

By: Anderson

H.B. No. 3727

Substitute the following for H.B. No. 3727:

By: Hefner

C.S.H.B. No. 3727

A BILL TO BE ENTITLED

AN ACT

relating to municipal and county hotel occupancy taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 351.001(2), (6), (8), and (10), Tax Code, are amended to read as follows:

(2) "Convention center facilities" or "convention center complex" means facilities that are primarily used to host conventions and meetings. The term means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in whole or part by the municipality. In a municipality with a population of 1.5 million or more, "convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in part by the municipality, hotels owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within 1,000 feet of a convention center owned by the municipality, or a historic hotel owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within one mile of a convention center owned by the municipality. The term includes parking areas or facilities that are for the parking or

1 storage of conveyances and that are located at or within 1,500 feet
2 of the [~~in the vicinity of other~~] convention center facilities. The
3 term also includes a hotel owned by or located on land that is owned
4 by an eligible central municipality or by a nonprofit corporation
5 acting on behalf of an eligible central municipality and that is
6 located within 1,000 feet of a convention center facility owned by
7 the municipality. The term also includes a hotel that is owned in
8 part by an eligible central municipality described by Subdivision
9 (7)(D) and that is located within 1,000 feet of a convention center
10 facility. For purposes of this subdivision, "meetings" means
11 gatherings [~~of people~~] that:

12 (A) are attended by:

13 (i) tourists; or

14 (ii) individuals who spend the night at a
15 hotel or attend a meeting at a hotel; and

16 (B) enhance and promote tourism and the
17 convention and hotel industry.

18 (6) "Tourist" means an individual who travels from the
19 individual's residence to a different municipality, county, state,
20 or country for business, pleasure, recreation, education, or
21 culture.

22 (8) "Visitor information center" or "tourism
23 information center" means a building or a portion of a building that
24 is primarily used to distribute or disseminate information to
25 tourists.

26 (10) "Multiuse facility" means a facility at which the
27 majority of events attract tourists who substantially increase

1 economic activity at hotels in the municipality in which the
2 facility is located. [~~"Revenue" includes any interest derived from~~
3 ~~the revenue.~~]

4 SECTION 2. Section 351.009, Tax Code, is amended to read as
5 follows:

6 Sec. 351.009. ANNUAL REPORT TO COMPTROLLER. (a) Not
7 later than March 1 [~~February 20~~] of each year, a municipality that
8 imposes the tax authorized by this chapter shall report to the
9 comptroller:

10 (1) the rate of:

11 (A) the tax imposed by the municipality under
12 this chapter; and

13 (B) if applicable, the tax imposed by the
14 municipality under Subchapter H, Chapter 334, Local Government
15 Code;

16 (2) the amount of revenue collected during the
17 municipality's preceding fiscal year from:

18 (A) the tax imposed by the municipality under
19 this chapter; and

20 (B) if applicable, the tax imposed by the
21 municipality under Subchapter H, Chapter 334, Local Government
22 Code; [~~and~~]

23 (3) the amount and percentage of the revenue described
24 by Subdivision (2)(A) allocated by the municipality to each use
25 authorized by this chapter for which the municipality used the
26 revenue [~~described by Sections 351.101(a)(1), (2), (3), (4), (5),~~
27 ~~and (9)~~] during the municipality's preceding fiscal year, stated

1 separately as an amount and percentage for each applicable use; and

2 (4) the total amount of any revenue described by
3 Subdivision (2)(A) collected in any preceding fiscal year of the
4 municipality that has not yet been spent by the municipality and the
5 amount of that unexpended revenue, if any, that remains in the
6 municipality's possession in the fiscal year in which the report is
7 due [of those subdivisions].

8 (b) The municipality must make the report required by this
9 section by[+]

10 [~~(1)~~] submitting the report to the comptroller on a
11 form prescribed by the comptroller[~~, or~~

12 [~~(2) providing the comptroller a direct link to, or a~~
13 ~~clear statement describing the location of, the information~~
14 ~~required to be reported that is posted on the Internet website of~~
15 ~~the municipality].~~

16 (c) The [~~Subject to Subsection (b)(2), the~~] comptroller
17 shall prescribe the form a municipality must use for the report
18 required to be submitted under this section.

