HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 794 **PRINTERS NO**. 3162 **PRIME SPONSOR**: Gillespie

COST / (SAVINGS)

FUND	FY 2015/16	FY 2016/17
County Funds	**$0**	**See "Fiscal Impact"**

SUMMARY: Increases the maximum hotel room tax from 3% to 5% for 54 counties currently authorized to impose the tax under two sections of the County Code as well as the three second class A counties whose room tax authorization is currently contained in Title 53. This legislation would take effect immediately.

ANALYSIS: This legislation amends and consolidates two current multi-county hotel tax laws into one section in the County Code and amends and transfers the hotel tax law for second class and second class A counties from Title 53 to the County Code. It gives these 57 counties the option to increase their maximum hotel room tax from 3% to 5%. The increase is optional for the commissioners. The legislation also makes a minor change in Dauphin County's current hotel room tax law.

Hotel Room Tax Sections Amended for 57 Counties:

- The legislation amends and consolidates language from two sections of the County Code—1770.2 and 1770.6—that currently authorize certain counties to levy an optional county hotel room tax of up to 3% for tourism marketing and promotion purposes. Sections 1770.2 and 1770.6 of the County Code will be repealed, and the 54 counties covered under those sections will be governed by a new section, 1770.10.
- The hotel room tax for second class and second class A counties will be removed from Title 53 and placed in a new section 1770.12 of the County Code. The language governing second class counties remains unchanged—only the three second class A counties will have their law amended and have the higher tax rate authority.

The two new sections, 1770.10 and 1770.12 will carry over much of the language currently contained in Sections 1770.2 and 1770.6 of the County Code and Section 8721 of Title 53, respectively, with some editorial and substantive changes added. The tax will continue to be imposed by the county and collected by hotels, with the revenue provided to the county's recognized tourist promotion agency (TPA) and spent on tourism and marketing according to law. The recognized TPA must provide the county with an annual audit or financial statement.

Specific substantive changes under Section 1770.10 and Section 1770.12 include:

- Increasing the maximum hotel room tax rate from 3% to 5%. The increase is not mandatory. Whether to enact the tax and at what rate are decisions to be made by the county commissioners.
- Consolidating the spending provisions of the current Sections 1770.2 and 1770.6 from six to five by deleting “convention promotion” as a specific provision and including it instead under the business marketing provision. The paragraph allowing revenue to be spent on “programs, expenditures or grants” that relate to tourism, or a business, convention or meeting travel destination is amended to ensure that this spending is agreed-to by the recognized TPA, which is language currently used elsewhere in the spending provisions.
- Section 1770.12 retains its four similar tourism marketing and promotion spending provisions, with the legislation adding two more that govern spending on tourism marketing and promotion programs and projects that don’t compete with the private sector and that are approved by the recognized TPA.
- Requiring any spending on grants to have a cash or in-kind match of 25%. Grants cannot be used for signs that promote a specific entity on the site of that entity unless they include the TPA’s logo.
- For Section 1770.10 only, adding a sub-section giving the county or DCED the option to withhold room tax revenue collected if the TPA fails to submit the required annual audit or financial statement within 90 days (county) or 120 days (DCED) after the end of the TPA’s fiscal year.
- For Section 1770.10 only, adding a subsection requiring board members, officers and employees of a recognized TPA to disclose any conflict of interest and recuse themselves in TPA matters that may result in private pecuniary benefit to the individual or their immediate family.
- Establishing an optional county administrative fee of up to 4% deducted from the revenue to cover the costs of collection. Currently, Section 1770.6 sets a 2% fee and Section 1770.2 and Section 8721 of Title 53 provide for the deduction of “direct and indirect costs” but have no percentage specified.
- Imposing a 1.5% per month penalty on hotel operators for the failure to collect and remit the tax. The county can also file a lien.
- Adding a definition of “marketing,” “conflict of interest” and “immediate family” (Section 1770.10 only). It also changed the definition of “hotel” in 1770.12 to use the same definition for that term in 1770.10. Cabins with beds and running water on private and state campgrounds will be subject to the tax under both definitions of “hotel,” but other campground facilities, such as campsites, will not.

The counties that will be consolidated under Section 1770.10 are as follows:

- Blair, Cambria, Centre, Chester, Indiana, Lancaster, Lycoming, Mercer and York (1770.2)
- 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 (1770.6)

The second class A counties moved to Section 1770.12 from Title 53 are Bucks, Delaware and Montgomery. Second class counties (Allegheny) are also moved to this new section, with no change to the applicable substantive language.

Change to Dauphin County's Hotel Room Tax Law: The legislation amends the spending provisions of Section 1770.5 (Dauphin County) to change the language in the allocation of room tax revenue to a county regional sports facility. Eligible facilities could have between 2,500 and 14,000 seats, instead of the current 10,000 to 14,000.

New Section on Certifying and Decertifying TPAs: Another new section, 1770.11, creates a process to certify or decertify the county's recognized TPA. A county must adopt a resolution, which is then concurred in by resolutions from municipalities that represent more than 50% of the county population. A TPA remains recognized until it has dissolved or withdrawn its certification or is decertified by a similar process as certification, except that required municipal concurrence is more than 65% of the county population, and the county must hold at least one public hearing at least seven days prior to a resolution vote. A recognized TPA is the one certified by the county as of the effective date of this legislation or under Section 1770.11. A county can only have one recognized TPA at a time. The section will apply to TPAs recognized under the current provisions of Act 50 of 2008 or certified by the county under this section.

Ordinances and Repeal: Sections 1770.2 and 1770.6 of the County Code are repealed and those counties transferred to a new Section 1770.10. Counties that choose not to increase their tax rate do not have to enact a new ordinance as long as their current one is consistent with Section 1770.10. The enactment of Section 1770.12 is considered a continuation of Section 8721 of Title 53, which is repealed.

FISCAL IMPACT: Of the 57 counties that are impacted by this legislation, 55 of them levy a hotel tax. These 55 counties generated approximately $43.2 million in hotel tax revenue in 2013. Allowing them to increase their rate up to 5% would allow these counties to increase revenue by approximately $28.5 million in the aggregate if they all increased their rates up to the 5% maximum, assuming the same demand for hotel stays. Adding cabins on campgrounds located on State land or private property to the definition of hotel would also generate some additional revenue for counties. That level of revenue is indeterminable at this point.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: April 12, 2016

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.