By: Clardy

H.B. No. 5012

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of certain municipalities to receive
3 certain tax revenue derived from a hotel and convention center
4 project and to pledge certain tax revenue for the payment of
5 obligations related to the project.
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
7 SECTION 1. Sections 351.001(12), Tax Code, is amended to
8 read as follows:
9 (12) "Retail establishment" means an establishment
10 engaged in activities described by North American Industry
11 Classification System subsector code 442, 443, 445, 446, 448, 451,
12 452, [or] 453, or 713.
13 SECTION 2. Section 351.152, Tax Code, is amended to read as
14 follows:
15 Sec. 351.152. APPLICABILITY. This subchapter applies only
16 to:
17 (1) a municipality described by Section
18 351.001(7)(B);
19 (2) a municipality described by Section
20 351.001(7)(D);
21 (3) a municipality described by Section
22 351.001(7)(E);
23 (4) a municipality described by Section
24 351.102(e)(3);

1

1   (5) a municipality that contains more than 75 percent

2 of the population of a county with a population of 1.5 million or

3 more;

4   (6) a municipality with a population of 150,000 or

5 more but less than 200,000 that is partially located in at least one

6 county with a population of 125,000 or more;

7   (7) a municipality with a population of 150,000 or

8 more but less than one million that is located in one county with a

9 population of 2.3 million or more;

10   (8) a municipality with a population of 180,000 or

11 more that:

12   (A) is located in two counties, each with a

13 population of 100,000 or more; and

14   (B) contains an American Quarter Horse Hall of

15 Fame and Museum;

16   (9) a municipality with a population of 96,000 or more

17 that is located in a county that borders Lake Palestine;

18   (10) a municipality with a population of 96,000 or

19 more that is located in a county that contains the headwaters of the

20 San Gabriel River;

21   (11) a municipality with a population of 99,900 or

22 more but less than 111,000 that is located in a county with a

23 population of 135,000 or more;

24   (12) a municipality with a population of 110,000 or

25 more but less than 135,000 at least part of which is located in a

26 county with a population of less than 135,000;

27   (13) a municipality with a population of 9,000 or more

1 but less than 10,000 that is located in two counties, each of which

2 has a population of 662,000 or more and a southern border with a

3 county with a population of 2.3 million or more;

4   (14) a municipality with a population of 200,000 or

5 more but less than 300,000 that contains a component institution of

6 the Texas Tech University System;

7   (15) a municipality with a population of 95,000 or

8 more that:

9   (A) is located in more than one county; and

10   (B) borders Lake Lewisville;

11   (16) a municipality with a population of 45,000 or

12 more that:

13   (A) contains a portion of Cedar Hill State Park;

14   (B) is located in two counties, one of which has a

15 population of two million or more and one of which has a population

16 of 149,000 or more; and

17   (C) has adopted a capital improvement plan for

18 the construction or expansion of a convention center facility;

19   (17) a municipality with a population of less than

20 6,000 that:

21   (A) is almost wholly located in a county with a

22 population of 600,000 or more that is adjacent to a county with a

23 population of two million or more;

24   (B) is partially located in a county with a

25 population of 1.8 million or more that is adjacent to a county with

26 a population of two million or more;

27   (C) has a visitor center and museum located in a

1 19th-century rock building in the municipality's downtown; and

2   (D)   has a waterpark open to the public;

3   (18)   a municipality with a population of 56,000 or

4 more that:

5   (A)   borders Lake Ray Hubbard; and

6   (B)   is located in two counties, one of which has a

7 population of less than 80,000;

8   (19)   a municipality with a population of 83,000 or

9 more that:

10   (A)   borders Clear Lake; and

11   (B)   is primarily located in a county with a

12 population of less than 300,000;

13   (20)   a municipality with a population of less than

14 2,000 that:

15   (A)   is located adjacent to a bay connected to the

16 Gulf of Mexico;

17   (B)   is located in a county with a population of

18 290,000 or more that is adjacent to a county with a population of

19 four million or more; and

20   (C)   has a boardwalk on the bay;

21   (21)   a municipality with a population of 75,000 or

22 more that:

23   (A)   is located wholly in one county with a

24 population of 575,000 or more that is adjacent to a county with a

25 population of four million or more; and

26   (B)   has adopted a capital improvement plan for

27 the construction or expansion of a convention center facility;

