



State of Tennessee

PUBLIC CHAPTER NO. 395

SENATE BILL NO. 850

By Tate

Substituted for: House Bill No. 951

By Mark White, Keisling

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 4, Part 1 and Title 67, Chapter 4, Part 14, relative to taxes on accommodations for transients.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-1401(6), is amended by deleting the subdivision in its entirety and substituting instead:

(6) "Person" means any individual, or group of individuals, that occupies the same room; and

SECTION 2. The Tennessee advisory commission on intergovernmental relations is directed to study, using existing resources, the effect of hotel occupancy taxes on the economy and their effect on tourism and the hospitality industry. The study shall include a comparison of this state's hotel occupancy tax structure with other states and any recommendations on whether hotel occupancy taxes should be levied on the municipal, county, or state level to best preserve the state's economy and encourage the continued growth of tourism in this state. The study shall consider methods to require public input and consideration prior to the adoption of such taxes by any governmental entity. The one-time study shall be submitted to the local government committee of the house of representatives and the state and local government committee of the senate by February 15, 2016.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 850

PASSED: April 20, 2015



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 8th day of May 2015



BILL HASLAM, GOVERNOR

SENATE BILL 850

By Tate

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 4, Part 1 and Title 67, Chapter 4, Part 14, relative to taxes on accommodations for transients.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-1401, is amended by adding the following as a new, appropriately designated subdivision:

() "Tourism" or "tourism development" means the planning and conducting of programs of information and publicity designed to attract to the city or county tourists, visitors, and other interested persons from outside the area and to also encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes and shall also mean the acquisition, construction, and remodeling of facilities used in the attraction and promotion of tourist, convention, and recreational businesses. Tourism promotion must be expected to increase lodging stays or sales of on-site prepared food or both. Demonstration of the tourism purpose shall best be shown by the expenditures' likelihood to significantly increase the following: lodging stays; sales of prepared food; or visits to convention centers, attractions, museums, and other entertainment or sporting venues; or any combination of lodging stays, sales of prepared food, and such visits;

SECTION 2. Tennessee Code Annotated, Section 67-4-1402, is amended by adding the following as a new subsection:

() Prior to the adoption or authorization of any tax under this chapter, the local government proposing to adopt such tax shall conduct a study to determine the economic effect of the passage of such an ordinance. Such study shall be preceded by

public notice in a newspaper of general circulation, written notice to the county or city covered but not making the proposal and at least a thirty-day period for the public to review such study after it is published and submit comments to the adopting body prior to the adoption of an ordinance.

SECTION 3. Tennessee Code Annotated, Section 67-4-1406, is amended by adding the following as a new subsection:

() As part of the audit conducted or authorized by the comptroller of the treasury and within the normal cost of that audit, the collection and use of any tax levied under this part shall be subject to audit.

SECTION 4. Tennessee Code Annotated, Section 67-4-1403, is amended by adding the following language to the end of the section:

It is recommended that one hundred percent (100%) of the proceeds from an occupancy tax be spent for these purposes, but at least eighty percent (80%) of the proceeds of any tax or expansion of the tax adopted after the effective date of this act shall be spent in the promotion of tourism or tourism development as provided in this part.

SECTION 5. Tennessee Code Annotated, Section 67-4-1425, is amended by adding the following as a new subsection:

() After the effective date of this act, no occupancy tax or increase in an existing occupancy tax shall be adopted by a private act.

SECTION 6. Tennessee Code Annotated, Section 67-4-1401(7), is amended by deleting the language "thirty (30)" and substituting instead the language "ninety (90)".

SECTION 7. Tennessee Code Annotated, Section 67-4-1404(b), is amended by deleting the language "thirty (30)" wherever it appears and substituting instead the language "ninety (90)".

SECTION 8. Tennessee Code Annotated, Section 7-4-101(11), is amended by deleting the language "thirty (30)" and substituting instead the language "ninety (90)".

SECTION 9. Tennessee Code Annotated, Section 67-4-1401(6), is amended by inserting the following language after the word "unit":

where the same person or persons occupy the same room for a period of less than ninety (90) days;

SECTION 10. If any provision of this legislation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.

Senate State and Local Government Committee 1

Amendment No. 1 to SB0850

Yager
Signature of Sponsor

AMEND Senate Bill No. 850*

House Bill No. 951

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-4-1401(6), is amended by deleting the subdivision in its entirety and substituting instead:

(6) "Person" means any individual, or group of individuals, that occupies the same room; and

SECTION 2. The Tennessee advisory commission on intergovernmental relations is directed to study, using existing resources, the effect of hotel occupancy taxes on the economy and their effect on tourism and the hospitality industry. The study shall include a comparison of this state's hotel occupancy tax structure with other states and any recommendations on whether hotel occupancy taxes should be levied on the municipal, county, or state level to best preserve the state's economy and encourage the continued growth of tourism in this state. The study shall consider methods to require public input and consideration prior to the adoption of such taxes by any governmental entity. The one-time study shall be submitted to the local government committee of the house of representatives and the state and local government committee of the senate by February 15, 2016.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.


Draft Research Plan: Public Chapter 395, Acts of 2015, Hotel Occupancy Taxes

Research Manager: Melissa Brown

Lead Research Associate: Bob Moreo

Support: Dr. Stan Chervin, Dr. Reuben Kyle

Deputy Executive Director Approval: Initial:  Date: 5/22/15

Executive Director Approval: Initial:  Date: 5/22/2015

Purpose

Public Chapter 395, Acts of 2015, directs the Commission to study the effect of hotel occupancy taxes on the economy and their effect on tourism and the hospitality industry. The study must compare Tennessee's hotel-occupancy tax structure with other states and recommend whether hotel occupancy taxes should be levied on the municipal, county, or state level to best preserve Tennessee's economy and encourage the continued growth of tourism. The study must also consider methods to require public input and consideration prior to the adoption of hotel occupancy taxes by any governmental entity.

