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Destinations Florida Government Affairs
Session Week 1
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The 2022 Legislative Session officially kicked off on Tuesday. The official start is a significant date for two reasons. For starters it is the deadline for members to file bills. While there can still be new bills filed by Committees during Session, the member deadline on Tuesday significantly reduces the number of “new” issues that can be brought up for consideration.

The beginning of the Session also, obviously, starts the countdown clock to the end for ALL the bills. There have been almost 2,000 legislative bills and resolutions filed which now will compete to be heard in the various committees where they have been assigned and then finally the floor of each Chamber. The race is on...and there are 56 days to go!

Important Upcoming Dates:

2022 General Session:

- Tourism Day in Tallahassee... Wednesday, January 19
- Sine Die... Friday, March 11

Legislation

TDT Expansion

As expected, Senate companions were filed to both of the House bills that we previously reported that expand the use of TDT’s. In summary, there are 2 legislative issues related to the Tourist Development Tax filed this Session, each with a bill in the Senate and the House, resulting in 4 bills. All of the bills are titled “Relating to Tourist Develop Taxes”. In an effort to not confuse everyone I’ve grouped them by my own generalizations below:

TDT Expansion 1: Infrastructure Improvements

- SB 1898 relating to TDT by Sen. Farmer (D, Broward)
- HB 6075 relating to TDT by Rep. Eskamani (D, Orange)

The bills are identical and seek to modify one of the requirements that allows for the use of TDT’s for infrastructure improvements. In current law there are five requirements counties must adhere to before spending TDT on infrastructure projects. These bills delete the requirement that a county must first use at least 40% of the total TDT collected to promote and advertise tourism before it could authorize and use TDT’s for those improvement projects.

Section 1. Paragraph (a) of subsection (5) of section 125.0104, Florida Statutes, is amended to read:

6. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or finance public facilities within the boundaries of the county or subcounty special taxing district in which the tax is levied, if the public facilities are needed to increase tourist-related business activities in the county or subcounty special district and are recommended by the county tourist development council created pursuant to paragraph (4) (e).

Tax revenues may be used for any related land acquisition, land improvement, design and engineering costs, and all other professional and related costs required to bring the public facilities into service. As used in this subparagraph, the term "public facilities" means major capital improvements that have a life expectancy of 5 or more years, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, and pedestrian facilities. Tax revenues may be used for these purposes only if the following conditions are satisfied:

- a. In the county fiscal year immediately preceding the fiscal year in which the tax revenues were initially used for such purposes, at least \$10 million in tourist development tax revenue was received;
- b. The county governing board approves the use for the proposed public facilities by a vote of at least two-thirds of its membership;
- c. No more than 70 percent of the cost of the proposed public facilities will be paid for with tourist development tax revenues, and sources of funding for the remaining cost are identified and confirmed by the county governing board; and
- ~~d. At least 40 percent of all tourist development tax revenues collected in the county are spent to promote and advertise tourism as provided by this subsection; and~~
- e. An independent professional analysis, performed at the expense of the county tourist development council, demonstrates the positive impact of the infrastructure project on tourist-related businesses in the county.

Both bills have been referred to three committees but not heard in either chamber yet.

TDT Expansion 2: Lifeguards & Tourism Training Programs

- SB 1542 relating to TDT by Sen. Gainer (R, Bay, Holmes, Jackson, Walton, Washington Okaloosa)

- HB 673 relating to TDT by Rep. Shoaf (R, Calhoun, Franklin, Gulf, Jefferson, Lafayette, Leon, Liberty, Madison, Taylor, Wakulla)

These bills are also identical to each other. They make changes to the area of the statute that allows for TDT's to be used for lifeguards in certain rural coastal counties. You might recall this expansion was made in 2016. These bills as filed, would increase the percentage that could be used from 10% to 20% as well as expand the uses from public safety to include "tourism training programs". The exact bill language makes the following changes:

125.0104 Tourist development tax; procedure for levying;

(5) AUTHORIZED USES OF REVENUE.—

(c) A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, which meets the following criteria may use up to 20 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing tourism training programs and 20 ~~10~~ percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services as defined in s. 401.107(3), and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area. However, if taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department.

To receive reimbursement, the county must:

1. Generate a minimum of \$10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;
2. Have at least three municipalities; and
3. Have an estimated population of less than 225,000, according to the most recent population estimate prepared pursuant to s. 186.901, excluding the inmate population.

The board of county commissioners must by majority vote approve reimbursement made pursuant to this paragraph upon receipt of a recommendation from the tourist development council.

(d) A fiscally constrained county, as defined in s. 218.67(1) that is located adjacent to the Gulf of Mexico or the Atlantic Ocean, may use up to 20 percent of the tourist development tax revenues received to reimburse expenses incurred in providing tourism training programs and up to 20 percent of the tax revenues in providing public safety services, even if the county designated as a fiscally constrained county does not meet the requirements under paragraph (c).

