

1-1 By: Clardy, et al. (Senate Sponsor - Birdwell.) H.B. No. 5012
 1-2 (In the Senate - Received from the House May 10, 2023;
 1-3 May 11, 2023, read first time and referred to Committee on Natural
 1-4 Resources & Economic Development; May 21, 2023, reported
 1-5 adversely, with favorable Committee Substitute by the following
 1-6 vote: Yeas 8, Nays 0; May 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 5012 By: Birdwell

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the authority of certain municipalities to use certain
 1-22 tax revenue for hotel and convention center projects and other
 1-23 qualified projects.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 351.1015(a)(2), Tax Code, is amended to
 1-26 read as follows:

1-27 (2) "Hotel-associated revenue" means the sum of:

1-28 (A) state tax revenue collected in a project
 1-29 financing zone from all hotels located in the zone that would be
 1-30 available to the owners of qualified hotel projects under Section
 1-31 151.429(h) if the hotels were qualified hotel projects, excluding
 1-32 the amount of that revenue received by a municipality;

1-33 (i) under Section 351.156 or 351.157 in
 1-34 connection with a qualified hotel located in the zone that exists on
 1-35 the date the municipality designates the zone, except as provided
 1-36 by Paragraph (B); or

1-37 (ii) under Section 351.102(c) for a hotel
 1-38 project described by Section 351.102(b) and located in the zone
 1-39 that exists on the date the municipality designates the zone; and

1-40 (B) tax revenue collected from all permittees
 1-41 under Chapter 183 at hotels located in the zone, excluding revenue
 1-42 disbursed by the comptroller under Section 183.051(b).

1-43 SECTION 2. Section 351.1015, Tax Code, is amended by
 1-44 amending Subsections (b) and (e) and adding Subsections (j), (k),
 1-45 and (l) to read as follows:

1-46 (b) This section applies only to a qualified project located
 1-47 in:

1-48 (1) a municipality with a population of at least
 1-49 650,000 but less than 750,000 according to the most recent federal
 1-50 decennial census;

1-51 (2) a municipality described by Section
 1-52 351.001(7)(B);

1-53 (3) a municipality described by Section 351.152(5);

1-54 (4) a municipality described by Section 351.152(61);

1-55 or

1-56 (5) a municipality with a population of at least two
 1-57 million.

1-58 (e) A municipality may pledge for the payment of bonds or
 1-59 other obligations described by Subsection (d) the local revenue
 1-60 from eligible tax proceeds as defined by Section 2303.5055(e),

2-1 Government Code, from hotels located in a project financing zone
2-2 that would be available to the owners of qualified hotel projects
2-3 under that section if the hotels were qualified hotel projects,
2-4 excluding any amount received by the municipality:

2-5 (1) in connection with a qualified hotel, as defined
2-6 by Section 351.151, located in the zone that exists on the date the
2-7 municipality designates the zone; or

2-8 (2) for a hotel project described by Section
2-9 351.102(b) and located in the zone that exists on the date the
2-10 municipality designates the zone.

2-11 (j) A local government corporation that is authorized to
2-12 collect a municipal hotel occupancy tax may act as a municipality
2-13 under this section and is considered to be a municipality for
2-14 purposes of this section.

2-15 (k) For a municipality described by Subsection (b)(2), (3),
2-16 or (4), the term "qualified project" also means a venue described by
2-17 Section 334.001(4)(A), Local Government Code, and any related
2-18 infrastructure.

2-19 (l) Notwithstanding Subsection (a)(5), with respect to a
2-20 local government corporation to which this subsection applies, the
2-21 term "qualified project" means a venue and any related
2-22 infrastructure. This subsection applies only to a local government
2-23 corporation that:

2-24 (1) is authorized to collect a municipal hotel
2-25 occupancy tax; and

2-26 (2) is located in a county with a population of 3.3
2-27 million or more.