1   (22) a municipality with a population of less than
2 75,000 that is located in three counties, at least one of which has
3 a population of four million or more;
4   (23) an eligible coastal municipality with a
5 population of 3,000 or more but less than 5,000;
6   (24) a municipality with a population of 90,000 or
7 more but less than 150,000 that:
8   (A) is located in three counties; and
9   (B) contains a branch campus of a component
10 institution of the University of Houston System;
11   (25) a municipality that is:
12   (A) primarily located in a county with a
13 population of four million or more; and
14   (B) connected by a bridge to a municipality
15 described by Subdivision (20);
16   (26) a municipality with a population of 20,000 or
17 more but less than 25,000 that:
18   (A) contains a portion of Mustang Bayou; and
19   (B) is wholly located in a county with a
20 population of less than 500,000;
21   (27) a municipality with a population of 70,000 or
22 more but less than 90,000 that is located in two counties, one of
23 which has a population of four million or more and the other of
24 which has a population of less than 50,000;
25   (28) a municipality with a population of 10,000 or
26 more that:
27   (A) is wholly located in a county with a

1 population of four million or more; and

2   (B) has a city hall located less than three miles

3 from a space center operated by an agency of the federal government;

4   (29) a municipality that is the county seat of a

5 county:

6   (A) through which the Pedernales River flows; and

7   (B) in which the birthplace of a president of the

8 United States is located;

9   (30) a municipality that contains a portion of U.S.

10 Highway 79 and State Highway 130;

11   (31) a municipality with a population of 48,000 or

12 more but less than 95,000 that is located in two counties, one of

13 which has a population of 900,000 or more but less than 1.7 million;

14   (32) a municipality with a population of less than

15 25,000 that contains a museum of Western American art;

16   (33) a municipality with a population of 50,000 or

17 more that is the county seat of a county that contains a portion of

18 the Sam Houston National Forest;

19   (34) a municipality with a population of less than

20 25,000 that:

21   (A) contains a cultural heritage museum; and

22   (B) is located in a county that borders the

23 United Mexican States and the Gulf of Mexico;

24   (35) a municipality that is the county seat of a county

25 that:

26   (A) has a population of 115,000 or more;

27   (B) is adjacent to a county with a population of

1 1.8 million or more; and

2 (C) hosts an annual peach festival;

3 (36) a municipality that is the county seat of a county

4 that:

5 (A) has a population of 585,000 or more; and

6 (B) is adjacent to a county with a population of

7 four million or more;

8 (37) a municipality with a population of less than

9 10,000 that:

10 (A) contains a component university of The Texas

11 A&M University System; and

12 (B) is located in a county adjacent to a county

13 that borders Oklahoma;

14 (38) a municipality with a population of less than

15 6,100 that:

16 (A) is located in two counties, each of which has

17 a population of 600,000 or more but less than two million; and

18 (B) hosts an annual Cajun Festival;

19 (39) a municipality with a population of 13,000 or

20 more that:

21 (A) is located on an international border; and

22 (B) is located in a county:

23 (i) with a population of less than 400,000;

24 and

25 (ii) in which at least one World Birding

26 Center site is located;

27 (40) a municipality with a population of 4,000 or more

1 that:

2   (A) is located on an international border; and

3   (B) is located not more than five miles from a

4 state historic site that serves as a visitor center for a state park

5 that contains 300,000 or more acres of land;

6   (41) a municipality with a population of 36,000 or

7 more that is adjacent to at least two municipalities described by

8 Subdivision (15);

9   (42) a municipality with a population of 28,000 or

10 more that is located in a county with a population of 240,000 or

11 more in which is located a portion of the Balcones River and a

12 historic railroad depot and heritage center;

13   (43) a municipality located in a county that has a

14 population of not more than 300,000 and in which a component

15 university of the University of Houston System is located;

16   (44) a municipality with a population of less than

17 500,000 that is:

18   (A) located in two counties; and

19   (B) adjacent to a municipality described by

20 Subdivision (31); [and]

21   (45) a municipality that:

22   (A) has a population of more than 67,000; and

23   (B) is located in two counties with 90 percent of

24 the municipality's territory located in a county with a population

25 of at least 580,000, and the remaining territory located in a county

26 with a population of at least four million;