The House bill was referenced to 4 committees but not heard yet. The Senate bill has been referenced to 3 committees but not heard yet.

We will monitor all of the bills above closely, as we do all bills related to the TDT, and will let you know when specific engagement is needed. In the interim, please feel free to include your thoughts on the bills when you talk with your Delegation members on all tourism related issues.

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ARRIVALIST

VISIT FLORIDA

Legislation that will revise VISIT FLORIDA’s sunset date has once again been filed this Session in both Chambers and has started to move. The dates aren’t identical, but their intent is the same.

HB 489 relating to Tourism Marketing by Rep. Chaney (R, St. Petersburg) would change the Sunset date from October 1, 2023 to October 1, 2028.

SB 434 relating to Florida Tourism Marketing by Sen. Hooper (R, Palm Harbor) would change the Sunset date from October 1, 2023 to October 1, 2031.

Both bills were referred to only 2 committee each and the Senate bill has already unanimously passed one. The House bill will be heard for the first time next week. HB489 is on the agenda in the Tourism, Infrastructure and Energy Subcommittee for 1/18/22 at 2pm.

Vacation Rentals

The annual fight regarding short term rental legislation will continue again this Session. Identical bills were filed in the House & Senate and the Senate bill had its first hearing this week where it passed unanimously.

SB512 and HB325 - relating to Vacation Rentals by Sen. Burgess (R, Zephyrhills) and Rep. Fischer (R, Jacksonville)

Like past years, the legislation applies to any local law, ordinance, or regulation adopted AFTER June 1, 2011. Unlike in past years the House and Senate bills were filed identically and essentially pick up where the Senate bill ended last Session.

Below are some “highlights” of the bills:

This requires advertising platforms to collect and remit taxes for certain transactions.

1. An advertising platform, as defined in s. 509.013, which owns, operates, or manages a vacation rental or which is related within the meaning of s. 267(b), s. 707(b), or s. 1504 of the Internal Revenue Code of 1986 to a person who owns, operates, or manages the vacation rental shall collect and remit all taxes due under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 which are related to the rental.

This restricts local governments from charging a fee greater than \$50 for processing registration applications.

Local governments may charge a fee of no more than \$50 for processing a registration application. A local law, ordinance, or regulation may not require renewal of a registration more than once per year. However, if there is a change of ownership, the new owner may be required to submit a new application for registration.

Local governments must review an application for registration of a vacation rental within 15 days of receiving it. May extend the deadline if both agree.

4.a. Within 15 business days after receiving an application for registration of a vacation rental, the local government must review the application for completeness and accept the registration of the vacation rental or issue a written notice specifying with particularity any areas that are deficient.

If the local government fails to accept or deny the registration within the timeframes provided in this subparagraph, the application is deemed accepted.

The owner of vacation rental must display license number and local registration number when offering for occupancy through an advertising platform.

The owner or operator of a vacation rental offered for transient occupancy through an advertising platform must also display the vacation rental license number and, if applicable, the local registration number.

The Division of Hotels and Restaurants of the Department of Business and Professional Regulation must maintain license information in an electronic format that complies with requirements.

By July 1, 2023, the division shall maintain vacation rental license information in a readily accessible electronic format that is sufficient to facilitate prompt compliance with the requirements of this subsection by an advertising platform or a person placing an advertisement on an advertising platform for transient rental of a vacation rental.

The advertising platform must remove from public view the listing of a vacation rental within 15 business days of being notified that it fails to display a valid license number.

An advertising platform must remove from public view an advertisement or a listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.

The Division cannot charge more than 1,000 dollars per offense of violating the rules of the Division.

(5) The division may fine an advertising platform an amount not to exceed \$1,000 per offense for violations of this section or of the rules of the division. For the purposes of this subsection, the division may regard as a separate offense each day or portion of a day in which an advertising platform is operated in violation of this section or rules of the division.

The division shall issue a written warning or notice and provide the advertising platform 15 days to cure a violation before commencing any legal proceeding under subsection (4). (6) Advertising platforms shall adopt an antidiscrimination policy to help prevent discrimination among their users and shall inform all users of their services that it is illegal to refuse accommodation to an individual based on race, creed, color, sex, pregnancy, physical disability, or national origin pursuant to s. 509.092.

The Division may suspend a vacation rental license when the owner has been cited for two or more violations in a period of 90 days. The Division must warn before pursuing any legal action.

(11) The division may suspend, for a period of not more than 30 days, a vacation rental license when the owner or operator has been cited for two or more code violations related to the vacation rental during a period of 90 days. The division shall issue a written warning or notice and provide an opportunity to cure a violation before commencing any legal proceeding under this subsection.

These bills will probably be amended throughout Session so, as always, I recommend your legal counsel review the bills so you know how they may impact your area.

The Senate bill has passed one of 3 committees. The House bill has 3 references but has not been heard yet. It could be heard next week on Thursday, January 20 in the Regulatory Reform Subcommittee. That agenda will be announced on January 18.

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