19 (d) A municipality that is required to make a report to the
20 comptroller under this section may use a portion of the revenue
21 described by Subsection (a)(2)(A) for the costs incurred by the
22 municipality in making and submitting the report. The amount of
23 revenue a municipality may use each year for the purpose authorized
24 by this subsection may not exceed:

25 (1) \$1,000 if the municipality has a population of
26 less than 10,000; or

27 (2) \$2,500 if the municipality has a population of

1 10,000 or more.

2 (e) The comptroller may adopt rules necessary to administer
3 this section.

4 SECTION 3. Section 351.101, Tax Code, is amended by adding
5 Subsection (f-1) to read as follows:

6 (f-1) A municipality may not use municipal hotel occupancy
7 tax revenue for a visitor information center under Subsection
8 (a)(1) to acquire a site for, construct, improve, enlarge, equip,
9 repair, staff, operate, or maintain any part of a building or
10 facility that is not primarily used to distribute or disseminate
11 tourism-related information to tourists.

12 SECTION 4. Section 351.1021(a)(3), Tax Code, is amended to
13 read as follows:

14 (3) "Multipurpose convention center facility project"
15 means a project that consists of a hotel owned by an eligible
16 municipality or another person and a multipurpose convention center
17 facility, the nearest exterior wall of which is located not more
18 than 2,500 feet from the nearest exterior wall of the hotel. A
19 multipurpose convention center facility project may include:

20 (A) each new or existing business located in the
21 municipality, regardless of who owns the business or the property
22 on which the business is located, the nearest exterior wall of which
23 is located not more than 2,500 feet from the nearest exterior wall
24 of the multipurpose convention center facility or the hotel that is
25 part of the project;

26 (B) a parking shuttle or transportation system
27 used primarily by tourists; and

1 (C) any parking area or structure located in the
2 municipality, regardless of who owns the area or structure or the
3 property on which the area or structure is located, the nearest
4 property line of which is located not more than two miles from the
5 nearest exterior wall of the multipurpose convention center
6 facility.

7 SECTION 5. Sections 351.103(a), (b), and (c), Tax Code, are
8 amended to read as follows:

9 (a) A municipality [~~At least 50 percent of the hotel~~
10 ~~occupancy tax revenue collected by a municipality with a population~~
11 ~~of 200,000 or greater must be allocated for the purposes provided by~~
12 ~~Section 351.101(a)(3). For municipalities]~~ with a population of
13 less than 200,000 shall allocate [~~, allocations]~~ for the purposes
14 provided by Section 351.101(a)(3) an amount of hotel occupancy tax
15 revenue collected by the municipality that is [~~are as follows:~~

16 [~~(1) if the tax rate in a municipality is not more than~~
17 ~~three percent of the cost paid for a room, not less than the amount~~
18 ~~of revenue received by the municipality from the tax at a rate of~~
19 ~~one-half of one percent of the cost of the room, or~~

20 [~~(2) if the tax in a municipality exceeds three~~
21 ~~percent of the cost of a room,~~] not less than the amount of revenue
22 received by the municipality from the tax at a rate of one percent
23 of the cost of a room. [~~This subsection does not apply to a~~
24 ~~municipality, regardless of population, that before October 1,~~
25 ~~1989, adopted an ordinance providing for the allocation of an~~
26 ~~amount in excess of 50 percent of the hotel occupancy tax revenue~~
27 ~~collected by the municipality for one or more specific purposes~~

1 ~~provided by Section 351.101(a)(1) until the ordinance is repealed~~
2 ~~or expires or until the revenue is no longer used for those specific~~
3 ~~purposes in an amount in excess of 50 percent of the tax revenue.]~~

4 (b) A ~~[Subsection (a) does not apply to a municipality in a~~
5 ~~fiscal year of the municipality if the total amount of hotel~~
6 ~~occupancy tax collected by the municipality in the most recent~~
7 ~~calendar year that ends at least 90 days before the date the fiscal~~
8 ~~year begins exceeds \$2 million. A municipality excepted from the~~
9 ~~application of Subsection (a) by this subsection shall allocate~~
10 ~~hotel occupancy tax revenue by ordinance, consistent with the other~~
11 ~~limitations of this section. The portion of the tax revenue~~
12 ~~allocated by a]~~ municipality with a population of more than 1.6
13 million shall allocate at least 23 percent of the hotel occupancy
14 tax revenue collected by the municipality for the purposes provided
15 by Section 351.101(a)(3) ~~[may not be less than 23 percent]~~, except
16 that the allocation is subject to and may not impair the authority
17 of the municipality to:

18 (1) pledge all or any portion of that tax revenue to
19 the payment of bonds as provided by Section 351.102(a) or bonds
20 issued to refund bonds secured by that pledge; or

21 (2) spend all or any portion of that tax revenue for
22 the payment of operation and maintenance expenses of convention
23 center facilities.