2-28 SECTION 3. Section 351.152, Tax Code, is amended to read as
2-29 follows:

2-30 Sec. 351.152. APPLICABILITY. This subchapter applies only
2-31 to:

2-32 (1) a municipality described by Section
2-33 351.001(7)(B);

2-34 (2) a municipality described by Section
2-35 351.001(7)(D);

2-36 (3) a municipality described by Section
2-37 351.001(7)(E);

2-38 (4) a municipality described by Section
2-39 351.102(e)(3);

2-40 (5) a municipality that contains more than 70 [~~75~~]
2-41 percent of the population of a county with a population of 1.5
2-42 million or more;

2-43 (6) a municipality with a population of 175,000
2-44 [~~150,000~~] or more but less than 200,000 that is partially located in
2-45 at least one county with a population of 125,000 or more;

2-46 (7) a municipality with a population of 250,000
2-47 [~~150,000~~] or more but less than one million that is located in one
2-48 county with a population of 2.5 [~~2.3~~] million or more;

2-49 (8) a municipality with a population of 180,000 or
2-50 more that:

2-51 (A) is located in two counties, each with a
2-52 population of 100,000 or more; and

2-53 (B) contains an American Quarter Horse Hall of
2-54 Fame and Museum;

2-55 (9) a municipality with a population of 96,000 or more
2-56 that is located in a county that borders Lake Palestine;

2-57 (10) a municipality with a population of 96,000 or
2-58 more that is located in a county that contains the headwaters of the
2-59 San Gabriel River;

2-60 (11) a municipality with a population of at least
2-61 95,000 [~~99,900 or more but less than 111,000~~] that is located in a
2-62 county that is bisected by United States Highway 385 and has [~~with~~]
2-63 a population of not more than 170,000 [~~135,000 or more~~];

2-64 (12) a municipality with a population of 110,000 or
2-65 more but less than 135,000 at least part of which is located in a
2-66 county with a population of less than 135,000;

2-67 (13) a municipality with a population of 28,000
2-68 [~~9,000~~] or more but less than 31,000 [~~10,000~~] that is located in two
2-69 counties, each of which has a population of 900,000 [~~662,000~~] or

- 3-1 more and a southern border with a county with a population of 2.5
- 3-2 [~~2.3~~] million or more;
- 3-3 (14) a municipality with a population of 200,000 or
- 3-4 more but less than 300,000 that contains a component institution of
- 3-5 the Texas Tech University System;
- 3-6 (15) a municipality with a population of 95,000 or
- 3-7 more that:
- 3-8 (A) is located in more than one county; and
- 3-9 (B) borders Lake Lewisville;
- 3-10 (16) a municipality with a population of 45,000 or
- 3-11 more that:
- 3-12 (A) contains a portion of Cedar Hill State Park;
- 3-13 (B) is located in two counties, one of which has a
- 3-14 population of 2.5 [~~two~~] million or more and one of which has a
- 3-15 population of 190,000 [~~149,000~~] or more; and
- 3-16 (C) has adopted a capital improvement plan for
- 3-17 the construction or expansion of a convention center facility;
- 3-18 (17) a municipality with a population of less than
- 3-19 10,000 [~~6,000~~] that:
- 3-20 (A) is almost wholly located in a county with a
- 3-21 population of 900,000 [~~600,000~~] or more that is adjacent to a county
- 3-22 with a population of 2.5 [~~two~~] million or more;
- 3-23 (B) is partially located in a county with a
- 3-24 population of 2.1 [~~1.8~~] million or more that is adjacent to a county
- 3-25 with a population of 2.5 [~~two~~] million or more;
- 3-26 (C) has a visitor center and museum located in a
- 3-27 19th-century rock building in the municipality's downtown; and
- 3-28 (D) has a waterpark open to the public;
- 3-29 (18) a municipality with a population of 60,000
- 3-30 [~~56,000~~] or more that:
- 3-31 (A) borders Lake Ray Hubbard; and
- 3-32 (B) is located in two counties, one of which has a
- 3-33 population of less than 110,000 [~~80,000~~];
- 3-34 (19) a municipality with a population of 110,000
- 3-35 [~~83,000~~] or more that:
- 3-36 (A) borders Clear Lake; and
- 3-37 (B) is primarily located in a county with a
- 3-38 population of less than 355,000 [~~300,000~~];
- 3-39 (20) a municipality with a population of less than
- 3-40 2,000 that:
- 3-41 (A) is located adjacent to a bay connected to the
- 3-42 Gulf of Mexico;
- 3-43 (B) is located in a county with a population of
- 3-44 290,000 or more that is adjacent to a county with a population of
- 3-45 four million or more; and
- 3-46 (C) has a boardwalk on the bay;
- 3-47 (21) a municipality with a population of 75,000 or
- 3-48 more that:
- 3-49 (A) is located wholly in one county with a
- 3-50 population of 800,000 [~~575,000~~] or more that is adjacent to a county
- 3-51 with a population of four million or more; and
- 3-52 (B) has adopted a capital improvement plan for
- 3-53 the construction or expansion of a convention center facility;
- 3-54 (22) a municipality with a population of less than
- 3-55 70,000 [~~75,000~~] that is located in three counties, at least one of
- 3-56 which has a population of four million or more;
- 3-57 (23) an eligible coastal municipality with a
- 3-58 population of 2,900 [~~3,000~~] or more but less than 5,000;
- 3-59 (24) a municipality with a population of 90,000 or
- 3-60 more but less than 150,000 that:
- 3-61 (A) is located in three counties; and
- 3-62 (B) contains a branch campus of a component
- 3-63 institution of the University of Houston System;
- 3-64 (25) a municipality that is:
- 3-65 (A) primarily located in a county with a
- 3-66 population of four million or more; and
- 3-67 (B) connected by a bridge to a municipality
- 3-68 described by Subdivision (20);
- 3-69 (26) a municipality with a population of 25,000

