

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Am. Sub. S.B. 237** DATE: **May 29, 2008**

STATUS: **As Enacted – Effective September 12, 2008** SPONSOR: **Sen. Schaffer**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Allows transient hotels to permit guests to stay longer than 30 days, allows extended stay hotels to permit guests to stay longer than one year, and makes other changes**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
State Fire Marshal's Fund (Fund 5460) – Department of Commerce			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
General Revenue Fund			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -
Victims of Crime/Reparations Fund (Fund 4020) – Attorney General			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- **Administrative and inspection costs.** There may be a minimal increase in the Office of the State Fire Marshal's administrative burden to comply with certain provisions of the bill, chiefly for reviewing the lists of rooms submitted by hotels that wish to offer transient sleeping rooms to guests for up to 270 days and inspecting these hotels. Inspection fees would likely offset any increased costs.
- **Fining authority.** The bill modifies the State Fire Marshal's fining authority by allowing the office to impose fines of \$250 per violation for fire safety issues, up to \$1,000 per day regardless of the number of violations, and specifies that those fines are to be deposited into the State Fire Marshal's Fund (Fund 5460). As a result, there would be a gain in revenue to the State Fire Marshal's Fund to the extent that such violations occur.
- **State court cost revenue.** If there are additional cases prosecuted as a result of this bill, the state may gain a negligible amount of state court cost revenue that is deposited into the GRF and the Victims of Crime/Reparations Fund (Fund 4020).



Local Fiscal Highlights

LOCAL GOVERNMENT		FY 2008	FY 2009	FUTURE YEARS
Counties and Municipalities				
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase	Potential minimal increase

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Under current law, unchanged by the bill, certain violations of the Hotel Law are punishable with a first-degree misdemeanor. Because the bill adds a prohibition against an extended stay hotel facility whose license has been revoked from operating as any other type of structure or facility until the State Fire Marshal determines that the structure is safe, it could lead to slightly higher costs for investigating and prosecuting any resulting violations. While county and municipal courts could experience more cases, court cost and fine revenue would offset some of the increase in criminal justice expenses.

Detailed Fiscal Analysis

Overview

Under current law, a "transient hotel" is defined as a place where sleeping accommodations are offered for pay to transient guests for a period of 30 days or less. An extended stay hotel is defined as a place where temporary residence is offered for pay to persons for a minimum stay of more than 30 days and a maximum stay of one year. These dwelling units must have provisions for living, eating, cooking, sleeping, and sanitation. The bill allows transient hotels to permit guests to stay longer than 30 days under certain circumstances, allows extended stay hotels to permit guests to stay longer than one year, makes changes to the laws governing single room occupancy (SRO) facilities, and makes other changes to the Hotel Law. The fiscal implications of these changes are discussed below. The State Fire Marshal's Office within the Ohio Department of Commerce licenses and regulates hotels.

Hotel and SRO facility stays and occupancy requirements

The bill makes a number of changes to the requirements governing hotels and SRO facilities. Specifically, the bill allows transient hotel stays in transient sleeping rooms for a continuous period of up to 270 days as long as the hotel satisfies certain requirements, and modifies the definition of "extended stay hotel." However, in this regard, the bill would only apply to existing extended stay hotels under certain conditions, such as an alteration to the building, a change in the use of the structure, or a license revocation. The bill also removes a requirement limiting the stays in an extended stay hotel to between 31 days and one year. Finally, the bill changes SRO licensure criteria, but includes a grandfathering provision that permits existing SRO facilities to operate in accordance with their current certificate of occupancy and license so long as the structure is not altered or a new facility is constructed, the owner of the facility surrenders the license, the structure's use is not changed, or the structure's license is revoked or not renewed.

There may be an increase in the State Fire Marshal's administrative burden to comply with certain provisions of the bill, such as reviewing the lists of rooms submitted by hotels that

wish to offer transient sleeping rooms to guests for up to 270 days. The State Fire Marshal may need to conduct additional inspections as a result. Nevertheless, inspection fees would presumably offset any increased costs.

