HARFORD COUNTY BILL NO. 24-031

Brief Title (Hotel Occupancy Tax)
is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

Council Administrator

Date 11/5/24

ENROLLED

Council President

Date 11/5/24

BY THE COUNCIL

Read the third time.

Passed: LSD 24-028

Failed of Passage: __________

By Order

Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 6th Day of November, 2024, at 3:00 p.m.

MAD

Council Administrator

BY THE EXECUTIVE

COUNTY EXECUTIVE

APPROVED: Date __________

BY THE COUNCIL

In accordance with Article III, Section 311 of the Harford County Charter, I hereby veto Bill No. 24-031.

11-26-2024

Date

County Executive

This Bill 24-031 (Hotel Occupancy Tax), having been vetoed by the County Executive, was reconsidered by the County Council on the 3rd day of December 2024, (LSD 24-031). Having received at least (5) votes in the affirmative, the veto was overridden. This Bill becomes law on December 3, 2024.

EFFECTIVE: February 3, 2025

COUNTY COUNCIL

OF

HARFORD COUNTY, MARYLAND

BILL NO. 24-031

Introduced by Council Member Penman, Council Members Bennett, Boyle-Tsottles

Legislative Day No. 24-024 Date September 17, 2024

AN ACT to repeal and reenact, with amendments, Section 123-68, Distribution of revenue, of Article VII, Hotel Occupancy Tax, of Chapter 123, Finance and Taxation, of the Harford County Code, as amended; to delete the reference to destination marketing organization, to clarify that the applicable tax collected shall be paid over to Visit Harford!, and to require that distributions shall be paid between the 15th and 30th day of each calendar month; and generally relating to hotel occupancy tax and finance and taxation.

By the Council, September 17, 2024

Introduced, read first time, ordered posted and public hearing scheduled

on: October 15, 2024

at: 6:45 PM

By Order: Mylia A. Dixon, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on October 15, 2024, and concluded on October 15, 2024.

Mylia A. Dixon, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

Section 1. Be It Enacted By The County Council of Harford County, Maryland that Section 123-68, Distribution of revenue, of Article VII, Hotel Occupancy Tax, of Chapter 123, Finance and Taxation, of the Harford County Code, as amended, be, and it is hereby, repealed and reenacted, with amendments, to read as follows:

Chapter 123. Finance and Taxation

Article VII. Hotel Occupancy Tax

§ 123-68. Distribution of revenue.

A. 50% of the hotel occupancy tax collected from a hotel located within the corporate limits of a municipal corporation in the County shall be paid over to the Mayor and City Council of the municipal corporation.

B. 25% of the balance of the hotel occupancy tax collected shall be [used for] PAID OVER TO Visit Harford!, Incorporated [, the County's destination marketing organization (DMO)]. Out of the remaining balance, 25% of the hotel occupancy tax collected from a hotel not located in the corporate limits of a municipal corporation in the County shall be prioritized to funding tourism and tourism related activities in the Council District where the hotels are located, and the remainder of the hotel occupancy tax collected, including any amount not expended in the Council District where the hotel is located, shall be dedicated to funding tourism and tourism related activities throughout the county. No funds derived from the hotel tax shall be used for or towards payment of any capital project or debt relating to a capital project.

C. THE COUNTY SHALL MAKE THE REQUIRED DISTRIBUTIONS BETWEEN THE 15^{TH} DAY AND THE 30^{TH} DAY OF EACH CALENDAR MONTH.

[C.] D. If a municipal corporation in the County elects to levy an additional hotel tax and contracts with the County to collect this additional tax. Administrative costs for collection shall be retained by the County prior to distribution of their share to the municipal corporation.

Section 2. And Be It Further Enacted that this Act shall take effect 60 calendar days from the date it becomes law.

EFFECTIVE: February 3, 2025

The Council Administrator does hereby certify that seven (7) copies of this Bill are immediately available for distribution to the public and the press.

Mylia A. Dixon

Council Administrator

Robert G. Cassilly
Harford County Executive

Robert S. McCord
Director of Administration

Jefferson L. Blomquist
County Attorney

MEMORANDUM

TO: Patrick S. Vincenti, Harford County Council President
Members of the Harford County Council

FROM: Robert G. Cassilly, Harford County Executive

DATE: November 26, 2024

RE: Bill 24-031 – Hotel Occupancy Tax

I am vetoing Bill 24-031, as amended, pursuant to Section 311 of the Harford County Charter (the "Charter").

