

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Robert S. Bloxom, Jr.

3. **Committee** House Finance

4. **Title** Transient Occupancy Tax; State Parks.

2. **Bill Number** HB 309

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would authorize localities to impose their local transient occupancy tax in state parks under the control of the Department of Conservation and Recreation ("DCR").

Under current law, any county may impose a transient occupancy tax on privately-owned hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. Cities or towns may impose excise taxes on transient room rentals of privately owned accommodations and travel campgrounds. Publicly-owned accommodation providers, such as state agencies, are not subject to local transient occupancy taxes in counties, cities, or towns.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become effective July 1, 2020.

6. **Budget amendment necessary:** Yes.

Item 375, Department of Conservation and Recreation

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020-21	\$88,000	1	GF
2021-22	\$88,000	1	GF
2022-23	\$88,000	1	GF
2023-24	\$88,000	1	GF
2024-25	\$88,000	1	GF
2025-26	\$88,000	1	GF
2026-27	\$88,000	1	GF

8. Fiscal implications:

Administrative Costs

The estimated administrative costs for DCR to administer this bill would be \$88,000 annually beginning in Fiscal Year 2021. DCR would require a full time classified position to manage the tax collection, accounting and distribution process. This position would manage DCR's point of sale system, and the collection, accounting and distribution of the transient occupancy tax revenue in accordance with the tax rate for each locality.

Revenue Impact

This bill would increase local revenues by an unknown amount for those localities that choose to impose the transient occupancy tax on state parks under the control of DCR. Currently, there are 38 state parks in Virginia, all of which are under the control of DCR.

This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

Department of Conservation and Recreation

All localities that encompass state parks under the control of DCR

10. Technical amendment necessary: No

11. Other comments:

Generally

Under current law, any county may, upon the adoption of an ordinance, impose a transient occupancy tax at a maximum rate of two percent on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. The tax, however, does not apply to rooms rented on a continuous basis by the same individual or group for 30 or more continuous days. The tax applies to rooms intended or suitable for dwelling and sleeping. Therefore, the tax does not apply to rooms used for alternative purposes, such as banquet rooms and meeting rooms. In 2018, 75 counties, 77 towns, and 37 cities reported levying a transient occupancy tax.

Counties Authorized to Impose Transient Occupancy Tax at a Higher Rate

The following counties are authorized to impose a transient occupancy tax at a maximum rate of five percent: Accomack, Albemarle, Allegheny, Amherst, Augusta, Bedford, Bland, Botetourt, Brunswick, Campbell, Caroline, Carroll, Craig, Cumberland, Dickinson, Dinwiddie, Floyd, Franklin, Frederick, Giles, Gloucester, Goochland, Grayson, Greene, Greenville, Halifax, Highland, Isle of Wight, James City, King George, Loudoun, Madison, Mecklenburg, Montgomery, Nelson, Northampton, Page, Patrick, Prince Edward, Prince George, Prince William, Powhatan, Pulaski, Rockbridge, Rockingham, Smyth, Spotsylvania, Stafford, Tazewell, Warren, Washington, Wise, Wythe, and York.

The revenues for the portion of the tax over two percent must be spent on promoting tourism and travel, and marketing of tourism or initiatives that attract travelers to the locality and generate tourism revenues in the locality.

Counties Authorized to Impose Additional Transient Occupancy Taxes

Arlington County is authorized to levy a transient occupancy tax at a maximum rate of five percent, provided the county's local license tax on facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days does not exceed one percent of the gross receipts from these facilities. 2018 *Acts of Assembly*, Chapter 611 extended the sunset date of Arlington County's authorization to impose an additional transient occupancy tax at a maximum rate of 0.25 percent of the amount of the charge for accommodations from July 1, 2018 to July 1, 2021.

