

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 913 – SB 891

March 29, 2018

SUMMARY OF ORIGINAL BILL: Requires the governing body of each municipality, county, and metropolitan form of government to report to the Local Government Committee of the Senate and the Local Government Committee of the House of Representatives the number of business licenses issued to hotels, motels, and other places of accommodation for transients for calendar year 2017 no later than February 1, 2018.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (015917): Deletes all language after the enacting clause. Prohibits any aggregate occupancy privilege tax levied by a city and county from exceeding ten percent of the consideration charged to a transient by the hotel operator; however, if the aggregate occupancy privilege tax rate of a city and county, prior to the effective date of this legislation, levies an aggregate occupancy tax which exceeds 10 percent, such aggregate tax may remain above 10 percent, but may not exceed 12 percent in aggregate. Establishes that any city and county which, prior to the effective date of this legislation, levies an aggregate occupancy tax rate that exceeds 10 percent, and after the effective date reduces such rate by ordinance or resolution to or below 10 percent, such local jurisdictions are prohibited from levying an aggregate occupancy tax rate that is above 10 percent.

Upon the effective date of this legislation, any additional revenue collected by a county or municipality from an increase in the occupancy tax rate by ordinance or resolution passed by such county or municipality, must be spent on the promotion of tourism and tourism development.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Other Fiscal Impact – This legislation will have a significant impact on the current authority of counties and municipalities to levy a hotel occupancy privilege tax. This legislation will prohibit the aggregate occupancy tax levied by a county and municipality from exceeding 10 percent. No current aggregate occupancy tax exceeds 10 percent; therefore, this legislation is estimated to result in no significant amount of forgone revenue.

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To the extent any municipality increases a hotel occupancy tax above the amount authorized by current law; there will be a permissive increase in local revenue. The extent and timing of any permissive local revenue increase is dependent upon the future actions of local governing bodies and cannot be quantified with reasonable certainty.

This legislation will require any incremental proceeds resulting from any increase in the hotel occupancy tax occurring after the effective date of this legislation to be used exclusively for tourism and tourism development rather than for any other general purpose.

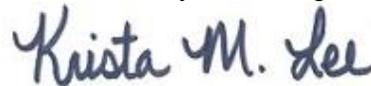
Assumptions for the bill as amended:

- Under current law, pursuant to Tenn. Code Ann. § 67-4-1401(3), a municipality is defined as an incorporated city that has adopted home rule.
- This legislation expands the definition of municipality to include an incorporated city or town, county or county with a metropolitan form of government.
- Currently, pursuant to Tenn. Code Ann. § 67-4-1402(a)(1), each municipality in this state is authorized to levy by ordinance a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed 5 percent of the consideration charged by the operator.
- Pursuant to Tenn. Code Ann. § 67-4-1425(a), after May 12, 1988, any private act that authorizes a city or county to levy a tax on the privilege of occupancy of a hotel shall limit the application of such tax as follows:
 - A city shall only levy such tax on occupancy of hotels located within its municipal boundaries;
 - A city shall not be authorized to levy such tax on occupancy of hotels if the county in which such city is located has levied such tax prior to the adoption of the tax by the city; and
 - A county shall only levy such tax on occupancy of hotels located within its boundaries but outside the boundaries of any municipality that has levied a tax on such occupancy prior to the adoption of such tax by the county.
- This legislation deletes Tenn. Code Ann. § 67-4-1425; therefore, a county or municipality will be authorized to levy a new or increase its current occupancy tax rate beyond 5 percent, and levy such rate on all hotels within the jurisdiction's respective boundaries, regardless of whether the county or municipality, with which it encompasses or resides within, respectively, currently levies an occupancy tax. However, no county or municipality will be able to increase its occupancy tax rate to the extent that the aggregate tax levied by the county and municipality exceeds 10 percent.
- This legislation authorizes a municipality to levy, modify, or repeal a hotel privilege tax by ordinance or resolution. Under current law, it is common for counties and cities to do so by act of the General Assembly, either by passing private acts to modify hotel privilege authority, enacting exceptions from Tenn. Code Ann. § 67-4-1425(a), or by specific authorizations in general law.

- Based on information in the Tennessee Advisory Commission on Intergovernmental Relations' (TACIR) 2016 report *Structuring Lodging Taxes to preserve the Economy and Encourage Tourism*, currently no aggregate county and municipal occupancy tax rate exceeds 10 percent.
- Currently, pursuant to Tenn. Code Ann. § 67-4-1403, the proceeds received by a home-rule municipality from application of the occupancy tax must be designated and used for the purposes authorized in the ordinance levying the tax.
- According to TACIR's report, 44 of the 80 counties and 52 of the 76 cities authorized to levy lodging taxes are not required to earmark them under current law. Half of the other counties (18) and most of the other cities (19) must earmark at least some of their lodging tax revenue for tourism.
- This legislation deletes and replaces Tenn. Code Ann. § 67-4-1403, to establish that any incremental increase in revenue collected as a result of an increase in the occupancy tax rate, as applied after the effective date of this legislation, must be spent on the promotion of tourism and tourism development. This provision would apply to the expanded definition of municipality, as proposed by this legislation, and not just home-rule municipalities. Requiring such occupancy tax proceeds be used for tourism and tourism development will impact how revenue is used, not how much revenue may be collected.
- Due to the fact that there is currently no combination of a county and municipality which together levies an aggregate occupancy tax exceeding 10 percent, preventing future aggregate combinations of the occupancy tax rate from exceeding 10 percent is estimated to result in no significant amount of forgone revenue.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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