

BILL ANALYSIS

C.S.H.B. 2608
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Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, three timeshare properties exist within the Water Oriented Recreation District of Comal County. When timeshare owners of an individual week's worth of time rent that week out to vacationers, they are liable for the district tax. As a small agency, the district does not have the ability to track and collect taxes from a potential 50,000 individuals. Since timeshare management companies are facilitating these rentals by checking in guests and providing keys and other services, the district feels these companies should be responsible for compliance with local taxes.

Currently, the U.S. Army Corps of Engineers, Fort Sam Houston, Randolph Air Force Base, and Texas Parks and Wildlife Department all operate the district's taxable facilities within the district. There are no exemptions from the district tax, and there has been some confusion in the past as to how to handle this. The district is seeking an exemption to clarify the issue and to avoid having to collect taxes from these entities, including during times of emergency evacuation.

Current law contains two passages that could be construed as conflicting. The district is authorized to exist within the unincorporated portions of the Comal County, but the statute later states that incorporation of any area within the district does not affect the district boundaries. The district is seeking a language clarification on this conflict.

C.S.H.B. 2608 requires a managing entity of a timeshare property in a county with frontage on the Guadalupe or Comal River to collect and remit to a park and recreation district, on a property owner's behalf and under certain conditions, all district hotel occupancy taxes.

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

C.S.H.B. 2608 amends the Local Government Code to require a managing entity of a timeshare property in a county with frontage on the Guadalupe or Comal River to collect and remit to a park and recreation district, on a property owner's behalf, all district hotel occupancy taxes if the managing entity participates in the rental of the property by either advertising rental availability on behalf of the property owner or collecting rent on the property owner's behalf. The bill establishes that, if a managing entity located in the district does not collect rent or advertise rental availability on behalf of its property owners, a certificate executed in good faith by the managing entity and delivered to the district informing the district that the managing entity does not collect rent or advertise rentals on the behalf of property owners shall be final and binding on the district, so long as the certificate remains accurate. The bill exempts from the imposition of taxes under certain provisions of the bill an employee of the United States government conducting official business in the district or a person who occupies a lodging facility or

campground in the district if the person has evacuated from the person's home due to an emergency and the state has temporarily suspended collection of the state hotel occupancy tax. The bill prohibits the district from taxing a transaction between a person and an interest operated by the United States in the district or a state park in the district. The bill specifies that the incorporation of a political subdivision or the annexation of any part of a park district by a political subdivision does not affect the district's boundaries and makes conforming changes.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2608 differs from the original, in provisions specifying the activity that constitutes a managing entity's participation in the rental of the property, by clarifying that the advertising of rental availability and the collecting of rent is activity done on behalf of the property owner.

C.S.H.B. 2608 removes provisions in the original relating to the managing entity facilitating the rental of the property by collecting fees, providing to a renter a key or access to the property, and providing access to a service of the property being rented.

C.S.H.B. 2608 adds a provision not in the original establishing that a certificate executed in good faith by the managing entity and delivered to the district informing the district that the managing entity does not collect rent or advertise rentals on behalf of property owners is final and binding on the district, if certain conditions are met.