

BILL ANALYSIS

Senate Research Center

H.B. 2445
By: Stucky et al. (Estes)
Natural Resources & Economic Development
8/2/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties assert that upgrading existing sports facilities or fields will attract more visitors for recreational tournaments and generate new money for state and local treasuries. The purpose of H.B. 2445 is to authorize certain municipalities, such as the City of Denton, to use municipal hotel occupancy tax revenue for the enhancement and upgrading of existing sports facilities or fields. (Original Author's / Sponsor's Statement of Intent)

H.B. 2445 amends current law relating to the imposition of hotel occupancy taxes by and the collection and use of certain tax revenue in certain municipalities and counties, including the authority of certain municipalities to pledge certain tax revenue for the payment of obligations related to hotel and hotel convention center projects and authorizes the imposition of a tax.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 334.001, Local Government Code, by amending Subdivisions (1) and (4) and adding Subdivision (1-a), to define "active transportation," redefine "venue," and make a nonsubstantive change.

SECTION 2. Amends Section 334.1015, Local Government Code, as follows:

Sec. 334.1015. APPLICATION. (a) Provides that, except as provided by Subsection (b), this subchapter (Short-Term Motor Vehicle Rental Tax) does not apply to the financing of a venue project that is an area or facility that is part of a municipal parks and recreation system. Makes a nonsubstantive change.

(b) Authorizes a municipality located on the international border to finance a venue project described by Section 334.001(4)(D) (relating to the definition of "venue") with the revenue from a tax imposed under this subchapter.

SECTION 3. Amends Section 334.2515, Local Government Code, as follows:

Sec. 334.2515. APPLICATION. Provides that, except as provided by Section 334.2516, this subchapter (Hotel Occupancy Taxes) does not apply to the financing of a venue project that is:

- (1) an area described by Section 334.001(4)(C) (relating to the definition of "venue");
- (2) creates this subdivision from existing text under Subdivision (1) and makes no further changes to this subdivision;
- (3) a project described by Section 334.001(4)(E) (relating to the definition of "venue"), except for a project described by Section 334.001(4)(A) (relating to the

definition of "venue"). Redesignates existing Subdivision (2) as Subdivision (3) and makes nonsubstantive changes; or

(4) a facility described by Section 334.001(4)(G) (relating to the definition of "venue").

SECTION 4. Amends Section 351.005, Tax Code, as follows:

Sec. 351.005. REIMBURSEMENT FOR EXPENSES OF TAX COLLECTION AND USE OF ELECTRONIC TAX ADMINISTRATION SYSTEM. (a) Authorizes a municipality to permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter (Municipal Hotel Occupancy Taxes) to withhold not more than one percent of the amount of the tax collected and required to be reported as reimbursement to the person for the cost of collecting the tax, rather than to the person for the costs in collecting the tax and, if applicable, the use of an electronic tax administration system described by Section 351.1012 (Electronic Tax Administration System).

(b) Requires the municipality, if a municipality uses revenue derived from the tax authorized by this chapter to create, maintain, operate, or administer an electronic tax administration system as authorized by Section 351.1012, to permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter to withhold not more than one percent of the amount of the tax collected and required to be reported as reimbursement to the person for the cost of collecting the tax.

(c) Creates this subsection from existing text. Authorizes the municipality to provide that the reimbursement provided or required by this section be forfeited because of a failure to pay the tax or to file a report as required by the municipality.

SECTION 5. Reenacts Section 351.101(a), Tax Code, as amended by Chapters 666 (H.B. 3772) and 979 (H.B. 3615), Acts of the 84th Legislature, Regular Session, 2015, and amends it, as follows:

(a) Authorizes revenue from the municipal hotel occupancy tax to be used only to promote tourism and the convention and hotel industry, and provides that the use is limited to the following:

(1) through (6) makes no changes to these subdivisions;

(7) subject to Section 351.1076 (Allocation of Revenue: Certain Municipalities), the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, flag football, and rodeos, if:

(A) makes no changes to this paragraph;

(B) the municipality:

(i) through (vii) makes no changes to these subparagraphs;

(viii) redesignates existing Subparagraph (ix) as Subparagraph (viii) and makes a nonsubstantive change;

(ix) redesignates existing Subparagraph (x) as Subparagraph (ix) and makes a nonsubstantive change; or

(x) contains an intersection of Interstates 35E and 35W and at least two public universities; and

(C) makes no change to this paragraph;

(8) through (11) makes no changes to these subdivisions.