4-1 [~~20,000~~] or more but less than 30,000 [~~25,000~~] that:

4-2 (A) contains a portion of Mustang Bayou; and

4-3 (B) is wholly located in a county with a

4-4 population of less than 500,000;

4-5 (27) a municipality with a population of 70,000 or

4-6 more but less than 90,000 that is located in two counties, one of

4-7 which has a population of four million or more and the other of

4-8 which has a population of less than 50,000;

4-9 (28) a municipality with a population of 10,000 or

4-10 more that:

4-11 (A) is wholly located in a county with a

4-12 population of four million or more; and

4-13 (B) has a city hall located less than three miles

4-14 from a space center operated by an agency of the federal government;

4-15 (29) a municipality that is the county seat of a

4-16 county:

4-17 (A) through which the Pedernales River flows; and

4-18 (B) in which the birthplace of a president of the

4-19 United States is located;

4-20 (30) a municipality that contains a portion of U.S.

4-21 Highway 79 and State Highway 130;

4-22 (31) a municipality with a population of 70,000

4-23 [~~48,000~~] or more but less than 115,000 [~~95,000~~] that is located in

4-24 two counties, one of which has a population of 1.1 million [~~900,000~~]

4-25 or more but less than 1.9 [~~1.7~~] million;

4-26 (32) a municipality with a population of less than

4-27 25,000 that contains a museum of Western American art;

4-28 (33) a municipality with a population of 50,000 or

4-29 more that is the county seat of a county that contains a portion of

4-30 the Sam Houston National Forest;

4-31 (34) a municipality with a population of less than

4-32 25,000 that:

4-33 (A) contains a cultural heritage museum; and

4-34 (B) is located in a county that borders the

4-35 United Mexican States and the Gulf of Mexico;

4-36 (35) a municipality that is the county seat of a county

4-37 that:

4-38 (A) has a population of 115,000 or more;

4-39 (B) is adjacent to a county with a population of

4-40 2.1 [~~1.8~~] million or more; and

4-41 (C) hosts an annual peach festival;

4-42 (36) a municipality that is the county seat of a county

4-43 that:

4-44 (A) has a population of 800,000 [~~585,000~~] or

4-45 more; and

4-46 (B) is adjacent to a county with a population of

4-47 four million or more;

4-48 (37) a municipality with a population of less than

4-49 10,000 that:

4-50 (A) contains a component university of The Texas

4-51 A&M University System; and

4-52 (B) is located in a county adjacent to a county

4-53 that borders Oklahoma;