27   (46) a municipality that:

1   (A)   has a population of 100,000 or more; and

2   (B)   is wholly located in, but is not the county

3 seat of, a county with a population of one million or more:

4   (i)   in which all or part of a municipality

5 with a population of one million or more is located; and

6   (ii)   that is adjacent to a county with a

7 population of 2.5 million or more;

8   (47)   a municipality that contains an intersection of

9 Interstates 35E and 35W and at least two public universities;

10   (48)   a municipality that is the county seat of a county

11 bordering the Gulf of Mexico and the United Mexican States;

12   (49)   a municipality that is bisected by the Guadalupe

13 River and is the county seat of a county with a population of

14 170,000 or more;

15   (50)   a municipality with a population of 70,000 or

16 more but less than 150,000 that borders Joe Pool Lake;

17   (51)   a municipality with a population of 115,000 or

18 more that borders the Neches River;

19   (52)   a municipality described by Section 351.101(k);

20   (53)   a municipality that is the county seat of a

21 county:

22   (A)   through which the Brazos River flows; and

23   (B)   in which a national monument is located;

24   (54)   a municipality that:

25   (A)   contains a historical commercial district

26 designated on the National Register of Historic Places and hosts an

27 annual Grapefest event;

1 　　　　　　　　　　(B)　has a population of 50,000 or more; and

2 　　　　　　　　　　(C)　is partially located in three counties all of

3 which has a population of 900,000 or more;

4 　　　　　　　　(55)　a municipality with a population of 45,000 or

5 more that:

6 　　　　　　　　　　(A)　is not the county seat of a county;

7 　　　　　　　　　　(B)　is located in a single county; and

8 　　　　　　　　　　(C)　contains a portion of Lake Lewisville;

9 　　　　　　　　(56)　a municipality that has a population of at least

10 150,000 and is partially located in a county that contains a portion

11 of Cedar Creek Reservoir and has a population of at least

12 145,00054); and

13 　　　　　　　　(57)　a municipality that:

14 　　　　　　　　　　(A)　has an institution of higher education

15 designated as an historical black college and university;

16 　　　　　　　　　　(B)　has a population of 17,400 or more; and

17 　　　　　　　　　　(C)　is located a county with a population of

18 145,000 or more that is adjacent to a county with a population of

19 2.6 million or more.

20 　　　　SECTION 3.　Section 351.155, Tax Code, is amended by adding

21 Subsection (f) to read as follows:

22 　　　　(f)　This subsection applies only to a municipality

23 described by Section 351.152(52).　A municipality to which this

24 subsection applies may pledge or commit the revenue derived from

25 the tax imposed under this chapter from a qualified hotel and the

26 revenue to which the municipality is entitled under Section 351.156

27 for the payment of bonds or other obligations issued for a

10

1 convention center facility that, at the time the bonds or other

2 obligations were issued, was not a qualified convention center

3 facility.

4   SECTION 4. Section 351.157, Tax Code, is amended by adding

5 the following subsections to read as follows:

6   (b) This section applies only to:

7   (1) a municipality described by Section 351.152(3);

8   (2) a municipality described by Section 351.152(6);

9   (3) a municipality described by Section 351.152(7);

10   (4) a municipality described by Section 351.152(10);

11   (4-a) a municipality described by Section

12 351.152(14);

13   (5) a municipality described by Section 351.152(16);

14   (6) a municipality described by Section 351.152(22);

15   (7) a municipality described by Section 351.152(25);

16   (8) a municipality described by Section 351.152(34);

17   (9) a municipality described by Section 351.152(35);

18   (10) a municipality described by Section 351.152(36);

19   (11) a municipality described by Section 351.152(38);

20 and

21   (12) a municipality described by Section

22 351.152(43).; and

23   (13) a municipality described by Section 351.152(46)

24   (c) A municipality is entitled to receive revenue under

25 Subsection (d) derived from the following types of establishments

26 that meet the requirements of Subsections (a)(1), (2), (3), and

27 (4):

1   (1) for a municipality described by Subsection (b)(1):

2   (A) restaurants,   bars,   and   retail

3 establishments; and

4   (B) swimming pools and swimming facilities owned

5 or operated by the related qualified hotel;