The bill also requires the State Fire Marshal to review plans, drawings, or specifications for the installation of fire alarm and detection systems for those transient rooms, a current responsibility of local building officials. This change, however, would not impose new costs since the State Fire Marshal currently employs an engineer capable of performing such plan review.

Additional fining authority

Additional fining authority in the bill could lead to increased fine revenue for the State Fire Marshal Fund (Fund 5460). Under current law, if violations of the Hotel Law or Ohio Fire Code are found, hotel owners or operators are afforded a reasonable amount of time to achieve compliance. If any required changes are not made within a reasonable time period, the State Fire Marshal may impose fines, or current law authorizes the State Fire Marshal to suspend or revoke a hotel license after a Chapter 119. administrative hearing. The bill modifies the amount of fines that may be levied for noncompliance by enabling the State Fire Marshal to impose fines of \$250 per violation for fire safety issues, the total of which may be up to \$1,000 per day regardless of the number of violations. For all other such violations, the fine remains at \$10 for each violation, as under current law. The bill specifies that those fines are to be deposited into the State Fire Marshal's Fund (Fund 5460). The bill clarifies that nothing limits the authority of the State Fire Marshal to impose on hotels or SRO facilities civil penalties of \$1,000 for various violations of the Ohio Fire Code (OFC), the proceeds of which are deposited into the GRF.

Referring complaints for prosecution

The bill allows the State Fire Marshal to file a complaint with the Attorney General, who, upon receiving the complaint, may prosecute violations of the Hotel Law in the court of common pleas in the county where the hotel or structure subject to the complaint is located. The State Fire Marshal may also file a complaint with a county prosecutor in order to have a violation of the Hotel Law prosecuted, as can be done under current law. An official with the Office of the State Fire Marshal noted that approximately five to ten complaints are referred to local prosecutors each year. However, there would be no fiscal effect from this provision, since the State Fire Marshal currently pays the salary of an in-house assistant attorney general who would be responsible for prosecuting any complaints.

Suitable beds for portable lifts

Under the Americans with Disabilities Act Accessibility (ADAA) guidelines hotels must contain a certain number of rooms that are accessible to those with physical disabilities (based on the total number of rooms in the hotel) that meet various minimum requirements concerning such things as access routes and accessible elements and spaces. The bill further requires that, within 45 days of its effective date, hotels are required to furnish at least one accessible sleeping room with a bed that is suitable for use with a portable lift, that the guest provides, and that meets certain requirements. Within five years after the effective date of the bill, a hotel must provide at least one such bed in 25% of the total number of rooms held out as accessible sleeping rooms or suites. In sum, these provisions would appear to have little fiscal impact on the State

Fire Marshal, as inspectors would presumably check on compliance during the course of their regular inspections.

The bill further specifies that a violation of the bed requirements is an unlawful discriminatory practice, subject to review by the Ohio Civil Rights Commission if a complaint is filed. If the Commission determines that a violation has occurred, it must notify the State Fire Marshal, who must take the action necessary against the owner, keeper, or lessee of that hotel in accordance with the Hotel Law. As a result, such owners could be subject to license suspension or revocation or the fines that apply for noncompliance described previously.

Local fiscal effects

Under current law, unchanged by the bill, certain violations of the Hotel Law are punishable with a first-degree misdemeanor (M1), which carries a maximum sentence of six months and a maximum fine of \$1,000. Because the bill adds a prohibition against an extended stay hotel facility with a revoked license from operating as any other type of facility until the State Fire Marshal determines the structure is safe, it may be that criminal justice expenses for counties and municipalities increase minimally to prosecute any such violations. It could also mean that counties and municipalities will gain court cost and fine revenue (fine revenue remains in the county of prosecution), offsetting some or all of the impact of any increase in criminal justice expenditures. The state may also gain a negligible amount of state court cost revenue that is deposited into the GRF and the Victims of Crime/Reparations Fund (Fund 402).

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