4-54 (38) a municipality with a population of less than

4-55 17,000 [~~6,100~~] that:

4-56 (A) is located in two counties, each of which has

4-57 a population of 900,000 [~~600,000~~] or more but less than two million;

4-58 and

4-59 (B) hosts an annual Cajun Festival;

4-60 (39) a municipality with a population of 13,000 or

4-61 more that:

4-62 (A) is located on an international border; and

4-63 (B) is located in a county:

4-64 (i) with a population of less than 400,000;

4-65 and

4-66 (ii) in which at least one World Birding

4-67 Center site is located;

4-68 (40) a municipality with a population of 3,200 [~~4,000~~]

4-69 or more that:

5-1 (A) is located on an international border; and
5-2 (B) is located not more than five miles from a
5-3 state historic site that serves as a visitor center for a state park
5-4 that contains 300,000 or more acres of land;
5-5 (41) a municipality with a population of 36,000 or
5-6 more that is adjacent to at least two municipalities described by
5-7 Subdivision (15);
5-8 (42) a municipality with a population of 28,000 or
5-9 more that is located in a county with a population of 240,000 or
5-10 more that contains a portion of the Blanco River and in which is
5-11 located a historic railroad depot and heritage center;
5-12 (43) a municipality located in a county that has a
5-13 population of not more than 300,000 and in which a component
5-14 university of the University of Houston System is located;
5-15 (44) a municipality with a population of less than
5-16 500,000 that is:
5-17 (A) located in two counties; and
5-18 (B) adjacent to a municipality described by
5-19 Subdivision (31); ~~and~~
5-20 (45) a municipality that:
5-21 (A) has a population of more than 67,000; and
5-22 (B) is located in two counties with 90 percent of
5-23 the municipality's territory located in a county with a population
5-24 of at least 800,000 [~~580,000~~], and the remaining territory located
5-25 in a county with a population of at least four million;
5-26 (46) a municipality that:
5-27 (A) has a population of 100,000 or more; and
5-28 (B) is wholly located in, but is not the county
5-29 seat of, a county with a population of one million or more;
5-30 (i) in which all or part of a municipality
5-31 with a population of one million or more is located; and
5-32 (ii) that is adjacent to a county with a
5-33 population of 2.5 million or more;
5-34 (47) a municipality that is the county seat of a county
5-35 bordering the Gulf of Mexico and the United Mexican States;
5-36 (48) a municipality that is bisected by the Guadalupe
5-37 River and is the county seat of a county with a population of
5-38 170,000 or more;
5-39 (49) a municipality with a population of 70,000 or
5-40 more but less than 150,000 that borders Joe Pool Lake;
5-41 (50) a municipality with a population of 115,000 or
5-42 more that borders the Neches River;
5-43 (51) a municipality described by Section 351.101(k);
5-44 (52) a municipality that is the county seat of a
5-45 county:
5-46 (A) through which the Brazos River flows; and
5-47 (B) in which a national monument is located;
5-48 (53) a municipality with a population of 45,000 or
5-49 more that:
5-50 (A) is not the county seat of a county;
5-51 (B) is located in a single county; and
5-52 (C) contains a portion of Lake Lewisville;
5-53 (54) a municipality that is the county seat of a county
5-54 with a population of more than 900,000 that is adjacent to two
5-55 counties, each of which has a population of more than 1.8 million;
5-56 (55) a municipality that hosts an annual wine festival
5-57 and is located in three counties, each of which has a population of
5-58 more than 900,000;
5-59 (56) a municipality that has a population of at least
5-60 150,000 but less than 1,300,000 and is partially located in a county
5-61 that contains a portion of Cedar Creek Reservoir;
5-62 (57) a municipality that is located in a county that
5-63 contains a portion of Cedar Creek Reservoir and in which a private
5-64 college is located;
5-65 (58) a municipality that is the county seat of a
5-66 county:
5-67 (A) with a population of one million or more;
5-68 (B) in which all or part of a municipality with a
5-69 population of one million or more is located; and

