

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 1511

PRINTER NO. 4253

AMOUNT

See Fiscal Impact

FUND

General Fund
Tourism Promotion Fund (Restricted Revenue Account)
Local Funds

DATE INTRODUCED

June 7, 2017

PRIME SPONSOR

Representative M. Quinn

DESCRIPTION AND PURPOSE OF BILL

House Bill 1511 amends the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, with regard to the imposition of the hotel occupancy tax. The legislation establishes a restricted revenue account to be known as the Tourism Promotion Fund to receive additional hotel occupancy tax collections resulting from this legislation. House Bill 1511 also amends the following statutes that authorize the collection of hotel tax at the county and local level to make the tax base consistent with the tax base at the state level by creating uniformity with regard to booking agents and accommodation fees:

1. The act of June 5, 1991 (P.L.9, No.6), known as the "Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class";
2. The act of December 21, 1998 (P.L.1307, No.174), known as the "Community and Economic Improvement Act";
3. 64 Pa.C.S. Ch. 60 (relating to Pennsylvania Convention Center Authority);
4. Articles XVII and XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code"; and
5. The act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code."

The hotel occupancy tax is part of the sales and use tax imposed under Article II of the Tax Reform Code of 1971 (TRC). The hotel occupancy tax, imposed at the same 6% rate as the sales tax, applies to room rental charges for periods of less than 30 days by the same person. House Bill 1511 amends imposition of the tax such that if a booking agent, acting for a hotel operator, collects payment for the rent of a hotel, the booking agent must collect and remit the hotel occupancy tax.

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House Bill 1511 adds the term “booking agent”, which is defined as a person or entity which facilitates or collects payment for hotel accommodations on behalf of or for a hotel operator. The term “booking agent” shall not include a person who merely publishes advertisements for accommodations. The legislation adds the term “accommodation fee”, which is defined as the amount by which the rent exceeds the discount room charge, if any. “Discount room charge” is defined as the amount charged by an operator to a booking agent in connection with the sale of an accommodation by the booking agent.

Furthermore, House Bill 1511 amends the definition of “rent” such that it includes accommodation fees and any amount charged by a booking agent. The effect of these additions and changes to the definitions contained in the hotel occupancy tax statute is that the tax will now extend to booking agents so that the full room price paid by the consumer at the point of sale will be subject to tax, inclusive of any additional fees or markups that a booking agent, such as an online travel company, charges customers for booking the hotel room. Under the legislation, a booking agent is not required to separately disclose to an occupant the amount of the tax imposed that relates to a discount room charge and the accommodation fee.

House Bill 1511 also establishes a restricted revenue account to be known as the Tourism Promotion Fund (fund). The tax collected by a booking agent on accommodation fees under this part shall be deposited into the fund and disbursed upon appropriation. Money in the fund shall be used to support activities and expenditures designed to promote tourism, including the following:

1. Advertising, publicizing or otherwise distributing information for the purpose of attracting and welcoming tourists;
2. Developing strategies to expand tourism;
3. Funding the promotion or marketing operations of a tourism entity; and
4. Funding marketing and operations of special events and festivals designed to attract tourists.

The legislation provides that no more than 50% of the money available from the fund may be distributed for purposes of promotion or marketing operations of a tourism entity (i.e. a tourism promotion agency) or for special events or grants. In addition, funding for these types of activities requires a 50% cash or in-kind match. A single recipient of funding may not be awarded more than 15% of the total funds available for disbursement from the fund; however, this prohibition does not apply to contracts entered into by the Department of Community and Economic Development for statewide tourism promotion or marketing.

With regard to the local hotel taxes collected at the county level, House Bill 1511 amends the various authorizing statutes so that the local hotel tax base is uniform with the state tax base insofar as accommodation fees charged by booking agents are subject to tax.

This act shall take effect in 90 days.

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FISCAL IMPACT:

State Hotel Occupancy Tax

House Bill 1511 extends the state hotel occupancy tax to booking agents and related accommodation fees, which will result in additional tax collections being received by the Commonwealth. Assuming that the changes go into effect on February 1, 2019, which is consistent with the 90 day effective date, the additional revenue collected is estimated to be approximately \$7.7 million in fiscal year 2018-19, increasing to \$23.6 million in the full fiscal year 2019-20. For fiscal year 2018-19, \$7.1 million will be directed to the Tourism Promotion Fund, and \$600,000 will accrue to the General Fund. For fiscal year 2019-20, \$21.8 million will be directed to the Tourism Promotion Fund, and \$1.8 million will be deposited into the General Fund. According to the Department of Revenue, the small General Fund gains are attributable to short-term rental entities that do not currently remit hotel occupancy taxes.

The legislation directs that the amount of tax collected by a booking agent on accommodation fees and deposited into the Tourism Promotion Fund shall be subject to appropriation for the purpose of promoting tourism in the Commonwealth.

Local Hotel Taxes

The Department of Revenue indicates that the state hotel occupancy tax generated approximately \$210 million in fiscal year 2017-18. In the full fiscal year 2019-20, extending the state hotel occupancy tax to booking agents and related accommodation fees is expected to generate \$23.8 million, which is fully attributable to an expansion of the tax base. According to these amounts and adjusting for annual growth since FY 2017-18, the tax base is increasing by approximately 10% as a result of this legislation.

The Department of Community and Economic Development provided information which indicates that statewide local hotel taxes generate approximately \$200 million annually. Based upon state-level revenue estimates, House Bill 1511 will expand the tax base by approximately 10%. As a result, the legislation is likely to result in increased local hotel tax revenues of \$20 million annually in a full year.

The increased local hotel tax collections shall be deposited in accordance with a county ordinance.