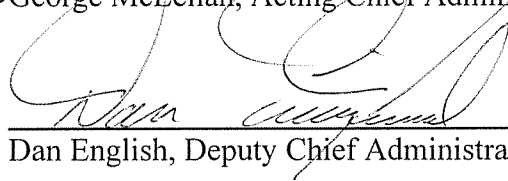

Halifax Regional Council
15 January 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


George McLellan, Acting Chief Administrative Officer


Dan English, Deputy Chief Administrative Officer

DATE: 09 January 2002

SUBJECT: Bylaw H-400 Marketing Levy

ORIGIN

- 1) October 10, 2000 HRM Council approval to seek enabling legislation for a Hotel Room Tax to fund incremental tourism marketing.
- 2) July 8, 2001 Council approval to draft a bylaw to collect a tax based on hotel room sales and approval of a Memorandum of Understanding which set out the distribution of the revenues.

RECOMMENDATION

It is recommended that Council approve in principle Bylaw H-400 attached as Appendix "A" and direct staff to arrange for the formal introduction of the Bylaw for First Reading.

BACKGROUND/DISCUSSION

On 22 November 2001, the provincial legislature approved enabling legislation for the introduction of a “Marketing Levy” within HRM. (Bill # 94 attached as Appendix “B”).

Highlights of Enabling Legislation:

- 1) Levy shall not be more than 2% of the purchase price of the room. (The proposed bylaw sets a rate of 1.5%.)
- 2) Levy will only apply to accommodation properties with 20 rooms or more.
- 3) Students who are accommodated in a property owned or operated by a post-secondary institution while the student is registered at and attending the institution are exempted; as is any person purchasing a room for more than 30 consecutive nights.
- 4) A person or a person’s family who is visiting HRM to receive medical treatment at a hospital or provincial health-care facility or seeking specialist medical advice is exempted.
- 5) The legislation contains a proclamation clause. This provides authority for the Minister of Finance to proclaim the legislation after receiving an HST exemption for the Marketing Levy.

BUDGET IMPLICATIONS

As per the Memorandum of Understanding with the Hotel Association of Nova Scotia, it is intended that 66% of the funds collected will be used to fund a Destination Marketing Organization (DMO). This organization will be established under The Societies Act and will plan, coordinate and deliver sales and marketing strategies necessary to drive leisure and business tourism into HRM. The remaining 33% will be used to fund HRM’s Special Event Reserve to offset HRM’s costs of hosting Special Events.

The following information is based on calendar 2001 information and is provided for illustration purposes:

Revenue from levy @ 1.5% \$1,704,792..

Distribution:

DMO @ 66% \$1,136,528.

Special Events Reserve @ 33% \$568,264.

In addition, collection costs incurred by HRM will be funded from the levy.

Actual projections, based on latest information, will form part of Tourism, Culture & Heritage business plan and budget for approval by Council..

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

- 1) The status quo could be maintained. This is not a recommended alternative.
- 2) Council could fund incremental marketing initiatives from the operating budget. This is not a recommended alternative.

ATTACHMENTS:

- 1) Appendix "A" - Proposed Bylaw H-400 - Respecting Marketing Levy
- 2) Appendix "B" - Bill No. 94 - Halifax Regional Municipality Marketing Levy Act

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Lewis M. Rogers, Director, Tourism, Culture & Heritage

Report Approved by: _____
Lewis M. Rogers, Director, Tourism, Culture & Heritage 490-5978

Draft - December 20, 2001.

