

No. 2012-92

AN ACT

HB 197

Amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in area government and intergovernmental cooperation, further providing for review of agreement by Local Government Commission; and, in other subjects of taxation, further providing for hotel room rental.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 2314 and 8721(b) of Title 53 of the Pennsylvania Consolidated Statutes are amended to read:

§ 2314. [Review of agreement by Local Government Commission.

Every agreement between a local government and the Commonwealth, any other state, government of another state or the Federal Government under the provisions of this subchapter shall, prior to and as a condition precedent to enactment of an ordinance, be submitted to the Local Government Commission for review and recommendation. The commission shall within 60 days of receipt of the agreement determine whether it is in proper form and compatible with the laws of this Commonwealth. Failure of the commission to make recommendations within 60 days of receipt of the agreement shall constitute a recommendation in favor of the agreement.] *Required review of specified agreements.*

(a) General rule.—An agreement between a local government and the Federal Government, the Commonwealth, any other state or government of another state under the provisions of this subchapter shall, prior to and as a condition precedent to enactment of an ordinance, be submitted to the Local Government Commission for review and recommendation.

(b) Commission review.—

(1) The commission shall, within 90 days of receipt of the agreement, provide to the local government or other party submitting the agreement an advisory written response of its review of, and any recommended changes to, the agreement with regard to form and compatibility with the laws of this Commonwealth.

(2) If an agreement has been submitted to the commission for review as required by this subsection, the failure of the commission to provide an advisory written response within 90 days of receipt of the agreement shall not bar or impede the effectiveness or implementation of the agreement.

(c) Exceptions.—This section shall not apply to the following contracts, agreements or transactions:

(1) Contracts or agreements between a local government and the Commonwealth that are of a routine nature or are performed on a periodic basis, such as those for public improvements or maintenance.

(2) State grants and loans that are administered by the Commonwealth pursuant to statute or regulation.

(3) Contracts or agreements for cooperative purchasing.

(4) Contracts, agreements or memoranda of understanding between the Commonwealth and a local government that are expressly authorized by statute or regulation and by which the Commonwealth delegates all or a portion of its enforcement duties or responsibilities to a local government.

(5) Contracts or agreements between the Commonwealth and a local government that are expressly authorized by statute or regulation and through which the local government provides a service on behalf of the Commonwealth.

(6) Contracts or agreements relating to the purchase, right to capacity, sale, exchange, interchange, wheeling, pooling, transmission or development of electric power and associated energy and related services.

§ 8721. Hotel room rental.

* * *

(b) Counties of the second class.—The treasurer of each county of the second class electing to impose the tax authorized under this section is directed to collect the tax and to deposit the revenue received from the tax in a special fund. The revenues shall be distributed by the county commissioners as follows:

(1) Except as set forth in paragraph (4), two-fifths of the revenue received by the county from the excise tax shall be distributed to a tourist promotion agency pursuant to section 2199.14 of the act of July 28, 1953 (P.L. 723, No. 230), known as the Second Class County Code.

(2) Except as set forth in paragraph (4), one-third of the tax collected by hotels within a municipality where a convention center or exhibition hall is located, less the cost of collecting the tax, shall, at the request of that municipality, be returned to that municipality for deposit in that municipality's special fund established solely for purposes of paying for promotional programs implemented by a nonprofit organization which are designed to stimulate and increase the volume of conventions and visitors within the municipality or as provided in paragraph (5), subject to the following requirements:

(i) An audited report on the income and expenditures incurred by the municipality receiving funds from the excise tax on hotel room rentals shall be made annually to county.

(ii) The members of the board of directors or other governing body of the nonprofit organization utilized by the municipality to provide the promotional programs shall be appointed by the governing body of the municipality.

(2.1) Except as set forth in paragraph (4), a 5% fee shall be paid to the county for collecting the tax.

(3) Except as set forth in paragraph (4), all remaining revenue from the tax received by the county, after paying the amounts set forth in paragraphs (1), (2) and (2.1), shall be used for operational and maintenance expenditures of the convention center or exhibition hall as provided in subsection (d) and for regional tourist promotion activities.

(4) Subject to paragraph (4.1), if bonds are issued by the public authority to provide permanent financing or refinancing of the expansion of and capital improvements to the convention center or exhibition hall, the revenue received from the tax and deposited in the special fund shall not be distributed as set forth in paragraphs (1) through (3) but shall be distributed by the county commissioners in the order of priority as follows:

- (i) First, to the payment of all amounts set forth in paragraph (2).
- (ii) Second:
 - (A) to the trustee for the bonds in accordance with the provisions of the indenture pursuant to which the bonds are issued, to be used for the payment of debt service on the bonds; and
 - (B) to the payment of all amounts set forth in paragraph (2.1):
 - (I) in full; or
 - (II) if the revenues are insufficient to make the payment in full, pro rata.
- (iii) Third, to the payment of all amounts set forth in paragraph (1).
- (iv) Fourth, as set forth in paragraph (3).

(4.1) Paragraph (4) shall not apply to bonds issued subsequent to the permanent financing for purposes of completion or subsequent expansions or capital improvements.

(5) If a convention center or exhibition hall discontinues operation in a municipality in which a convention center or exhibition hall is located, the municipality shall continue to collect and receive the tax **[for a period of three years from the date of discontinuation of operation or closure. The following apply:**

(i) During this period, the municipality may use revenue from the tax for debt service on the construction, reconstruction, operation or maintenance of a convention center or exhibition hall in the municipality.

(ii) If, during this period, no convention center or exhibition hall is operating or under construction, the municipality shall hold the revenue in the special account under paragraph (2), which is separate from all other municipal revenue, solely for the purpose of the construction of a convention center or exhibition hall in the municipality.

(iii) At the end of this period, if a convention center or exhibition hall does not operate or if the construction of a new convention center or exhibition hall in the municipality has not reached substantial completion, the revenue from the tax shall be deposited by the county in the economic development, community infrastructure and tourism fund maintained by the county., *which shall be deposited by the municipality and used for the purposes as provided in paragraph (2).*

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Section 2. This act shall take effect as follows:

- (1) The amendment of 53 Pa.C.S. § 2314 shall take effect in 60 days.
- (2) The remainder of this act shall take effect immediately.

APPROVED—The 5th day of July, A.D. 2012

TOM CORBETT