6   (2) for a municipality described by Subsection (b)(2),

7 swimming pools and swimming facilities, restaurants, bars, and

8 retail establishments;

9   (3) for a municipality described by Subsection (b)(3),

10 restaurants, bars, and retail establishments;

11   (4) for a municipality described by Subsection (b)(4):

12   (A) restaurants,   bars,   and   retail

13 establishments; and

14   (B) swimming pools and swimming facilities owned

15 or operated by the related qualified hotel;

16   (4-a) for a municipality described by Subsection

17 (b)(4-a):

18   (A) restaurants,   bars,   and   retail

19 establishments; and

20   (B) swimming pools and swimming facilities owned

21 or operated by the related qualified hotel;

22   (5) for a municipality described by Subsection (b)(5),

23 restaurants, bars, and retail establishments;

24   (6) for a municipality described by Subsection (b)(6),

25 restaurants, bars, and retail establishments;

26   (7) for a municipality described by Subsection (b)(7),

27 restaurants, bars, and retail establishments;

1   (8) for a municipality described by Subsection (b)(8),

2 restaurants, bars, and retail establishments;

3   (9) for a municipality described by Subsection (b)(9),

4 restaurants, bars, and retail establishments;

5   (10) for a municipality described by Subsection

6 (b)(10):

7   (A) restaurants,   bars,   and   retail

8 establishments; and

9   (B) swimming pools and swimming facilities owned

10 or operated by the related qualified hotel;

11   (11) for a municipality described by Subsection

12 (b)(11):

13   (A) restaurants,   bars,   and   retail

14 establishments; and

15   (B) swimming pools and swimming facilities owned

16 or operated by the related qualified hotel; and

17   (12) for a municipality described by Subsection

18 (b)(12):

19   (A) restaurants,   bars,   and   retail

20 establishments; and

21   (B) swimming pools and swimming facilities owned

22 or operated by the related qualified hotel; and .

23   (13) for a municipality described by Subsection

24 (b)(13), restaurants, bars and retail establishments.

25   SECTION 5. Chapter 351, Tax Code, is amended by adding

26 Subchapter D to read as follows:

27 SUBCHAPTER D. RECEIPT OF CERTAIN REVENUE BY CERTAIN MUNICIPALITIES

1   Sec. 351.201. EXTENSION OF PERIOD OF ENTITLEMENT TO CERTAIN
2 REVENUE FOR CERTAIN MUNICIPALITIES. (a) This section applies only
3 to a municipality or nonprofit corporation acting on behalf of a
4 municipality that received or was entitled to receive a rebate,
5 refund, or payment of taxes under Section 151.429(h), 351.102,
6 351.156, or 351.157 at any time during the period beginning March
7 12, 2020, and ending January 1, 2021, relating to a hotel project or
8 qualified hotel, convention center facility, or establishment, as
9 applicable.
10   (b) Notwithstanding any other law, a municipality or
11 nonprofit corporation acting on behalf of a municipality to which
12 this section applies and that is otherwise entitled to receive
13 revenue under Section 151.429(h), 351.1015, 351.102, 351.156, or
14 351.157 for the period following the date on which the qualifying
15 hotel to which the entitlement relates is open for initial
16 occupancy is entitled to receive that revenue for an additional
17 24-month period immediately following the expiration of the 10-year
18 period.
19   (c) A municipality or nonprofit corporation acting on
20 behalf of a municipality must request the extension of the period of
21 entitlement provided under Subsection (b) from the comptroller in
22 the manner the comptroller specifies. The comptroller is not
23 required to extend the period of entitlement under Subsection (b)
24 unless the municipality or nonprofit corporation requests the
25 extension.
26   Sec. 351.202. EXPIRATION OF SUBCHAPTER. This subchapter
27 expires January 1, 2035.