HALIFAX REGIONAL MUNICIPALITY

BYLAW NUMBER H-400

RESPECTING MARKETING LEVY

BE IT ENACTED by the Council of the Halifax Regional Municipality under the authority of the *Halifax Regional Municipality Marketing Levy Act* as follows:

Short Title

1. This By-law shall be known as By-law H-400 and may be cited as the Marketing Levy By-law.

Definitions

2. In this by-law,

- (a) "accommodation" means the provision of lodging in hotels and motels and in any other facilities required to be licensed under the *Tourists Accommodations Act* and in a building owned or operated by a post-secondary educational institution where the hotel, motel, facility or building consists of twenty or more
 - (i) rental units, or
 - (ii) rooms,that are offered as lodgings;
- (b) "Municipality" means Halifax Regional Municipality;
- (c) "operator" means a person who, in the normal course of the person's business, sells, offers to sell, provides and offers to provide accommodation in the Municipality;
- (d) "Purchase price" means the price for which accommodation is purchased. including the price in money, the value of the services rendered and other consideration accepted by the operator in return for the accommodation provided, but does not include the goods and services tax.

Application Of Levy

3. (1) A marketing levy is hereby imposed in the Municipality, the rate of which shall be 1.5 per cent of the purchase price of the accommodation.

(2) The levy imposed under this Bylaw, whether the price is stipulated to be payable in cash, on terms, by installments or otherwise, must be collected at the time of the sale on the total amount of the purchase price and must be remitted to the Municipality at the prescribed times and in the prescribed manner.

(3) If a person collects an amount as if it were a levy imposed under this Bylaw, the person must remit the amount collected to the Municipal at the same time and in the same manner as levy collected under this Bylaw.

Exemption From Levy

4. (1) The marketing levy shall not apply to

- a) a person who pays for accommodation for which the daily purchase price is no more than Twenty Dollars;
- b) a student who is accommodated in a building owned or operated by a post-secondary educational institution while the student is registered at and attending a post-secondary educational institution;
- c) a person who is accommodated in a room for more than thirty consecutive days; or
- d) a person and the person's family, accommodated while the person or a member of the person's family is receiving medical treatment at a hospital or provincial health-care centre or seeking specialist medical advice, provided the person provides to the operator a statement from a hospital or provincial health-care centre that the person or a member of the person's family is receiving medical treatment at the hospital or centre or from a physician licensed to practice medicine in the Province of Nova Scotia that the person or a member of the person's family is seeking specialist medical advice and as a result thereof the person or a member of the person's family is in need of and the duration of the accommodation.

Registration Of Operator

5. (1) Every operator of a facility providing accommodations to which this by-law applies shall apply for and be issued a registration certificate by the Municipality.

(2) Where an operator carries on business at more than one place, he shall obtain a registration certificate in respect of each individual place of business.

(3) The registration certificate shall be displayed in a prominent place on the premises.

(4) Where an operator changes his address, he shall forthwith return his registration certificate to the Municipality for amendment.

(5) Where an operator changes the name or nature of his business, he shall forthwith return his registration certificate to the Municipality for a new one.

(6) Where an operator ceases to carry on business in respect of which a registration certificate has been issued, the certificate shall thereupon be void, and he shall return the same to the Municipality within 15 days of the date of discontinuance.

(7) Where a registration certificate is lost or destroyed, application shall be made to the Municipality for a copy of the original.

(8) A registration certificate granted under subsection (1) is not transferable.

Return and Remittance of Levy

6. (1) The Municipality may at any time require a return of sales and levy collected by any person selling accommodation, such return to cover any period or periods.

(2) Subject to the provisions of subsection (1), unless otherwise provided, all operators shall make separate monthly returns to the Municipality.

(3) A separate return shall be made for each place of business, unless a consolidated return has been approved by the Municipality.

(4) The returns by operators shall be made and the levy shall be remitted to the Municipality by the 15th day of the month following the collection of the levy by the operator.

(5) If an operator during the preceding period has collected no levy, he shall nevertheless make a report to that effect on the prescribed return form.

(6) Where an operator ceases to carry on or disposes of his business, he shall make the return and remit the levy collected within 15 days of the date of discontinuance or disposal.

Records

7. (1) Every operator shall keep books of account, records and documents sufficient to furnish the Municipality with the necessary particulars of

- (a) sales of accommodation,
- (b) amount of levy collected, and
- (c) disposal of levy.

(2) All entries concerning the levy in such books of account, records and documents shall

be separate and distinguishable from other entries made therein.

