Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 758 (as reported without amendment) *(enrolled version)*
Sponsor: Senator Dave Hildenbrand
Committee: Finance

Date Completed: 3-19-14

RATIONALE

Public Act 263 of 1974 allows a county meeting certain population criteria to levy an excise tax on hotels and motels. The revenue from this tax may be used for convention and entertainment facilities or the promotion of tourist and convention business in the county. Evidently, at least one county that imposes the tax has been having difficulty collecting it from the owner of a particular hotel, which has collected the tax from its guests but failed to remit the money to the county. Although the Act requires a hotel-motel tax ordinance to provide for interest and a penalty on delinquent payments, and allows an ordinance to provide for a fine and/or imprisonment for a violation, these provisions apparently do not give the county adequate leverage to collect the unpaid tax. To address this situation, it has been suggested that delinquent hotel-motel taxes should be subject to the remedies that apply to delinquent special assessments, which include forfeiture and foreclosure.

CONTENT

The bill would amend Public Act 263 of 1974 to allow a county to provide in its ordinance imposing the hotel-motel tax that, if the tax remained unpaid for more than 90 days, the county treasurer could collect the tax, along with any associated interest, fees, and costs, in the same manner as a delinquent special assessment under the General Property Tax Act.

MCL 141.864

BACKGROUND

Under Public Act 263 of 1974, if a county has a population of less than 600,000 and contains a city of at least 40,000, the county may enact an ordinance to collect an excise tax from businesses providing rooms for dwelling, lodging, or sleeping to transient guests. If a county met the population criteria on the date it enacted the ordinance, it may continue to collect the tax.

According to information from the Michigan Economic Development Corporation, the following counties are eligible to collect the tax under Public Act 263: Calhoun, Ingham, Genesee, Kalamazoo, Kent, Muskegon, Saginaw, and Washtenaw.

The tax rate may not exceed 5.0% of the total charge for accommodations. The revenue may be used to pay for financing the acquisition, construction, improvement, repair, or maintenance of convention and entertainment facilities, including the payment of principal and interest on bonds issued by the county for those facilities. The revenue also may be used for the rental payable by the county to an authority organized for the purpose of acquiring, constructing, improving, repairing, or maintaining the convention and entertainment facilities and leasing them to the county. In addition, the revenue may be used to promote and encourage tourist and convention business in the county.

The ordinance imposing the tax must provide for the rate of the tax, as well as the rate and manner of imposing interest and penalties for delinquency in payment or other violations of the ordinance. The interest on delinquent payments may not exceed 1.0% per month of the unpaid tax after the due date until it is paid. The penalty for delinquency or other violations may be in addition to the interest, but may not be more than 5.0% of the amount of the unpaid tax per month, and may not exceed 25.0% of the unpaid tax. In addition, the ordinance may provide for the imposition of a fine of up to $500, or imprisonment for up to 90 days, or both, for a violation.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to testimony before the Senate Finance Committee, the out-of-State owner of a hotel in Kent County has been collecting the hotel-motel tax from its guests but failing to remit the money to the county. This business reportedly now owes more than $200,000 in unpaid taxes, interest, and penalty. Although a criminal sanction is available, the practicality of that remedy is questionable, and county officials believe that they do not have sufficient means at their disposal to recover the tax from the hotel owner. By authorizing a county treasurer to collect the hotel-motel tax in the same manner as a delinquent special assessment may be collected under the General Property Tax Act, if the county included this provision in its ordinance, the bill would make forfeiture and foreclosure a possibility. It is likely that this would get the attention of a delinquent hotel or motel owner, and help ensure compliance.

Although the situation in question involves a hotel in Kent County, the bill could benefit the seven other counties that are eligible to levy the hotel-motel tax and may have difficulty with collection.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would increase by an unknown amount the revenue of counties eligible to levy the tax on hotel and motel accommodations under Public Act 263 of 1974 that are owed delinquent taxes under the Act. The current law provides for penalties and interest on delinquent accommodations taxes. The bill, however, would make available additional measures for the collection of unpaid accommodations taxes. These measures would be the same as those available for the collection of delinquent special assessments. This would permit, but not require, the tax collecting officer to include unpaid accommodations taxes as a delinquent tax. This would make the delinquent accommodations taxes a lien on the property, and would authorize the forfeiture and foreclosure process, which would commence on the March 1 in the year after the taxes were unpaid. If the property were not redeemed by the payment of taxes, interest, and related fees by March 31 of the second year (25 months) after the taxes were returned as delinquent, the tax foreclosing governmental unit (either the county or the State) would begin the process to sell the property. The availability of this process would have the potential to change taxpayer behavior and result in the collection of taxes that were unpaid previously.

Fiscal Analyst: Elizabeth Pratt