SECTION 6. Amends Section 351.101, Tax Code, by amending Subsection (g) and adding Subsections (g-1), (n), and (o), as follows:

(g) Provides that this section does not prohibit a person that receives a grant from a municipality to conduct an activity authorized by Subsection (a)(4) (relating to the use of revenue from the municipal hotel occupancy tax to encourage, promote, improve, and apply the arts) from making a grant by contract to another person to conduct an activity authorized by that subdivision, rather than provides that nothing in this section is required to prohibit any private entity, person, or organization from making subgrants by contract to any other person, entity, or private organization for expenditures under Section 351.101(a)(4). Requires a person, rather than a subgrantee, that receives a grant from a grantee of the municipality under this subsection to:

(1) at least annually submit a report of the person's expenditures of funds received from the grantee, rather than make periodic reports, to the governing body of the municipality, rather than the governing body of its expenditures from the tax authorized by this chapter; and

(2) make records of those expenditures available for review to the governing body of the municipality and any other person. Makes nonsubstantive changes.

(g-1) Prohibits a municipality from requiring a person that receives funds directly from the municipality through a grant to conduct an activity authorized by Subsection (a)(4) to waive a right guaranteed by law to the person or to enter into an agreement with another person.

(n) Provides that, in addition to other authorized uses, a municipality that has a population of not more than 1,500 and is located in a county that borders Arkansas and Louisiana is authorized to use revenue from the municipal hotel occupancy tax for the promotion of tourism by the enhancement and upgrading of an existing sports facility or field as specified by Subsection (a)(7) (relating to the use of revenue from the municipal hotel occupancy tax to promote tourism by the enhancement and upgrading of existing sports facilities), provided that the requirements of Subsections (a)(7)(A) (relating to the requirement that the municipality owns the facility or field that is enhanced or upgraded) and (C) (relating to the requirement that the sports facilities and fields have been used a certain amount of times) and Section 351.1076 are met.

(o) Provides that, in addition to the purposes provided by Subsection (a), a municipality that has a population of not more than 10,000, that contains an outdoor gear and sporting goods retailer with retail space larger than 175,000 square feet, and that hosts an annual wiener dog race is authorized to use revenue from the municipal hotel occupancy tax to promote tourism and the convention and hotel industry by constructing, operating, or expanding a sporting related facility or sports field owned by the municipality, if the majority of the events at the facility or field are directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels in the municipality. Prohibits the municipality, if a municipality to which this subsection applies uses revenue derived from the municipal hotel occupancy tax for a purpose described by this subsection, from reducing the percentage of revenue from that tax allocated for a purpose described by Subsection (a)(3) (relating to the use of revenue from the municipal hotel occupancy tax to advertise and solicit certain programs) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using the revenue for a purpose described by this subsection.

SECTION 7. Amends Section 351.1012(a), Tax Code, as follows:

(a) Authorizes a municipality, notwithstanding any other provision of this chapter, to spend each year not more than the lesser of one percent or \$75,000 of the revenue derived from the tax authorized by this chapter during that year for the creation, maintenance, operation, and administration of an electronic tax administration system. Prohibits a municipality from using revenue the municipality is authorized to spend under this subsection to conduct an audit.

SECTION 8. Amends Section 351.102, Tax Code, by amending Subsections (b), (c), and (d) and adding Subsections (c-1), (e), (f), and (g), as follows:

(b) Provides that for bonds or other obligations issued under this subsection, an eligible central municipality or a municipality described by this subsection or Subsection (e) may only pledge revenue or other assets of the hotel project benefiting from those bonds or other obligations.

(c) Entitles a municipality to which Subsection (b) or (e) applies, except as provided by this subsection, to receive all funds from a project described by Subsection (b) that an owner of a project is authorized to receive under Section 151.429(h) (relating to the requirement that the owner of a qualified hotel project receive a certain rebate, refund, or payment) of this code, or Section 2303.5055 (Refund, Rebate, or Payment of Tax Proceeds to Qualified Hotel Project), Government Code, and is authorized to pledge the funds for the payment of obligations issued under this section. Provides that a municipality described by Subsection (e) is not entitled to receive funds from a project under this subsection unless the municipality has pledged the revenue derived from tax imposed under this chapter from the project for the payment of bonds or other obligations issued or incurred for the project.

(c-1) Entitles a municipality to which this subsection applies to receive all funds from a hotel and convention center project that the owner of a project could receive under Section 151.429(h) of this code or Section 2303.5055, Government Code, if a project for purposes of those provisions included a hotel and convention center projects. Authorizes the municipality to pledge the funds for payment of obligations issued under this section for the hotel and convention center project. Defines "hotel and convention center project." Provides that this subsection applies only to a certain municipality.

(d) Prohibits an eligible central municipality or another municipality described by Subsection (b) or (e) that uses revenue derived from the tax imposed under this chapter or funds received under Subsection (c) for a hotel project described by Subsection (b), except as provided by this subsection, from reducing the percentage of revenue from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(3) to a percentage that is less than a certain percentage.

(e) Provides that, in addition to the municipalities described by Subsection (b), that subsection applies to certain municipalities.