(3) Every operator shall retain any book of account, record or other document referred to in this section until the Municipality authorizes its destruction.

(4) Where a receipt, bill, invoice or other document is issued by a person selling accommodation, the levy shall be shown as a separate item thereon.

Calculation of Levy

8. Where an operator sells accommodation in combination with meals and other specialized services for an all-inclusive package price, the purchase price of the accommodations shall be deemed to be the purchase price of the accommodations when such accommodations are offered for sale in the same facility without such specialized services.

Refund of Levy Written Off

9. (1) The Municipality may refund to an operator who sells accommodation a portion of the amount sent by the operator to the Municipality in respect of levy payable on that sale under this Bylaw, if

- (a) the operator, in accordance with this Bylaw, remits the levy required under this Act to be levied and collected for the sale,
- (b) the purchaser subsequently fails to pay to the operator the full amount of the consideration and levy payable on that sale, and
- (c) the operator writes off as unrealizable or uncollectable the amount owing by the purchaser.

(2) An operator may deduct the amount of the refund payable to the operator under this section from the amount of levy that the operator is required to remit under this Bylaw.

(3) If an operator who has obtained a refund under subsection (1) or made a deduction under subsection (2) recovers some or all of the amount referred to in subsection (1) (c) with respect to which the refund was paid or the deduction was made, the operator must add an amount to the levy to be paid or remitted by the operator under this Bylaw with respect to the reporting period in which the recovery was made.

Refund of Levy Collected In Error

10. (1) If the Municipality is satisfied that a levy or a portion of a levy have been paid in error, the Municipality shall refund the amount of the overpayment to the person entitled.

(2) If the Municipality is satisfied that an operator has remitted to the Municipality an amount as collected levy that the operator neither collected nor was required to collect under this Bylaw, the Municipality must refund the amount to the operator.

Claim For Refund

11. (1) In order to claim a refund under this Bylaw, a person must

- (a) submit to the Municipality an application in writing signed by the person who paid the amount claimed, and
- (b) provide sufficient evidence to satisfy the Municipality that the person who paid the amount is entitled to the refund.

(2) For the purposes of subsection (1) (a), if the person who paid the amount claimed is a corporation, the application must be signed by a director or authorized employee of the corporation.

Interest

12. Interest payable under the By-law shall be payable at the rate of 4% above the prime rate as set by HRM banker calculated on a daily basis

Inspection, Audit and Assessment

13. A person appointed by the Municipality may enter at a reasonable time the business premises occupied by a person, or the premises where the person's records are kept,

- (a) to determine whether or not
 - (i) the person is an operator, or the premises are accommodations within the meaning of this Bylaw, or
 - (ii) this Bylaw is being and have been complied with, or
- (b) to inspect, audit and examine books of account, records or documents.

Offense

14. A person who contravenes any provision of the By-law is guilty of offence punishable by summary conviction and on conviction is liable

- (a) on a first conviction, to a fine of not less than \$500 and not more than \$1,000, and

- (b) for a subsequent conviction for the same or another provision of this regulation, to a fine of not less than \$1,500 and not more than \$5,000.

Administration of Bylaw

15. This Bylaw shall be administered on behalf of the Municipality by the Treasurer and any persons designated by the Treasurer.

Effective Date

16. This By-law shall take effect from the 1st day of April, 2002.

House of
Assembly



Office of the
Legislative
Counsel

What's new?

Current bills
& Of all
sessions

Acts of 2001
& Of all years
Consolidated
public statutes
Proclamations

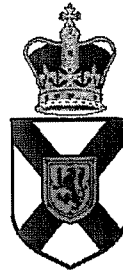
Related sites



BILL NO. 94

APPENDIX
"B"

(as passed, with amendments)



*2nd Session, 58th General Assembly
Nova Scotia
50 Elizabeth II, 2001*

Local Bill

Halifax Regional Municipality Marketing Levy Act

CHAPTER 51 OF THE ACTS OF 2001

BILL NO. 94
(as passed, with amendments)

