

**Local Mandate Fiscal Impact Estimate  
Kentucky Legislative Research Commission  
2017 Regular Session**

**Part I: Measure Information**

**Bill Request #:** 1636

**Bill #:** SB 221

**Bill Subject/Title:** AN ACT relating to resources to support local tourism, recreation, and economic development.

**Sponsor:** Senator J. Carpenter

Unit of Government:  City  County  Urban-County  
 Charter County  Consolidated Local  Unified Local  
Government

Office(s) Impacted: Tourism and Convention Commission, Tourism and Economic Development

Requirement:  Mandatory  Optional

Effect on Powers & Duties:  Modifies Existing  Adds New  Eliminates Existing

**Part II: Purpose and Mechanics**

Currently KRS 91A.400 only allows cities of the fourth or fifth classes to levy a restaurant tax not to exceed 3% of the retail sales made by the restaurants doing business in the city. All moneys collected from this tax is to be appropriated to the tourist and convention commission established by the city as provided by KRS 91A.350 to 91A.390.

This proposal, if enacted, amends KRS 91A.400 to allow any city or merged government (urban-county government, charter county government, consolidated government, or unified local government) to levy up to a 3% restaurant tax if the city or merged government has either formed a tourist and convention commission pursuant to Chapter 91A or is served by a tourist and convention commission pursuant to an interlocal agreement or other provision of law. If a restaurant tax has been levied by a consolidated local government pursuant to KRS 153.460(2)(b), the combined tax levy of the restaurant tax levied under KRS 153.460(2)(b) and restaurant tax levied under this proposal cannot exceed 3%.

If both a city within a county containing a merged government and the merged government impose a restaurant tax under this proposal, the restaurant shall credit the payment of the city restaurant tax against the amount due to the merged government. For example, if the city

imposes a 3% restaurant tax and the merged government imposes a 3% tax, the restaurant will pay the city the full 3% restaurant tax and take a credit for the 3% city restaurant tax paid against the merged government restaurant, thus eliminating the restaurant's liability for the merged government restaurant tax.

### **Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost**

Under this proposal, for cities and merged governments imposing a restaurant tax on or after the effective date of this Act, the revenues generated by the restaurant tax levied by a city or merged government shall be divided between the taxing jurisdictions and the tourist and convention commission with the tourist and convention commission receiving no less than 25% of the tax revenues generated. The taxing jurisdictions may use the remainder of tax revenues for capital construction, maintenance, and operation of infrastructure that supports tourism, recreation, and economic development within the taxing jurisdiction.

For cities that imposed the restaurant tax prior to the effective date of this Act, the revenues generated shall be divided between the city and the tourist and convention commission serving the city. The tourist and convention center shall receive no less than the base tax receipts (restaurant tax receipts collected from July 1, 2015 to June 30, 2016) plus 25% of the restaurant tax revenues generated above the base. The city shall use the remainder of the restaurant tax revenues for capital construction, maintenance, and operation of infrastructure that supports tourism, recreation, and economic development within the city.

Tourist and convention center commissions established by cities of the fourth and fifth class cities currently receive 100% of the tax revenues generated by the restaurant tax levied by fourth and fifth class cities. Unless an agreement between the city and the tourist and convention center to share in those receipts currently exists or one is established in the future, the tourist and convention commissions may experience a decrease in tax revenues under this proposal as they will only receive the base tax receipts and plus 25% of the tax revenues collected above the base tax receipts. The remainder of the tax revenues will be retained by the fourth or fifth city for capital construction, maintenance, and operation of infrastructure that supports tourism, recreation, and economic development within the city. It should be noted that the bill expressly states that the required distribution between the city and the tourist and convention commission shall not void, supplant, or otherwise affect existing agreements between those parties regarding the distribution of restaurant tax revenues or use thereof or prevent any future agreement.

A restaurant that is subject to the tax imposed by any taxing jurisdiction under this proposal is exempt from any percentage-based local occupational license fee or license tax imposed by the city or merged government on net profits or gross receipts of the business by the same taxing jurisdiction.

For cities and merged governments imposing a restaurant tax under this proposal, including cities of the fourth and fifth classes currently imposing the restaurant tax, an increase in tax revenues will occur. However, those same jurisdictions will see a decrease in local occupational license fees and taxes if they are currently levied. The net impact is indeterminable. As stated above tourist and convention center commissions established by

cities of the fourth and fifth class imposing the restaurant tax prior to the effective date of this act may experience a reduction in funding.

**Data Source(s):** LRC

**Preparer:** Charlotte T. Quarles **Reviewer:** KHC **Date:** 2/21/17