

By: Anderson

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 enhance and promote tourism and the
12 convention and hotel industry.

13 (6) "Tourist" means an individual who:

14 (A) travels at least 50 miles from the
15 individual's residence to a different municipality, county, state,
16 or country for business, pleasure, recreation, education, or
17 culture;

18 (B) attends a meeting at a hotel or an event at a
19 hotel; or

20 (C) spends the night at a hotel.

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

25 (10) "Multiuse facility" means a facility at which the
26 majority of events attract tourists who substantially increase
27 economic activity at hotels in the municipality in which the

1 facility is located. [~~"Revenue" includes any interest derived from~~
2 ~~the revenue.~~]

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

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

9 (1) the rate of:

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

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

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

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

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

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

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

7 (b) The municipality must make the report required by this
8 section by~~+~~

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

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

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

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

24 (1) \$1,000 if the municipality has a population of
25 less than 10,000; or

26 (2) \$2,500 if the municipality has a population of
27 10,000 or more.

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

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

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

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

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

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

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

27 (C) any parking area or structure located in the

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

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

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

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

19 [~~(2) if the tax in a municipality exceeds three~~
20 ~~percent of the cost of a room,~~] not less than the amount of revenue
21 received by the municipality from the tax at a rate of one percent
22 of the cost of a room. [~~This subsection does not apply to a~~
23 ~~municipality, regardless of population, that before October 1,~~
24 ~~1989, adopted an ordinance providing for the allocation of an~~
25 ~~amount in excess of 50 percent of the hotel occupancy tax revenue~~
26 ~~collected by the municipality for one or more specific purposes~~
27 ~~provided by Section 351.101(a)(1) until the ordinance is repealed~~

1 ~~or expires or until the revenue is no longer used for those specific~~
2 ~~purposes in an amount in excess of 50 percent of the tax revenue.]~~

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

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

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

23 (c) Not more than 15 percent of the hotel occupancy tax
24 revenue collected by a municipality, other than a municipality
25 having a population of more than 1.6 million, or the amount of tax
26 received by the municipality at the rate of one percent of the cost
27 of a room, whichever is greater, may be used for the purposes

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

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

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

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

27 Sec. 351.161. APPLICATION OF OTHER LAW. This subchapter

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

5 Sec. 351.162. RECAPTURE OF LOST STATE TAX REVENUE FROM
6 CERTAIN MUNICIPALITIES. (a) This section applies only to a
7 municipality to which this subchapter first applied on or after
8 January 1, 2023.

9 (b) On the 20th anniversary of the date a hotel designated
10 as a qualified hotel by a municipality to which this section applies
11 is open for initial occupancy, the comptroller shall determine:

12 (1) the total amount of state tax revenue received
13 under Section 351.156 by the municipality from the qualified
14 project of which the qualified hotel was a part during the period
15 for which the municipality was entitled to receive that revenue;
16 and

17 (2) the total amount of state tax revenue described by
18 Section 351.156 received by the state during the period beginning
19 on the 10th anniversary of the date the qualified hotel opened for
20 initial occupancy and ending on the 20th anniversary of that date
21 from the same sources from which the municipality received revenue
22 under Section 351.156.

23 (c) If the amount determined under Subsection (b)(1)
24 exceeds the amount determined under Subsection (b)(2), the
25 municipality shall remit to the comptroller the municipal hotel
26 occupancy tax revenue received by the municipality from the
27 qualified hotel until the amount remitted to the comptroller equals

1 the difference between the amount described by Subsection (b)(1)
2 and the amount described by Subsection (b)(2).

3 (d) The comptroller shall deposit revenue received under
4 this section in the manner prescribed by Section 156.251.

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

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

9 (1) the location and a description of the project,
10 including the current status of the project;

11 (2) the number of qualified hotels and qualified
12 convention center facilities associated with the project;

13 (3) the total amount of tax revenue received by a
14 municipality under Section 351.156 and, if applicable, Section
15 351.157 as a result of the project; and

16 (4) the amount of new state tax revenue generated by
17 the project that has been received by the state.

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

21 (d) The comptroller shall:

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

24 (2) provide a copy of the report to the lieutenant
25 governor, speaker of the house of representatives, and each other
26 member of the legislature.

27 SECTION 8. Section 352.009, Tax Code, is amended to read as

1 follows:

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

5 (1) the rate of:

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; [~~and~~]

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

12 (A) the tax imposed by the county under this
13 chapter; and

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

16 (3) the amount and percentage of the revenue described
17 by Subdivision (2)(A) allocated by the county to each use
18 authorized by this chapter for which the county used the revenue
19 during the county's preceding fiscal year, stated separately as an
20 amount and percentage for each applicable use; and

21 (4) the total amount of any revenue described by
22 Subdivision (2)(A) collected in any preceding fiscal year of the
23 county that has not been spent by the county and the amount of that
24 unexpended revenue, if any, that is spent in the county's budget for
25 the fiscal year in which the report is due.

26 (b) The county must make the report required by this section
27 by[+]

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

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

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

10 (d) A county that is required to make a report to the
11 comptroller under this section may use a portion of the revenue
12 described by Subsection (a)(2)(A) for the costs incurred by the
13 county in making and submitting the report. The amount of revenue a
14 county may use each year for the purpose authorized by this
15 subsection may not exceed:

16 (1) \$1,000 if the county has a population of less than
17 10,000; or

18 (2) \$2,500 if the county has a population of 10,000 or
19 more.

20 (e) The comptroller may adopt rules necessary to administer
21 this section.

22 SECTION 9. The following provisions of the Tax Code are
23 repealed:

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

25 (2) Section 351.110(b).

26 SECTION 10. The comptroller of public accounts shall
27 prescribe the form of the report required under Sections 351.009

1 and 352.009, Tax Code, as amended by this Act, not later than
2 January 1, 2024. A municipality or county required to make a report
3 under those sections must submit the 2024 report using the form
4 prescribed by the comptroller under this section.

5 SECTION 11. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2023.