The counties of Chesterfield, Hanover, and Henrico may impose an additional transient occupancy tax not to exceed four percent. The revenues from the additional four percent tax must be used to promote tourism and travel in the Richmond Metropolitan area. These localities may also impose an additional transient occupancy tax not to exceed two percent, the revenues from which must be used for the expansion of the Richmond Centre. These localities are also authorized to impose an additional transient occupancy tax not to exceed one percent. The revenues from the additional one percent tax must be used for the development and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the use of the Richmond Centre, and for promoting tourism and travel in the Richmond metropolitan area.

The counties of James City and York are authorized to impose an additional transient occupancy tax not to exceed \$2 per room per night. The revenues from this additional tax must be used to promote tourism in the Historic Triangle area.

Fairfax County may impose an additional two percent tax on the occupancy of any room. The revenues from this additional tax must be used to promote tourism in the county and to fund a Visitor's and Convention Bureau. Any additional tax imposed in Fairfax County does not apply within the limits of any town located in Fairfax County unless the governing body of the town consents.

Rockbridge County and the Cities of Lexington and Buena Vista may impose an additional transient occupancy tax at a rate not to exceed two percent. The revenues from this tax must be used to fund the Virginia Horse Center Foundation and the Virginia Equine Center Foundation.

Bath County may impose an additional transient occupancy tax at a rate not to exceed two percent. One-half of the revenue from the tax must be designated and spent solely for tourism and travel. The remaining half must be designated and spent solely for the design, operation, construction, improvement, acquisition, and debt of tourism facilities, historic sites, beautification projects, promotion of the arts, regional tourism marketing efforts, capital costs related to travel and transportation, public parks and recreation, and information centers.

Roanoke County may impose a total transient occupancy tax not to exceed seven percent. The revenue collected from the two percent tax rate increase must be designated solely for advertising the Roanoke metropolitan area as an overnight tourist destination by members of the Roanoke Valley Convention and Visitors Bureau.

In addition, any county with the county manager plan of government is authorized to impose an additional transient occupancy tax at a maximum rate of two percent, provided the county's governing body approves the construction of a county conference center. The revenues collected from this additional tax must be spent for the design, construction, debt payment, and operation of the conference center.

Bedford County may impose an additional transient occupancy tax not to exceed two percent. The revenue collected from the two percent must be designated for tourism and travel, marketing of tourism, or initiatives that attract travelers to the locality, increase occupancy at lodging properties, and generate revenues in the locality.

Botetourt County may impose an additional transient occupancy tax not to exceed two percent. The revenue collected from the two percent must be designated for advertising the Roanoke metropolitan area as an overnight tourist destination by the Roanoke Valley Convention and Visitors Bureau.

Publicly Owned Facilities

Although the statute does not specifically exempt publicly-owned accommodation facilities from this tax, a 1992 Attorney General Opinion addressing the application of the transient occupancy tax to a state park in Virginia indicated that if an authorizing statute does not specifically make a tax applicable to the Commonwealth and its agencies, the tax does not apply to such agencies, because "the sovereign is not bound by a statute of general application, no matter how comprehensive the language, unless named expressly or included by necessary implication."

Proposal

This bill would authorize the imposition of the local transient occupancy tax in state parks under the control of the Department of Conservation and Recreation.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become effective July 1, 2020.

Similar Legislation

House Bill 62 and **Senate Bill 107** would remove the sunset date from Arlington County's authority to impose an additional transient occupancy tax of up to 0.25 percent in addition to its current ability to impose a five percent transient occupancy tax.

House Bill 315 would add Clarke County to the list of counties authorized to impose transient occupancy tax at a rate above two percent.

House Bill 1262 would add Appomattox, Mathews, Middlesex, and New Kent Counties to the list of counties that may impose a transient occupancy tax at a rate above two percent but not to exceed five percent.

Senate Bill 255 would authorize Prince George County to impose an additional two percent transient occupancy tax for a total tax rate of seven percent.

cc : Secretary of Finance

Date: 1/18/2020 VB
HB309F161