2nd Session, 58th General Assembly
Nova Scotia
50 Elizabeth II, 2001

Local Bill

Halifax Regional Municipality Marketing Levy Act
CHAPTER 51 OF THE ACTS OF 2001

David Hendsbee
Preston

First Reading: November 15, 2001 (LINK TO BILL AS INTRODUCED)

Second Reading: November 16, 2001

Third Reading: November 22, 2001 (WITH COMMITTEE AMENDMENTS)

Royal Assent: November 22, 2001

An Act to Authorize a Marketing Levy in Halifax Regional Municipality

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the Halifax Regional Municipality Marketing Levy Act.

2 In this Act,

(a) "accommodation" means the provision of lodging in hotels and motels and in any other facilities required to be licensed under the Tourist Accommodations Act and in a building owned or operated by a post-secondary educational institution where the hotel, motel, facility or building consists of twenty or more

(i) rental units, or

(ii) rooms,

that are offered as lodging;

(b) "Council" means the Council of the Municipality;

(c) "levy" means the levy imposed pursuant to this Act;

(d) "Municipality" means the Halifax Regional Municipality;

(e) "operator" means a person who, in the normal course of the person's business, sells, offers to sell, provides or offers to provide accommodation in the Municipality;

(f) "purchase price" means the price for which accommodation is purchased, including the price in money, the value of services rendered and other consideration accepted by the operator in return for the accommodation provided, but does not include the goods and services tax.

3 (1) The Council may impose a levy, to be known as a marketing levy, upon a person who, for a daily charge, fee or remuneration purchases accommodation in the Municipality.

(2) The levy shall be at such rate as may be set by the Council but shall not be more than two per cent of the purchase price of the accommodation.

(3) Subsections (1) and (2) do not apply to

(a) a person who pays for accommodation for which the daily purchase price is not more than twenty dollars;

(b) a student who is accommodated in a building owned or operated by a post-secondary educational institution while the student is registered at and attending a post-secondary educational institution; or

(c) a person who is accommodated in a room for more than thirty consecutive days.

(4) The levy collected pursuant to this Section shall be used by the Council to promote the Municipality as a tourist destination.

(5) Without restricting the generality of subsection (4) and notwithstanding any other enactment, the Council may pay such portion of the levy collected by way of a grant as determined by the Council to any organization formed to promote the Municipality as a tourist destination, whether such organization is non-profit or otherwise.

(6) An operator is deemed to be an agent of the Municipality for the purpose of collecting the levy and remitting it to the Municipality and as such shall collect the levy from the purchaser and remit it to the Municipality.

(7) The levy, whether the price is stipulated to be payable in cash, on terms, by instalments or otherwise, shall be collected at the time of the purchase on the total amount of the purchase price and shall be remitted to the Municipality at the times and in the manner prescribed by by-law passed pursuant to subsection (8).

(8) The Council may, in the manner prescribed by law, pass any by-laws that are necessary to implement a levy and, without limiting the generality of the foregoing, may pass a by-law to provide for

(a) the levy not applying to the purchaser of accommodation based on the purchase price of the accommodation, the number of rental units or rooms for rent, the location of the facility or any other criteria prescribed by the Council;

(b) the forms and records to be maintained by the operator and the information to be recorded therein;

(c) the method of collection and remittance of the levy and any other conditions or requirements affecting collection and remittance;

(d) the rate of levy to be collected including, if so prescribed, a minimum and maximum levy;

(e) the method by which a purchase price may be attributed to accommodations that are sold as part of a combination of accommodations, meals and specialized goods or services;

(f) the inspection and audit of records maintained by the operator;

(g) interest and penalties for the failure to collect or remit the levy as required by the by-law;

(h) the times at which and the manner in which operators remit the levy to the Municipality.

(9) A by-law made pursuant to subsection (8) shall include an exemption for persons, and their families, accommodated while receiving medical treatment at a hospital or provincial health-care centre or seeking specialist medical advice including, without restricting the generality of the foregoing, the manner of showing entitlement to the exemption.

4 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.