- 6-1 (C) that is located adjacent to a county with a
- 6-2 population of 2.5 million or more;
- 6-3 (59) a municipality that is the county seat of a county
- 6-4 that contains a portion of Cedar Creek Reservoir and borders a
- 6-5 county with a population of more than 240,000;
- 6-6 (60) a municipality with a population of more than
- 6-7 80,000 but less than 150,000 that is located in a county with a
- 6-8 population of more than 369,000 but less than 864,000 that contains
- 6-9 part of an active duty United States Army installation;
- 6-10 (61) a municipality with a population of 750,000 or
- 6-11 more that is located in a county with a population of 1.5 million or
- 6-12 less;
- 6-13 (62) a municipality with a population of less than
- 6-14 7,000 that contains a country music hall of fame;
- 6-15 (63) a municipality with a population of 35,000 or
- 6-16 more that contains a railroad museum and is located in a county
- 6-17 that:
- 6-18 (A) has a population of 800,000 or more; and
- 6-19 (B) is adjacent to a county with a population of
- 6-20 four million or more; and
- 6-21 (64) a municipality:
- 6-22 (A) that is the county seat of a county:
- 6-23 (i) with a population of 60,000 or less; and
- 6-24 (ii) that borders the Rio Grande; and
- 6-25 (B) in which is located a United States military
- 6-26 fort listed in the National Register of Historic Places.
- 6-27 SECTION 4. Section 351.153(a), Tax Code, is amended to read
- 6-28 as follows:
- 6-29 (a) This section applies only to a municipality described by
- 6-30 Section 351.152(5), (6), [~~351.152(6) or~~] (29), or (58).
- 6-31 SECTION 5. Section 351.157, Tax Code, is amended by
- 6-32 amending Subsections (a) and (b) and adding Subsection (c-1) to
- 6-33 read as follows:
- 6-34 (a) In this section, "qualified establishment" means an
- 6-35 establishment:
- 6-36 (1) that is located on land:
- 6-37 (A) owned by a municipality; or
- 6-38 (B) owned by:
- 6-39 (i) any person if the establishment is
- 6-40 located in a municipality described by Section 351.152(3);
- 6-41 (ii) [~~or owned by~~] the federal government
- 6-42 if the establishment is located in a municipality described by
- 6-43 Section 351.152(6); or
- 6-44 (iii) a nonprofit corporation, including a
- 6-45 public facility corporation, that is acting as or on behalf of, or
- 6-46 that is controlled by, a municipality, if the establishment is
- 6-47 located in a municipality described by Section 351.152(5);
- 6-48 (2) the nearest exterior wall of which is located not
- 6-49 more than 1,000 feet from the nearest exterior wall of a qualified
- 6-50 hotel or qualified convention center facility;
- 6-51 (3) that is constructed:
- 6-52 (A) on or after the date the municipality
- 6-53 commences a qualified project under this subchapter; or
- 6-54 (B) at any time if the establishment is located
- 6-55 in a municipality described by Section 351.152(3);
- 6-56 (4) that is not a sports stadium; and
- 6-57 (5) that is the type of establishment described by
- 6-58 Subsection (c-1) [~~(c)~~] from which the municipality is entitled to
- 6-59 receive revenue under Subsection (d).
- 6-60 (b) This section applies only to:
- 6-61 (1) a municipality described by Section 351.152(3);
- 6-62 (1-a) a municipality described by Section 351.152(5);
- 6-63 (2) a municipality described by Section 351.152(6);
- 6-64 (3) a municipality described by Section 351.152(7);
- 6-65 (4) a municipality described by Section 351.152(10);
- 6-66 (4-a) a municipality described by Section
- 6-67 351.152(14);
- 6-68 (5) a municipality described by Section 351.152(16);
- 6-69 (6) a municipality described by Section 351.152(22);

- 7-1 (7) a municipality described by Section 351.152(25);
- 7-2 (8) a municipality described by Section 351.152(34);
- 7-3 (9) a municipality described by Section 351.152(35);
- 7-4 (10) a municipality described by Section 351.152(36);
- 7-5 (11) a municipality described by Section 351.152(38);
- 7-6 [~~and~~]
- 7-7 (11-a) a municipality described by Section
- 7-8 351.152(41);
- 7-9 (12) a municipality described by Section 351.152(43);
- 7-10 (13) a municipality described by Section 351.152(46);
- 7-11 (14) a municipality described by Section 351.152(47);
- 7-12 (15) a municipality described by Section 351.152(49);
- 7-13 (16) a municipality described by Section 351.152(53);
- 7-14 (17) a municipality described by Section 351.152(54);
- 7-15 (18) a municipality described by Section 351.152(56);

7-16 and
 7-17 (19) a municipality described by Section 351.152(58).