Background

Counties in Tennessee may levy a hotel occupancy tax—or change existing ones—only by asking the General Assembly to pass a private act to authorize the tax, setting forth the proposed tax rate and distribution of revenue from the tax, and then approving it locally either by referendum or by a two-thirds majority vote of the county commission. There is no statutory limit on the tax rate or on how the revenue is used. If a city already has a hotel tax in place, a county enacting a new hotel tax may levy the tax only on hotels outside that city's limits. Similarly, cities chartered by private acts or under general law use the same process as counties but may not levy a new hotel tax if their county already has one in place. The state's fourteen cities with home-rule charters can adopt a hotel tax without going through the state legislature, but the maximum rate is 5% by state law. Hotel taxes in home-rule cities may be added on top of county taxes, and the revenue can be used for any purpose.

Today, 76 of the 95 counties have a hotel tax, ranging from 2% to 7.5%. Two-thirds of the counties with a tax set the rate at 5%. At least 52 private-act or general-law cities (about 16% of the total of 329 private-act and general-law cities) impose hotel taxes at rates varying from 1% to 7%. Nine of the fourteen home-rule cities impose hotel taxes, three of them—Johnson City, Memphis, and Oak Ridge—at the 5% limit and six others at rates of 2% to 4%.

The perception that Tennessee's hotel taxes are higher than other states and that these taxes discourage hotel development and tourism and concern that some municipalities use the tax to supplement general revenue thereby putting local hotel operators at a disadvantage compared with those in nearby locations without those taxes led to the introduction of the legislation that became Public Chapter 395. Senate Bill 850 by Tate and House Bill 951 by Mark White, as introduced, would have resolved these concerns by prohibiting authorization of hotel occupancy taxes by private act and by requiring that at least 80% of revenue from new hotel taxes or expansions of existing ones be spent on tourism development, that local governments conduct economic studies and give public notice to review these studies before adopting or increasing hotel taxes, and that the Comptroller of the Treasury audit hotel tax collections.

Representatives of city and county governments generally oppose limits on their ability to raise revenue and earmarks of existing sources. Local governments that spend money on infrastructure and services to support tourism believe it is appropriate to raise revenue through higher hotel taxes and not be constrained by a strict definition of how they can spend that money.

Step 1. Define the Problem

How to structure Tennessee's hotel occupancy taxes to best preserve the state's economy, provide for necessary local infrastructure and services, and ensure public input and consideration before adopting such taxes.

Step 2. Assemble Some Evidence

- Review Tennessee Code Annotated, Section 67-4-14, and related statutes.
- Review committee hearings on the legislation that became Public Chapter 395, and summarize comments and concerns of committee members, the bill sponsors, and others speaking for or against the bill.
 - Interview the sponsor, bill proponents, and other stakeholders to determine what is driving the issue. These include, but are not limited to representatives of
 - Tennessee Hospitality and Tourism Association
 - American Hotel and Lodging Association
 - Global Business Travel Association
 - Tennessee Association of Convention and Visitors Bureaus
 - Tennessee Municipal League
 - Tennessee County Services Association
 - Department of Tourism
 - Department of Economic and Community Development
 - Department of Revenue
 - local governments that rely on hotel tax revenue

- Review the fiscal note. Consult with Fiscal Review Committee staff and follow up with agencies submitting support forms to determine the estimated cost and the method and rationale for the estimates.
- Review similar bills from the past several general assemblies to identify related issues.
- Convene a panel of stakeholders drawn from the above list to provide information to the Commission and answer questions at the June 2015 Commission meeting.
- Collect information about hotel occupancy taxes in Tennessee at both the city and county levels.
 - What is the rate in each county and city?
 - What other taxes are levied on hotel occupancy? (e.g. sales tax)
 - Where are the rates levied on top of each other?
 - What is the process for passing a private act, including solicitation of input from the public, and implementing it at the city or county level?
 - How are proceeds used?
- Review hotel occupancy tax structures in other states
 - What is the rate in each state?
 - What other taxes are levied on hotel occupancy in other states? (e.g. sales tax)
 - Are the rates levied at the municipal, county, or state level?
 - Do the states allow or require input from the public prior to passage of a hotel occupancy tax?
 - How can proceeds be used?
- Review literature and seek opinions of subject matter experts on the effect of hotel taxes on states' economies and continued growth of tourism

Step 3. Construct Alternatives.

Alternatives will be based on

- current law
- proposed changes in the current law, and
- any additional alternatives drawn from the research and analysis in Step 2.

Each alternative will be described specifically enough to project outcomes in Step 5.

Step 4. Select Criteria

Criteria that will be used to evaluate the outcomes generated in Step 5.

- Cost to
 - Local governments
 - Businesses
 - The Public
- Estimate receptiveness of
 - Local governments
 - Businesses
 - The Public

Step 5. Project Outcomes

- Estimate cost
- Estimate effectiveness
- Evaluate questions of fairness

Estimate the acceptability to various interests.

Step 6. Confront Trade-offs

- How will the differences between the current law and the other alternatives affect the public, local governments, and the tourism industry?
- What are the pros and cons of the potential solutions?

Step 7. Decide which alternatives to present to the Commission

Based on the results of Step 6, choose the alternatives that most practically and realistically resolve the problem.

Step 8. Produce the Draft Report

- Develop and present a draft for review and comment to the Commission

Revisit Steps 5 through 8.

- Respond to feedback from Commission regarding outcome projections, trade-offs, and selection of alternatives
- Revise and edit the draft to reflect comments of the Commission
- Submit final report to the Commission for approval

