in third through eighth class counties). Significant portions of the language being carried over into {new} section 1770.10 is similar to the language currently contained in the sections being repealed (sections 1770.2 and 1770.6). The tax, at the {new} potential maximum tax rate of **5%** (an increase from **3%**), continues to be authorized and imposed by the county and collected and remitted by hotels on consideration received from patrons from the renting of a room or rooms with the revenue continuing to go to a county's recognized tourist promotion agency (TPA). A county continues to be required to remit revenues to its TPA within sixty (60) days. TPAs would continue to be required to provide the county with an annual audit {new} (or a financial statement).

The reforms would include clarifications and modifications meant to ensure revenues from the **Hotel Room Rental Tax** are in fact used by TPAs for the marketing and promotion of tourism and travel.

- The six existing categories of allowed spending are condensed to five categories by repealing the convention promotion category and incorporating it instead into the business marketing provision.
- {Paragraph 4} The programs and grants category is tweaked to ensure a TPA deems it necessary (related language already existed elsewhere in the spending provisions). Language is added to precluded competition with private sector. Finally, language is added to further emphasis tax revenues to be spent primarily on marketing and promotion.
- {Paragraph 5} Any other tourism marketing or promotion program or project category is tweaked to ensure a TPA deems it necessary (related language already existed elsewhere in the spending provisions). Language added to precluded competition with private sector. Finally, language is added to further emphasis tax revenues to be spent primarily on marketing and promotion.
- **5%** administrative fee (currently section 1770.2 provides for a deduction for direct and indirect costs and section 1770.6 provides for a 2% administrative fee).
- Imposes a **1.5%** penalty per month [on the hotel operator] for the failure to collect and remit the Hotel Room Rental Tax and allows the county to impose a lien on the hotel.
- Defined terms – Incorporates many of the terms contained in sections 1770.2 and 1770.6 along with some tweaks and additions to those terms that are represented in part by the following:
 - {new} “Cabin.” A permanent structure with beds located on a campground on State land or private property that is available to provide overnight lodging for consideration to persons seeking temporary accommodations. The term does not include yurts or walled tents.
 - {tweaked} “Hotel” definition is amended to include any “cabins” (which is now also a defined term).
 - The term “does not include provision” is amended to also specify it does not include any charitable institution, or university residence halls occupied by students, hospitals, nursing homes, educational or religious summer camps will not be consider taxable, or part of a campground that is not a cabin.
 - {new} “Marketing.” An Action by a recognized tourism promotion agency that includes, but is not limited to, promoting and encouraging visitors to visit a specific county, counties or geographic region.

Any county currently imposing a local excise tax/hotel tax or that establishes a Hotel Room Rental Tax in the future under these {new} provisions, regardless of the rate of taxation would be subject to the various proposed reforms.

These reform provisions would apply to a total of **54 counties** currently covered by the two sections that would be repealed and consolidated within the proposed {new} section 1770.10.

- Section 1770.2 – Blair, Cambria, Centre, Chester, Indiana, Lancaster, Lycoming, Mercer and York.
- Section 1770.6 – Armstrong, Beaver, Bedford, Bradford, Butler, Cameron, Carbon, Clarion, Clearfield, Clinton, Columbia, Crawford, Cumberland, Elk, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Jefferson, Juniata, Lawrence, Lebanon, McKean, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan,

Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland and Wyoming.

Also adds {new} section 1770.11, which creates a more specific process for the certification or decertification of recognized tourist promotion agencies.

- May not have more than one recognized tourist promotion agency.
- Certification of a TPA is done by resolution of a county and concurred in by resolutions from municipalities that represent in aggregate more than 50% of the county's population.
- A TPA remains recognized until it is dissolved, withdrawn its certification or decertified.
- Decertification is done by a resolution of a county and concurred in by resolutions from municipalities that represent in aggregate more than 65% of the county's population.
 - There must be at least one public hearing held by the county on the decertification (not less than 7 days before meeting to adopted decertification resolution).

{Section 3}

Existing TPAs continue to exist and do not have to enact a new ordinance if the tax rate has not changed and the ordinance imposing the tax is otherwise consistent with the provisions of {new} section 1770.10.

[A03748] (Ward) Amendment Summary – This amendment accomplishes the following:

- It tweaks subsection (d) in relation to the allowable categories in regards to how tax revenues may be spent by further clarifying/specifying tax revenues may be spent on tourism or travel related purposes as indicated.
- In subsection (d), paragraphs (4) & (5) the term “expenditures” is added.
- In subsection (d), paragraph (4) the following is specified with regard to grants:
 - Grants require a cash or in-kind local match of at least 25%.
 - Grants may not be used for signage that promotes a specific private entity on the situs of that entity, except where the signage also carries the logo of a recognized tourist promotion agency.
- Adds {new} subsection (g) that provides in relation to the failure of a TPA to submit its required audit or financial statement as follows:
 - County may withhold tax revenues after ninety (90) days of the end of the TPA's fiscal year until such is submitted.
 - The Secretary of the Department of Community and Economic Development (DCED) may require the county (in the event the county has not taken action) to withhold tax revenues after one hundred twenty days (120) days of the end of the TPA's fiscal year until such is submitted.
- Adds {new} subsection (h) that provides any board member, director, officer or employee of a TPA shall disclose any conflict of interest or financial interest and recuse himself or herself from any action on behalf of the TPA which may result in a private pecuniary benefit to the individual, a member of the individual's immediate family or a business with which associated.
 - Definitions of the following terms are added in subsection that defined various words and phrases:

- “Conflict of interest.” Use by a board member, director, officers or employee of a TPA of the authority of his or her office or employment or any confidential information received through his or her capacity in relation to a recognized tourist promotion agency for the private pecuniary benefit of himself or herself, a member of his or her immediate family or a business with which he or she or a member of his or her immediate family is associated. The term does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes a board member, director, officer or employee, a member of his or her immediate family or business with which he or she or a member of his or her immediate family is associated.
 - “Immediate family.” A spouse, parent, brother, sister or child.
- Reduces the maximum administrative fee from 5% to 4% and clarifies that the percentage is based on the taxes collected.
 - Clarifies the 1.5% penalty per month for the failure to collect and remit the Hotel Room Rental Tax is imposed upon the hotel operator.
 - The definition of “hotel” is further tweaked by eliminating duplicative language (“on campgrounds located on State land or private property”) in relation to the defined term “cabin” that is already contained in the definition of “cabin.”
 - The definition of “hotel” is further tweaked in relation to the reference to “summer camp for children” by eliminating the term “summer” as camps for children are often not limited to the summer season and may occur at other times of the year.

Effective Date: Immediately.

BILL HISTORY:

The act of August 9, 1955 (P.L.323, No.130), known as The County Code.

Other legislation - Senate Bill 656 (Ward) is similar companion legislation that was introduced in the Senate. Both House Bill 794 and Senate Bill 656 can trace their roots to the efforts and input of the Pennsylvania Association of Travel and Tourism (PATT), Pennsylvania Restaurant and Lodging Association (PRLA) and County Commissioners Association of Pennsylvania (CCAP) Task Force on Hotel Room Rental Tax (among other stakeholders).

Prepared by: Brehouse 10/28/2015