



OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 571 of the 132nd G.A.

Status: As Introduced

Sponsor: Rep. Greenspan

Local Impact Statement Procedure Required: No

Subject: Sales and lodging tax collections by hotel intermediaries

State & Local Fiscal Highlights

- By requiring hotel intermediaries (including online travel companies) to collect sales or use taxes based on the full advertised price paid by the customer for hotel lodging to a hotel intermediary, the bill potentially increases revenue from the sales and use tax. Currently, certain hotel intermediaries remit sales taxes calculated on an amount that may be less than the amount received for lodging from their customers. The bill also increases revenue from local county permissive and transit authority sales taxes. Those taxes share the same base as the state sales and use tax.
- State sales tax receipts are deposited in the GRF. Any increase in GRF tax receipts would also increase the amount distributed to the Local Government Fund (LGF) and Public Library Fund (PLF). Under codified law, each local fund receives 1.66% of GRF tax receipts.
- The tax collection requirements in the bill also apply to lodging taxes, and thus potentially increase revenues from those local taxes benefitting counties, municipalities, and townships that impose lodging taxes.

Detailed Fiscal Analysis

Sales and use tax

The bill requires a hotel intermediary (defined in the bill as a person that brokers, coordinates, or enters into arrangements for the purchase, sale, use, or possession of lodging at hotels to or by transient guests) to collect sales or use taxes based on the total amount paid by the consumer for hotel lodging as advertised by the hotel intermediary. The bill specifically excludes from the definition of hotel intermediary a person receiving a commission from a hotel, or a person imposing a charge for services provided the charge is separately stated and given to the consumer.

Under current law, the sales tax is based on the portion of the price that represents amounts paid for the hotel stay itself, and "price" does not include any taxes legally imposed directly on the consumer that are separately stated on the invoice or similar document given to the consumer.

The full price charged by a hotel intermediary may include charges other than charges for lodging itself, and the additional charges may include legally imposed taxes. However, certain hotel intermediaries do not specify or detail all the charges to their customers. The bill enacts section 5739.081 of the Revised Code to specify that the price on the basis of which a hotel intermediary must collect and remit sales taxes is the total amount paid by the customer for the hotel lodging, as advertised by the hotel intermediary. Certain hotel intermediaries reportedly base their tax remittance on a portion of the full price paid by customers, which would imply that state and local governments receive less in sales and use taxes when a room is booked through an intermediary than when sold directly by a hotel, even if customers pay the same total retail price.¹

Local lodging taxes

The bill also modifies the liability for, and collection of, lodging taxes levied by local subdivisions. Current law permits counties, townships, municipal corporations, convention facilities authorities, and lake facilities authorities to levy "lodging" or "bed" taxes on hotel stays. Local lodging taxes apply to the same hotel transactions the sales and use tax applies to, except that a county lodging tax can be applied to hotels with fewer than five rooms and to separate cabin-type accommodations spread among several structures. Similarly to changes to sales tax law, the bill requires a hotel intermediary to collect lodging taxes from a customer based on the total amount paid by the consumer for hotel lodging as advertised by the hotel intermediary.

Fiscal impact

By clarifying how hotel intermediaries (including online travel companies) must calculate and remit sales and use and lodging taxes, the bill potentially increases tax revenues that are due, but may otherwise not be remitted by those firms. The amount of the additional remittances from the sales and lodging taxes is uncertain, but may be a few millions of dollars per year. However, any revenue gain would depend on tax law compliance by hotel intermediaries.

Lodging taxes collected by counties, municipalities, and townships totaled \$185 million in 2015. State, county, and transit authorities' sales and use taxes remitted by hotels, motels, inns, and other traveler accommodation firms, were about \$167 million in FY 2016. Based on those amounts, assuming the bill would increase

¹ The Ohio Hotel and Lodging Association in House Ways and Means on May 19, 2015, estimated that state and local governments may receive 15% to 20% less than should be remitted otherwise, and increase potential revenue by \$10 million. However, LSC cannot independently confirm this estimate. Private contracts between hotels and hotel intermediaries govern the actual cost of lodging utilized by the customer. The rooms are available for booking through online travel agencies. In those contracts, online travel agencies would generally purchase hotel rooms at a cost lower than available through in-person reservations or booking through hotel company websites, though a customer may end up paying the same amount for the room.

remittance of sales and lodging taxes by 1% or 2%, the potential revenue gain could be \$3 million to \$7 million per year.

Receipts from the state sales and use tax are deposited into the GRF. Under codified law, a portion of GRF tax receipts is subsequently transferred to the Local Government Fund (LGF) and the Public Library Fund (PLF), with each local fund receiving 1.66% of GRF tax revenue. Local permissive county and transit authority sales taxes share the same tax base as the state sales tax, and are approximately 24.5% of state sales tax revenues. Increased bed tax revenues would benefit counties, townships, municipal corporations, convention facilities authorities, and lake facilities authorities that levy lodging or bed taxes on hotel stays.

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