24 (c) Not more than 15 percent of the hotel occupancy tax
25 revenue collected by a municipality, other than a municipality
26 having a population of more than 1.6 million, or the amount of tax
27 received by the municipality at the rate of one percent of the cost

1 of a room, whichever is greater, may be used for the purposes
2 provided by Section 351.101(a)(4). Not more than 19.30 percent of
3 the hotel occupancy tax revenue collected by a municipality having
4 a population of more than 1.6 million, or the amount of tax received
5 by the municipality at the rate of one percent of the cost of a room,
6 whichever is greater, may be used for the purposes provided by
7 Section 351.101(a)(4). Not more than 15 percent of the hotel
8 occupancy tax revenue collected by a municipality [~~having a~~
9 ~~population of more than 125,000~~] may be used for the purposes
10 provided by Section 351.101(a)(5). A municipality that before
11 January 1, 2023, adopted in accordance with state law an ordinance
12 providing for the allocation of an amount in excess of 15 percent of
13 the hotel occupancy tax revenue collected by the municipality for
14 one or more of the specific purposes provided by Section
15 351.101(a)(5) may allocate tax revenue as provided by that
16 ordinance until the ordinance is repealed or expires or until the
17 revenue is no longer used for those specific purposes.

18 SECTION 6. Section 351.110(c), Tax Code, is amended to read
19 as follows:

20 (c) This section does not authorize the use of revenue
21 derived from the tax imposed under this chapter for a
22 transportation system that serves the general public other than for
23 a system [~~that transports tourists as~~] described by Subsection (a)
24 that is primarily used by tourists.

25 SECTION 7. Subchapter C, Chapter 351, Tax Code, is amended
26 by adding Sections 351.161, 351.162, and 351.163 to read as
27 follows:

1 Sec. 351.161. APPLICATION OF OTHER LAW. This subchapter
2 may not be construed as authorizing the taking of private property
3 for economic development purposes in a manner inconsistent with the
4 requirements of Section 17, Article I, Texas Constitution, or
5 Section 2206.001, Government Code.

6 Sec. 351.162. RECAPTURE OF LOST STATE TAX REVENUE FROM
7 CERTAIN MUNICIPALITIES. (a) This section applies only to a
8 qualified project that is first commenced on or after:

9 (1) January 1, 2024, unless Subdivision (2) applies to
10 the qualified project; or

11 (2) January 1, 2027, if the qualified project was
12 authorized before January 1, 2023, by a municipality with a
13 population of 175,000 or more.

14 (b) On the 20th anniversary of the date a hotel designated
15 as a qualified hotel by a municipality as part of a qualified
16 project to which this section applies is open for initial
17 occupancy, the comptroller shall determine:

18 (1) the total amount of state tax revenue received
19 under Section 351.156 and, if applicable, under Section 351.157 by
20 the municipality from the qualified project during the period for
21 which the municipality was entitled to receive that revenue; and

22 (2) the total amount of state tax revenue described by
23 Subdivision (1) received by the state during the period beginning
24 on the 10th anniversary of the date the qualified hotel opened for
25 initial occupancy and ending on the 20th anniversary of that date
26 from the same sources from which the municipality received the
27 revenue described by Subdivision (1).

1 (c) If the amount determined under Subsection (b)(1)
2 exceeds the amount determined under Subsection (b)(2), the
3 comptroller shall promptly provide written notice to the
4 municipality stating that the municipality must remit to the
5 comptroller the difference between those two amounts in the manner
6 provided by this subsection. The municipality shall, using money
7 lawfully available to the municipality for the purpose, remit
8 monthly payments to the comptroller in an amount equal to the total
9 amount of municipal hotel occupancy tax revenue received by the
10 municipality from the qualified hotel in the preceding month until
11 the amount remitted to the comptroller equals the total amount due
12 as stated in the notice. The first payment required under this
13 subsection must be made not later than the 30th day after the date
14 the municipality receives the notice from the comptroller.
15 Subsequent payments are due on the 20th day of each month until the
16 total amount stated in the notice is paid. The comptroller shall
17 prescribe the procedure a municipality must use to remit a payment
18 required by this subsection to the comptroller.

