HOUSE RESEARCH ORGANIZATION bill analysis | 5/9/97 | HB 2929 Coleman (CSHB 2929 by Craddick)

SUBJECT: Mixed beverage tax rebates for certain qualified hotel projects

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 8 ayes — Craddick, Ramsay, Heflin, Holzheauser, Oliveira, Stiles, Telford, Thompson

0 nays

1 present, not voting — Horn

2 absent — Grusendorf, Williamson

WITNESSES: For — David Kantorczyk, Reuben McDaniel and Richard Allen Husseini, Duddlesten Ventures I; Ed Hall, Greater Houston Convention and Visitors Bureau; John E. Elsner; Jordy Tollett; Michael White, Greater Houston Partnership

Against — None

On — John Heleman, State Comptroller's Office

BACKGROUND: In 1993, the Legislature enacted HB 2282 by Coleman, which allowed a qualified hotel project built by the City of Houston or a nonprofit corporation sponsored by the city to receive certain tax incentives. The owner of a qualified hotel project in an enterprise zone receives a rebate, refund or payment from the comptroller of 100 percent of hotel occupancy taxes and sales and use taxes paid or collected by the hotel project or by businesses located in the hotel project. This exemption applies during the first 10 years after the hotel is open for occupancy.

DIGEST: CSHB 2929 would allow qualified hotel projects in enterprise zones to receive a 100 percent rebate during the first 10 years of occupancy on mixed beverage taxes.

The bill would require the comptroller and the hotel owner to enter into an agreement that the hotel owner would collect and retain taxes as an agent of the comptroller. The agreement would have to specify the date on which the agreement would begin and end and require the owner to file periodic reports with the comptroller, including detailed information about the total amount of each tax collected and retained by the owner, and to keep and retain records of the total amount of each tax collected. The comptroller would have to issue to the hotel owner and each business in the hotel a certificate authorizing the owners to use the certificate in lieu of paying sales and use taxes that would otherwise be due. The certificate would also require businesses in the hotel to remit to the hotel owner instead of the comptroller any taxes that would be subject to rebate, refund or payment to the owner.

The agreement would also have to specify that eligible taxable proceeds need not be paid to or collected by a governmental body, the tax assessor-collector of a governmental body, or the comptroller, but instead could be paid to, collected by, or retained by the owner of a qualified hotel project.

CSHB 2929 would take effect July 1, 1997, if approved by a two-thirds vote of the membership in each house.

SUPPORTERS SAY:

CSHB 2929 would increase incentives for construction of a 1,000-plus room hotel to be built next to the Brown Convention Center in Houston. The hotel is located in an enterprise zone and would provide hundreds of jobs in a depressed part of the city. Negotiations for the construction of the hotel are still taking place. The comptroller estimates that the mixed beverage tax credit could result in cost savings to the project of as much as $400,000 per year. This tax break would create stronger incentives for banks to provide financing for the project. Tax breaks for mixed beverages were inadvertently left out of the original bill allowing hotel tax credits; CSHB 2929 would simply fulfill the original intent of the law by including the tax exemption as an incentive for construction.

Without this tax break, the hotel may not be built, and no tax revenue or jobs would be generated. The state should extend the additional tax break to ensure that this much needed project can go forward.

The bill would also allow the hotel project manager to save on unnecessary administrative costs by keeping tax income that would otherwise have to be sent to the comptroller, then refunded to the owner. Eliminating this unnecessary step would also help the project's cash flow. The hotel owner would be required to report the income and keep proper records so that the comptroller could audit the records should concerns arise about proper reporting of the tax.

OPPONENTS SAY:

CSHB 2929 would extend yet another tax break to enterprise zones at a cost to the state of $400,000 per year. This could add up to $4 million over the 10-year period allowed by law. Projects in enterprise zones already receive numerous tax incentives, which should be sufficient to encourage a viable project to go forward.

The hotel owner should not, as an agent of the comptroller, be allowed to keep all sales and use, occupancy and beverage taxes as well as local taxes and collect taxes from businesses in the hotel. Even if these taxes are all refunded, the owner should be required to submit these taxes to the comptroller or local tax assessor-collector to ensure proper accountability and oversight. Allowing the owner to simply keep the taxes and report on the income would give too much room for potential abuse.

NOTES:

The committee substitute added a new section exempting the qualified hotel from paying taxes to a local governing authority or the tax assessor-collector and allowing local governments to issue certificates that the hotel could use in lieu of paying local taxes.