

HB 4120 -1, -3 STAFF MEASURE SUMMARY

House Committee On Revenue

Prepared By: Mazen Malik, Senior Economist

Meeting Dates: 2/7, 2/14

WHAT THE MEASURE DOES:

The measure clarifies and changes the definition of intermediary to include collection of consideration and providing the use of a third party. Establishes joint and several liability for the tax delinquency. Aligns the definition of the base price (retail) for the local tax to be consistent with the state definition. Specifies the responsibility of the provider and the intermediary in collecting and reporting local Transient Lodging Taxes.

ISSUES DISCUSSED:

- leveling the playing field for all payers and collectors.
- The Electronic Communications Privacy Act.
- Subpoena power and the information revealed.
- Cities authority County collections and the need to synchronize with the State.
- too many jurisdictions for the companies to comply with.
- The ability of computers.

EFFECT OF AMENDMENT:

-1 Takes out the new subpoena authority for local government.

-3 confirms the subpoena order under local government law, and limits the information by the subpoena to the the information required under the Electronic Communications Privacy Act of 1986.

BACKGROUND:

Oregon's statewide transient lodging tax law since it was created in 2003 with the passage of HB 2267. The 2005 Legislative Assembly expanded the definition of transient lodging (HB 2197) to include dwelling units used for temporary human occupancy, where temporary was defined as fewer than 30 days. The 2005 law explicitly exempted certain other temporary overnight dwelling units, such as hospitals and nonprofit summer camps. The 2013 Legislative Assembly clarified circumstances under which a transient lodging intermediary (HB 2656) rather than a lodging provider would be the entity responsible for collecting and remitting transient lodging taxes. Transient lodging intermediaries include Online Travel Companies (OTC), travel agents, and tour outfitter companies, among others. The law specifies that the entity collecting the payment from the customer is the entity required to collect and remit the tax based on the total retail price paid by the customer.

HB 4146 of 2016 directed the Legislative Revenue Office to lead an interim work group to study a series of specific travel industry issues. HB 4146 also marked the first major change in the structure of the tax.

The major provisions of HB 4146 were:

- An increase in the tax rate from 1% to 1.8% for the period July 1, 2016 to July 1, 2020. On July 1, 2020 the rate goes to 1.5%. The new higher rate is expected to generate an additional \$12.7 million in the 2015-17 biennium and \$27.4 million in the 2017-19 biennium after allowance for collection costs.
- A requirement that 20% of revenue collected from the transient lodging tax be spent implementing the regional cooperative tourism program and 10% be allocated to a competitive grant program to fund tourism-related facilities and events. The bill directs the Tourism Commission to base grant awards on demonstrated return on investment,

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geographic equity and community support.

- A requirement that the Tourism Commission submit an annual report to the Legislative Fiscal Office that identifies funds received by the commission and awards and commitments authorized by the commission.
- Directs Legislative Revenue Office to lead a work group to examine a series of issues that arose during the 2016 Legislative session. These specific issues are identified in this report along with specific responses to each based on work group deliberations. for a full copy of the report go to :

<https://www.oregonlegislature.gov/lro/Documents/HB%204146%20Work%20Group%20Report.pdf>

FY 2016 collection is about \$21 million. Eighty-four cities and fifteen counties in Oregon levy a locally administered transient lodging tax and are also included in that definition.