(f) Prohibits a certain municipality, in a fiscal year that begins after construction of the hotel project is complete and during any part of which the bonds or other obligations are outstanding, from reducing the amount of revenue derived from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(6) (relating to the use of revenue from the municipal hotel tax to certain municipalities for expenses related to a sporting event in which the majority of participants are tourists) to an amount that is less than a certain amount.

(g) Prohibits a municipality to which this section applies from receiving or pledging revenue or funds under Subsection (b) or (c) for a hotel project unless the municipality enters into an agreement with a person for the development of the hotel project before September 1, 2019.

SECTION 9. Amends Subchapter B, Chapter 351, Tax Code, by adding Section 351.10711, as follows:

Sec. 351.10711. ALLOCATION OF REVENUE FOR MAINTENANCE, ENHANCEMENT, AND UPGRADE OF SPORTS FACILITIES AND FIELDS BY CERTAIN MUNICIPALITIES. (a) Provides that this section applies only to a municipality that is the county seat of a county that has a population of more than 10,000 and contains a portion of Mound Lake.

(b) Authorizes a municipality to which this section applies, in addition to other authorized uses, to use revenue derived from the tax imposed under this chapter to promote tourism by maintaining, enhancing, or upgrading sports facilities or fields, provided that:

(1) the requirements of Section 351.1076 are met if the municipality uses the revenue to enhance or upgrade a sports facility or field;

(2) the municipality owns the sports facilities or fields; and

(3) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments.

(c) Prohibits a municipality that uses revenue derived from the tax imposed under this chapter as authorized by Subsection (b) from reducing the percentage of revenue from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using the revenue as authorized by Subsection (b).

SECTION 10. Amends Section 351.1076(a), Tax Code, as follows:

(a) Provides that a municipality that spends municipal hotel occupancy tax revenue for the enhancement and upgrading of existing sports facilities or fields as authorized by Section 351.101(a)(7) or (n) or Section 351.10711:

(1) and (2) makes no changes to these subdivisions.

SECTION 11. Amends Section 351.1078, Tax Code, as follows:

Sec. 351.1078. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) Provides that a municipality that spends municipal hotel occupancy tax revenue as authorized by Section 351.101(i) (relating to authorizing a certain municipality to use revenue from the municipal hotel tax to promote tourism) or (o):

(1) through (3) makes no changes to these subdivisions.

(b) Requires the municipality to reimburse to the municipality's hotel occupancy tax revenue fund from the municipality's general fund any expenditure in excess of the amount of area hotel revenue attributable to sporting events held at the sporting related facility or sports field described by Section 351.101(i) or (o) for five years after the date the construction or expansion of the facility or field described by that subsection is completed.

SECTION 12. Amends Section 352.002, Tax Code, by adding Subsection (x), to authorize the commissioners court of a county that has a population of less than 100,000 and that borders Lake Ray Roberts to impose a tax as provided by Subsection (a) (relating to authorizing the commissioners courts of certain counties to impose a certain hotel tax).

SECTION 13. Amends Section 352.003, Tax Code, by adding Subsection (u), to prohibit the tax rate in a county authorized to impose the tax under Section 352.002(x) from exceeding two percent of the price paid for a room in a hotel.

SECTION 14. Amends Section 352.103, Tax Code, as follows:

Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY. (a) Creates an exception under Subsection (b).

(b) Authorizes a county described by Subsection (a) (relating to prohibitions on the use of revenue from a county hotel occupancy tax by certain counties) that owns an airport, notwithstanding any other provision of this chapter (County Hotel Occupancy Taxes), to use revenue from a tax imposed under this chapter for repairs and improvements to the county airport or reimbursement for repairs and improvements to the airport.

(c) Prohibits a county to which Subsection (b) applies from using revenue from a tax imposed under this chapter for a purpose described by Subsection (b) in a total amount that would exceed the amount of hotel revenue in the county that is likely to be reasonably attributable to guests traveling through the airport during the 15-year period beginning on the date the county first uses the tax revenue for that purpose.

(d) Prohibits a county to which Subsection (b) applies from using revenue from a tax imposed under this chapter for a purpose described by Subsection (b) after the 10th anniversary of the date the county first uses that revenue for that purpose.

SECTION 15. Amends Subchapter B, Chapter 352, Tax Code, by adding Section 352.113, as follows:

Sec. 352.113. USE OF REVENUE: CERTAIN COUNTIES BORDERING LAKE RAY ROBERTS. Authorizes the revenue from a tax imposed under this chapter by a county authorized to impose the tax under Section 352.002(x), in addition to the purposes authorized by this chapter, to be used for any purpose described by Section 352.101(a) (relating to the restricted use of revenue from a county hotel occupancy tax in certain populous counties).

SECTION 16. Provides that, to the extent of any conflict, this Act controls over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 17. Effective date: upon passage or September 1, 2017.