1   SECTION 6.   Section 351.1015(a)(4), Tax Code, is amended by
2 amending Subsection (a)(4) and adding Subsection (4-a) to read as
3 follows:
4   (4) "Project financing zone" means an area within a
5 municipality:
6   (A) that the municipality by ordinance or by
7 agreement under Chapter 380, Local Government Code, designates as a
8 project financing zone;
9   (B) the boundaries of which are:
10   (i) within a three-mile radius of the
11 center of a qualified project; or
12   (ii) if designated by a municipality
13 described by Section 351.001(7)(B), a contiguous geographic area
14 located wholly within the corporate limits of the designating
15 municipality that, as measured by acres, is equal to or less than
16 the maximum area described by Subparagraph (i) and contains within
17 it the qualified project;
18   (C) the designation of which specifies the
19 longitude and latitude of the center of the qualified project; and
20   (D) the designation of which expires not later
21 than the 30th anniversary of the date of designation.
22   (4-a) "Project-associated infrastructure" means:
23   (A) a hotel, store, restaurant, concession,
24 automobile parking facility, theater, opera house, auditorium,
25 music hall, rehearsal hall, venue and related infrastructure,
26 entertainment facility, park, museum, plaza, recreational
27 facility, transportation facility, road, street, water or sewer

1 facility, or tourist development area that is:

2   (i)   located in a project financing zone;

3   (ii)   located   on   land   owned,   acquired,   or

4 leased by a municipality or by a local government corporation to

5 which Subsection (j) applies; and

6   (iii)   related to the promotion of tourism

7 and the convention and hotel industry; or

8   (B)   the acquisition of public or private land and

9 related infrastructure that:

10   (i)   is located in a project financing zone;

11 and

12   (ii)   will   be   used   in   connection   with   a

13 purpose described by this subdivision.

14   SECTION 7.   Section 351.1015, Tax Code, is   amended   by

15 amending   Subsections   (b),   (c),   (d),   (g),   and   (i)   and   adding

16 Subsection (j) to read as follows:

17   (b)   This section applies only to a qualified project and

18 project-associated infrastructure located in:

19   (1)   a   municipality   with   a   population   of   at   least

20 [650,000] 900,000 [according to the most recent federal decennial

21 census]; or

22   (2)   a   municipality   that   is   described   by   Section

23 351.001(7)(b).

24   (c)   In addition to the uses provided by Section 351.101,

25 revenue from the municipal hotel occupancy tax may be used to fund a

26 qualified project and project-associated infrastructure.

27   (d)   A municipality may pledge the revenue derived from the

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1 tax imposed under this chapter from a hotel located in the project
2 financing zone for the payment of bonds or other obligations issued
3 or incurred to acquire, lease, construct, improve, enlarge, and
4 equip the qualified project and project-associated infrastructure.
5   (g) The comptroller shall deposit incremental
6 hotel-associated revenue collected by or forwarded to the
7 comptroller in a separate suspense account to be held in trust for
8 the municipality that is entitled to receive the revenue. The
9 suspense account is outside the state treasury, and the comptroller
10 may make a payment authorized by this section from the account
11 without the necessity of an appropriation. The comptroller shall
12 begin making payments from the suspense account to the municipality
13 for which the money is held on the date the qualified project or
14 project-associated infrastructure in the project financing zone is
15 commenced. If the qualified project or project-associated
16 infrastructure is not commenced by the fifth anniversary of the
17 first deposit to the account, the comptroller shall transfer the
18 money in the account to the general revenue fund and cease making
19 deposits to the account.
20   (i) A municipality shall notify the comptroller if the
21 qualified project or project-associated infrastructure in the
22 project financing zone is abandoned. If the qualified project or
23 project-associated infrastructure is abandoned, the comptroller
24 shall transfer to the general revenue fund the amount of money in
25 the suspense account that exceeds the amount required for the
26 payment of bonds or other obligations described by Subsection (d).
27   (j) A local government corporation to which this subsection

17

1 applies may act as a municipality under this section and is

2 considered to be a municipality for purposes of this section. An

3 action a municipality is required to take by ordinance or order

4 under this section may be taken by order or resolution of the

5 corporation.

6   (k) Notwithstanding any other law or a term of any ordinance

7 or agreement adopted or entered into under this section, due to the

8 effect of the COVID-19 pandemic on hotel-associated revenues, the

9 date on which a project financing zone designated under this

10 section expires is automatically extended for two years if the zone

11 was:

12   (1) designated by a municipality as a project

13 financing zone in or before 2019; and

14   (2) in existence on March 15, 2020.

15   SECTION 8. This Act takes effect September 1, 2023.