The mandated spending provided in this Bill and pursuant to Section 123-68 of the Harford County Code violates Sections 302, 414, and Article V of the Charter. These Sections, and Article V of the County Charter as a whole, set forth the process for accounting for and allocating tax revenues via the County budget process. Bill 24-031, in contrast, aims to dictate how the County will spend hotel tax revenues in clear violation of County Charter provisions.

Article V of the County Charter is a key part of our governmental structure, intended to support the fundamental concept of separation of powers that lies at the heart of our Nation's Constitution and the Harford County Charter. By adhering to the County Charter's budgetary restrictions and process, our County has wisely avoided one of the State's most serious challenges to runaway spending and good governance. Spending mandates of the General Assembly at the State-level have become so prevalent that such mandates seriously impede the ability of the Governor to effectively and responsibly manage government spending.

This Bill would bring into Harford County government the General Assembly's preference of damaging spending mandates in violation of Article V of the County Charter. We must not allow such flexibility to be misused to dilute the fundamentals of good governance that our predecessors worked so hard to instill.

Article V of the Charter directs the County Executive to specify the revenues collected in the previous fiscal year and the estimated revenues that will be collected in the coming fiscal year. Charter § 506(1), (7). The County Executive then has the exclusive power and responsibility for determining how revenues will be expended in the coming fiscal year, with the exception of the budgets for the County Council and the Board of Appeals. Charter §§ 506, 509, 510, 504.

The power of the County Council with respect to the expenditure of County revenues, excepting their budget and the budget of the Board of Appeals, is limited to deleting or decreasing such expenditures. Charter §§ 512, 504.

The hotel tax generates approximately three-quarters of a million dollars of revenues. Neither the enabling legislation for the tax nor the Charter permits the County Council to dictate how such revenues are allocated and spent. *See* Md. Code Ann., Local Gov't § 20-403(a); Charter Article V. If a hotel tax is to be distributed contrary to a county's budget process, the Maryland General Assembly, not a county legislative body, must establish how such revenues will be dispersed. *See* Md. Code Ann., Local Gov't §§ 20-415.1, 20-416 through 20-422.

Furthermore, no Charter provision or state law authorizes the County to mandate the spending of hotel tax revenues to fund a non-government entity that is outside of the County procurement process in order for the County Council to avoid the procurement regulations and transparencies intended by the Charter to protect taxpayers' interests through strict transparency and fairness requirements.

Further, Charter § 302(5) provides that the County Executive "shall . . . insur[e] that County funds in excess of those required for immediate needs are invested in the best interests of the County." Bill 24-031 strips the County Executive of any say in the matter of how funds received from the hotel tax are spent. This Bill would make it impossible for the County Executive to faithfully fulfill the duties of § 302(5) because the Bill mandates the expenditure of appropriated funds to a specific entity, without any other consideration as to the reasonableness of said expenditure or the benefit to the County. Therefore, Bill 24-031 is violative of Charter § 302(5).

Additionally, the budget for Fiscal Year 2025 already has been balanced and adopted. Bill 24-031 requires monthly disbursement of County revenues in violation of the approved operating budget for FY 2025. Revenues have not been budgeted for the payments mandated by Bill 24-031. Again, pursuant to Charter § 512, the Council may only decrease or delete items from the budget, it may not add sums to the budget. Bill 24-031 adds items to the budget in violation of the budget process, including Charter § 512.

Harford County Charter § 414 provides that the Department of Procurement is generally responsible for purchasing and contracting for supplies and contractual services. Bill 24-031 attempts to circumvent the Department of Procurement entirely by mandating that appropriated hotel tax funds be spent on a specific organization, without consideration of any other factor and removing any and all discretion and procedure from the use of said funds. Therefore, Bill 24-031 violates § 414 of the Charter.

Harford County Charter § 525 provides that the Council shall prescribe by law competitive bidding for any single purchase or contract with the County, other than professional services customarily negotiated. **Bill 24-031 would serve to mandate the expenditure of nearly three-quarters of a million dollars of taxpayer money to a specific non-government entity. This would entirely frustrate the clear intent of the County Charter for the County to implement competitive bidding on contracts that are out of the ordinary.** Therefore, Bill 24-031 violates § 525 of the Harford County Charter.

For the reasons stated above, I must VETO Bill 24-031, as amended.

Harford County Executive

11/26/24
Date