19 (d) The comptroller shall deposit revenue received under
20 this section in the manner prescribed by Section [156.251](#).

21 Sec. 351.163. REPORT ON QUALIFIED PROJECTS. (a) Not later
22 than December 1 of each even-numbered year, the comptroller shall
23 prepare a report on the status of each qualified project.

24 (b) The report must include, for each qualified project:

25 (1) the location and a description of the project,
26 including the current status of the project;

27 (2) the number of qualified hotels and qualified

1 convention center facilities associated with the project;

2 (3) the total amount of tax revenue received by a
3 municipality under Section 351.156 and, if applicable, Section
4 351.157 as a result of the project;

5 (4) the amount of state tax revenue generated by the
6 project that has been received by the state after the period of
7 entitlement for the project as prescribed by Section 351.158 has
8 ended; and

9 (5) whether the municipality is required to remit
10 payments to the comptroller under Section 351.162 as a result of the
11 project.

12 (c) The comptroller may include in the report any additional
13 information the comptroller determines is necessary to evaluate the
14 effect of each qualified project on the economy of this state.

15 (d) The comptroller shall:

16 (1) post a copy of the report on the comptroller's
17 Internet website; and

18 (2) provide a copy of the report to the lieutenant
19 governor, the speaker of the house of representatives, and each
20 other member of the legislature.

21 SECTION 8. Section 352.009, Tax Code, is amended to read as
22 follows:

23 Sec. 352.009. ANNUAL REPORT TO COMPTROLLER. (a) Not
24 later than March 1 [~~February 20~~] of each year, a county that imposes
25 the tax authorized by this chapter shall report to the comptroller:

26 (1) the rate of:

27 (A) the tax imposed by the county under this

1 chapter; and

2 (B) if applicable, the tax imposed by the county
3 under Subchapter H, Chapter 334, Local Government Code; ~~and~~

4 (2) the amount of revenue collected during the
5 county's preceding fiscal year from:

6 (A) the tax imposed by the county under this
7 chapter; and

8 (B) if applicable, the tax imposed by the county
9 under Subchapter H, Chapter 334, Local Government Code;

10 (3) the amount and percentage of the revenue described
11 by Subdivision (2)(A) allocated by the county to each use
12 authorized by this chapter for which the county used the revenue
13 during the county's preceding fiscal year, stated separately as an
14 amount and percentage for each applicable use; and

15 (4) the total amount of any revenue described by
16 Subdivision (2)(A) collected in any preceding fiscal year of the
17 county that has not yet been spent by the county and the amount of
18 that unexpended revenue, if any, that remains in the county's
19 possession in the fiscal year in which the report is due.

20 (b) The county must make the report required by this section
21 by~~+~~

22 ~~[(1)]~~ submitting the report to the comptroller on a
23 form prescribed by the comptroller~~[, or~~

24 ~~[(2) providing the comptroller a direct link to, or a~~
25 ~~clear statement describing the location of, the information~~
26 ~~required to be reported that is posted on the Internet website of~~
27 ~~the county].~~

1 (c) The [~~Subject to Subsection (b)(2), the~~] comptroller
2 shall prescribe the form a county must use for the report required
3 to be submitted under this section.

4 (d) A county that is required to make a report to the
5 comptroller under this section may use a portion of the revenue
6 described by Subsection (a)(2)(A) for the costs incurred by the
7 county in making and submitting the report. The amount of revenue a
8 county may use each year for the purpose authorized by this
9 subsection may not exceed:

10 (1) \$1,000 if the county has a population of less than
11 10,000; or

12 (2) \$2,500 if the county has a population of 10,000 or
13 more.

14 (e) The comptroller may adopt rules necessary to administer
15 this section.

16 SECTION 9. The following provisions of the Tax Code are
17 repealed:

18 (1) Sections 351.103(d) and (e); and

19 (2) Section 351.110(b).

20 SECTION 10. The comptroller of public accounts shall
21 prescribe the form of the report required under Sections 351.009
22 and 352.009, Tax Code, as amended by this Act, not later than
23 January 1, 2024. A municipality or county required to make a report
24 under those sections must submit the 2024 report using the form
25 prescribed by the comptroller under this section.

26 SECTION 11. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

C.S.H.B. No. 3727

1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2023.