Department of Finance and Administration

Legislative Impact Statement

Bill: HB1718 Amendment Number: H1 (3/17/15 Engrossment)
Bill Subtitle: TO PROVIDE INCENTIVES FOR THE DEVELOPMENT OF AN ENTERTAINMENT DISTRICT; AND TO PROVIDE AN INCOME TAX CREDIT FOR THE DEVELOPMENT OF AN ENTERTAINMENT DISTRICT.

Basic Change: Sponsor: Rep. Baine

The proposal would add a new subchapter to Title 15 to authorize the creation of entertainment districts. An entertainment district is defined as a district for public and private uses that is developed for the purpose of serving as an anchor attraction consisting of carious entertainment services and venues. The district may be formed by one (1) or more cities or counties, or both, and may apply to the Arkansas Economic Development Commission to be designated as an entertainment district.

Qualifying businesses located in the district would become eligible for income and sales tax incentives as follows:

- Qualifying businesses would be eligible for an income tax exemption for the income derived from the sale of an entertainment item whether sold within the entertainment district, or by internet, mail-order, and catalog sales that are shipped from the entertainment district to purchasers outside the district.
- Qualifying business would be eligible for an income tax credit equal to 25% of the costs of construction in the entertainment district. The credit may be used against the income tax due for the year the credit is earned, and any unused credit may be carried forward for 5 consecutive tax years.
- The gross receipts from the sale of an entertainment item by a qualifying businesses would be exempt from sales and use tax. Exempt items include tickets to live entertainment events, admissions to venues such as museums and amusement parks, the sale of tangible property related to the entertainment district or event, and food sold at an entertainment event or entertainment venue.

The tax incentives provided by this act may be combined with any other incentives available for the entertainment district or to businesses located within the entertainment district. The incentives would expire fifteen (15) years from the creation of the district.

The incentives may be combined with other incentives which may be available. The incentives would expire fifteen (15) years from the creation of the district. The proposal would be effective ninety (90) days after adjournment.

Revenue Impact :

FY2016 of \$8.6M reduction to General Revenue FY2017 of \$10.0M reduction to General Revenue FY2018 of \$11.6M reduction to General Revenue

[Assumes 5 restaurants, 2 bars, and 2 gift shops within the district.]

Taxpayer Impact :

Taxpayers will be allowed income tax, gross receipts and compensating use tax credits for creation of an entertainment district in the State.

Resources Required:

Tax system modifications.

Time Required:

Adequate time is allowed in the proposal.

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Procedural Changes:

Education of staff and drafting of rules to administer the exemptions.

Other Comments :

The bill does not limit the size of an entertainment district. Consequently, there is no ability to determine the number of businesses that will locate in the district.

The bill violates the Streamlined Sales Tax Agreement and could cause Arkansas to lose \$10M per year in annual tax collections from voluntary sellers who currently report and remit tax under that Agreement.

Chain restaurants and businesses file a single income tax return for all locations within the state. It is unclear how the income tax exemption will be determined based on the combined income of all locations when some are inside and some outside the district.

Restaurants, bars, gift shops, and other businesses located within the entertainment district would not be required to collect sales tax on their sales but businesses located elsewhere within the same city but outside the district would continue to collect taxes. Restaurants within the district will continue to collect A&P taxes and 2% tourism taxes.

The bill allows businesses within the district to combine the tax incentives of this act with any other incentives that may be available, As an example, a business qualifying for a tourism development attraction project under §15-11-501 et seq. would earn benefits from both of the incentive programs. Another program available to an entertainment district business is the Delta Geotourism Incentive. Also, the entertainment district business could qualify for is the Arkansas Historic Rehabilitation Income Tax Credit Act, §26-51-2201 et seq.; and the Arkansas Central Business Improvement District and Development Investment Tax Credit Act, §26-51-2401 et seq.; as well as any other tax incentive programs that are allowed by future legislation.

Legal Analysis:

This bill defines the terms "entertainment district", "entertainment item", and "qualifying business", and sets forth the procedures for counties and cities, separately, or in conjunction together, to apply to the Arkansas Economic Development Commission for designation of an area as an Entertainment District. "Entertainment items" include tickets to entertainment events, venues, and tangible personal property related to the entertainment district such as food, alcohol, souvenirs, memorabilia, or clothing.

This act allows an exemption from income tax for entertainment items sold by a qualifying business of an entertainment district. The bill also provides a credit for income tax purposes of 25% of the costs of construction, which is limited to amount of income tax due of the taxpayer. The bill also provides an exemption from sales and use tax for the sale of an entertainment item by a qualifying business within an Entertainment District. The Arkansas Economic Development Commission is mandated to promulgate rules to implement and administer this subchapter. This act does not specify an effective date or contain an emergency clause.