7-18 (c-1) A municipality to which this section applies is
 7-19 entitled to receive revenue under Subsection (d) derived from the
 7-20 following types of establishments that meet the requirements of
 7-21 Subsections (a)(1), (2), (3), and (4):

- 7-22 (1) restaurants;
- 7-23 (2) bars;
- 7-24 (3) retail establishments; and
- 7-25 (4) swimming pools and swimming facilities owned or
 7-26 operated by the related qualified hotel.

7-27 SECTION 6. Subchapter C, Chapter 351, Tax Code, is amended
 7-28 by adding Section 351.161 to read as follows:

7-29 Sec. 351.161. RECAPTURE OF LOST STATE TAX REVENUE FROM
 7-30 CERTAIN MUNICIPALITIES. (a) This section:

7-31 (1) applies only to a qualified project that is first
 7-32 commenced on or after:

- 7-33 (A) January 1, 2024, unless Paragraph (B) applies
 7-34 to the qualified project; or
- 7-35 (B) January 1, 2027, if the qualified project was
 7-36 authorized before January 1, 2023, by a municipality with a
 7-37 population of 175,000 or more; and

7-38 (2) notwithstanding Subdivision (1), does not apply to
 7-39 a qualified project that is the subject of an economic development
 7-40 agreement authorized by Chapter 380, Local Government Code, entered
 7-41 into on or before January 1, 2022.

7-42 (b) On the 20th anniversary of the date a hotel designated
 7-43 as a qualified hotel by a municipality as part of a qualified
 7-44 project to which this section applies is open for initial
 7-45 occupancy, the comptroller shall determine:

7-46 (1) the total amount of state tax revenue received
 7-47 under Section 351.156 and, if applicable, under Section 351.157 by
 7-48 the municipality from the qualified project during the period for
 7-49 which the municipality was entitled to receive that revenue; and

7-50 (2) the total amount of state tax revenue described by
 7-51 Subdivision (1) received by the state during the period beginning
 7-52 on the 10th anniversary of the date the qualified hotel opened for
 7-53 initial occupancy and ending on the 20th anniversary of that date
 7-54 from the same sources from which the municipality received the
 7-55 revenue described by Subdivision (1).

7-56 (c) If the amount determined under Subsection (b)(1)
 7-57 exceeds the amount determined under Subsection (b)(2), the
 7-58 comptroller shall promptly provide written notice to the
 7-59 municipality stating that the municipality must remit to the
 7-60 comptroller the difference between those two amounts in the manner
 7-61 provided by this subsection. The municipality shall, using money
 7-62 lawfully available to the municipality for the purpose, remit
 7-63 monthly payments to the comptroller in an amount equal to the total
 7-64 amount of municipal hotel occupancy tax revenue received by the
 7-65 municipality from the qualified hotel in the preceding month until
 7-66 the amount remitted to the comptroller equals the total amount due
 7-67 as stated in the notice. The first payment required under this
 7-68 subsection must be made not later than the 30th day after the date
 7-69 the municipality receives the notice from the comptroller.

8-1 Subsequent payments are due on the 20th day of each month until the
8-2 total amount stated in the notice is paid. The comptroller shall
8-3 prescribe the procedure a municipality must use to remit a payment
8-4 required by this subsection to the comptroller.

8-5 (d) The comptroller shall deposit revenue received under
8-6 this section in the manner prescribed by Section [156.251](#).

8-7 SECTION 7. Section [351.157\(c\)](#), Tax Code, is repealed.

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

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