SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 794

PRINTER NO. 2459

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

March 13, 2015

PRIME SPONSOR

Representative Gillespie

DESCRIPTION AND PURPOSE OF BILL

House Bill 794 amends The County Code (Act 130 of 1955) by increasing the maximum hotel room rental tax in most third through eighth class counties from 3% to 5%. The legislation also provides for certification of recognized tourist promotion agencies.

The legislation repeals sections 1770.2 (relating to authorization of excise tax) and 1770.6 (relating to authorization of hotel tax) and adds a new section 1770.10 (relating to hotel room rental tax in third through eighth class counties). Significant portions of the language in section 1770.10 is similar to the language in repealed sections 1770.2 and 1770.6.

The hotel room rental tax, at the new 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 or a financial statement.

The reforms 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 or travel, as follows:

- 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.
- The category of programs, expenditures or grants directly related to tourism or a business, convention or meeting travel destination is changed to ensure a TPA deems it necessary. Language is added to preclude competition with the private sector. This category of grants requires a cash or in-kind local match of at least 25%. Prohibits grants from being 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 TPA.

- The category related to other tourism or travel marketing or promotion program, expenditure or project is changed to ensure a TPA deems it necessary. Language is added to preclude competition with private sector.
- If a TPA fails to submit an annual audit report or financial statement within 90 days of the end of the TPA's fiscal year, the corresponding county may withhold tax revenues until such report or statement is submitted. If the county does not take action within 120 days of the end of the fiscal year, the Secretary of the Department of Community and Economic Development (DCED) may require the county to withhold tax revenue until the report or statement is submitted to the county and DCED.
- Requires any board member, director, officer or employee of a TPA to disclose any conflict of interest or financial interest and to 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 he or she is associated.
- Imposes a 4% 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.

Any county currently imposing a local excise tax or 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.

The 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, Huntington, 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.

House Bill 794 also adds new section 1770.11, which creates a more specific process for the certification or decertification of recognized tourist promotion agencies. The legislation stipulates that a county 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 has dissolved, withdrawn its certification or has been decertified by the county.

Decertification is accomplished 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.

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.

The legislation takes effect immediately.

FISCAL IMPACT:

House Bill 794 will have no adverse fiscal impact on Commonwealth funds.

According to information compiled by the Department of Community and Economic Development, 54 counties would be impacted by this legislation, and 52 of them levy a local hotel room rental tax. These 52 counties generated approximately $34.7 million in local hotel room tax revenues in 2013. If each of these counties increased their current tax rates to the maximum of 5%, approximately $19.6 million in additional revenue would be generated.

Expanding the local hotel room rental tax to include cabins on campgrounds located on State land or private property would also generate some additional revenue for counties.