

BILL ANALYSIS

C.S.H.B. 352
By: Goodman
Local Government Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, cities are authorized to assess and impose a hotel occupancy tax. The revenues derived from this tax are used to finance many important tourism development projects within a municipality. Hotel owners are to collect the occupancy tax, file a quarterly report with the city, and submit their payment to the city.

Occasionally, hotel owners fail to file their occupancy taxes. When this occurs, a city will make several attempts to collect. Eventually, if the hotel owner refuses to pay, the city is forced to take legal action. In 2003 alone, the City of Fort Worth took collection action against twelve hotels for over \$216,000 in delinquent taxes.

Unfortunately, because the hotel has failed to disclose its financial information, the city has no real admissible evidence of the amount due. The city's only tool is to conduct an audit (at their own cost) which is often lengthy, expensive, and sometimes controversial. This approach greatly lengthens the amount of time spent in court and in the discovery process.

C.S.H.B 352 authorizes a city to hold a hotel operator who has failed to pay their taxes for more than two fiscal quarters liable for the cost of an audit. C.S.H.B. 352 also authorizes municipalities to use previous years' tax filings to determine the amount due and authorizes a court to consider previous years' filings as prima facie evidence of the amount due.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 1. Amends Section 351.004, Tax Code, by adding subdivision (2) to subsection (a) which allows a municipality to hold a hotel operator who has failed to file their hotel occupancy taxes for more than 2 fiscal quarters liable for the cost of an audit.

Furthermore, the bill adds subsection (a-1), (a-2), and (a-3). Subsection (a-1) allows a municipality to use the information from an occupancy filing made with the Comptroller for the state's portion of the occupancy tax, if the hotel owner filed a report with the state. If the hotel did not submit a filing with the either the state or the municipality, then subsection (a-2) authorizes a municipality to estimate the taxes due and submit that estimate to the court as prima facie evidence. The estimate is based on the occupancy taxes filed from the previous year. Subsection (a-3) clarifies the audit power derived from the bill is in addition to any other audit authority given to a municipality.

Section 2. Clarifies that the new law only applies on a going-forward basis and that taxes imposed before the effective date of this bill are governed by the law in effect at that time.

EFFECTIVE DATE

This act takes effect September 1, 2005.

C.S.H.B. 352 79(R)

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 352 modifies the original bill by adding language to subdivision (2) that clarifies the municipality may not hold a delinquent hotel tax payer liable for the cost of audit if the taxes are not more than two fiscal quarters delinquent. C.S.H.B. 352 also differs from the original in that it adds subsection (a-3) which clarifies that the audit power derived from this bill is in addition to any other audit authority given to a municipality by any other state law, local ordinance, or local charter.