

By: Bolton

H.B. No. 3098

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the use of hotel occupancy tax funds for the  
3 construction and maintenance of a children's playground located in  
4 a general law city.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter B, Section 351.101, Tax Code Code, is  
7 amended to read as follows:

8 Sec. 351.101. USE OF TAX REVENUE. (a) Revenue from the  
9 municipal hotel occupancy tax may be used only to promote tourism  
10 and the convention and hotel industry, and that use is limited to  
11 the following:

12 (1) the acquisition of sites for and the construction,  
13 improvement, enlarging, equipping, repairing, operation, and  
14 maintenance of convention center facilities or visitor information  
15 centers, or both;

16 (2) the furnishing of facilities, personnel, and  
17 materials for the registration of convention delegates or  
18 registrants;

19 (3) advertising and conducting solicitations and  
20 promotional programs to attract tourists and convention delegates  
21 or registrants to the municipality or its vicinity;

22 (4) the encouragement, promotion, improvement, and  
23 application of the arts, including instrumental and vocal music,  
24 dance, drama, folk art, creative writing, architecture, design and

1 allied fields, painting, sculpture, photography, graphic and craft  
2 arts, motion pictures, radio, television, tape and sound recording,  
3 and other arts related to the presentation, performance, execution,  
4 and exhibition of these major art forms;

5 (5) historical restoration and preservation projects  
6 or activities or advertising and conducting solicitations and  
7 promotional programs to encourage tourists and convention  
8 delegates to visit preserved historic sites or museums:

9 (A) at or in the immediate vicinity of convention  
10 center facilities or visitor information centers; or

11 (B) located elsewhere in the municipality or its  
12 vicinity that would be frequented by tourists and convention  
13 delegates;

14 (6) for a municipality located in a county with a  
15 population of one million or less, expenses, including promotion  
16 expenses, directly related to a sporting event in which the  
17 majority of participants are tourists who substantially increase  
18 economic activity at hotels and motels within the municipality or  
19 its vicinity; and

20 (7) subject to Section 351.1076, the promotion of  
21 tourism by the enhancement and upgrading of existing sports  
22 facilities or fields, including facilities or fields for baseball,  
23 softball, soccer, and flag football, if:

24 (A) the municipality owns the facilities or  
25 fields;

26 (B) the municipality:

27 (i) has a population of 80,000 or more and

1 is located in a county that has a population of 350,000 or less;

2 (ii) has a population of at least 65,000 but  
3 not more than 70,000 and is located in a county that has a  
4 population of 155,000 or less; or

5 (iii) has a population of at least 34,000  
6 but not more than 36,000 and is located in a county that has a  
7 population of 90,000 or less; and

8 (C) the sports facilities and fields have been  
9 used, in the preceding calendar year, a combined total of more than  
10 10 times for district, state, regional, or national sports  
11 tournaments.

12 (b) Revenue derived from the tax authorized by this chapter  
13 shall be expended in a manner directly enhancing and promoting  
14 tourism and the convention and hotel industry as permitted by  
15 Subsection (a). That revenue may not be used for the general  
16 revenue purposes or general governmental operations of a  
17 municipality.

18 (c) The governing body of a municipality by contract may  
19 delegate to a person, including another governmental entity or a  
20 private organization, the management or supervision of programs and  
21 activities funded with revenue from the tax authorized by this  
22 chapter. The governing body in writing shall approve in advance the  
23 annual budget of the person to which it delegates those functions  
24 and shall require the person to make periodic reports to the  
25 governing body at least quarterly listing the expenditures made by  
26 the person with revenue from the tax authorized by this chapter.  
27 The person must maintain revenue provided from the tax authorized

1 by this chapter in a separate account established for that purpose  
2 and may not commingle that revenue with any other money. The  
3 municipality may not delegate to any person the management or  
4 supervision of its convention and visitors programs and activities  
5 funded with revenue from the tax authorized by this chapter other  
6 than by contract as provided by this subsection. The approval by  
7 the governing body of the municipality of the annual budget of the  
8 person to whom the governing body delegates those functions creates  
9 a fiduciary duty in the person with respect to the revenue provided  
10 by the tax authorized by this chapter.

11 (d) A person with whom a municipality contracts under this  
12 section to conduct an activity authorized by this section shall  
13 maintain complete and accurate financial records of each  
14 expenditure of hotel occupancy tax revenue made by the person and,  
15 on request of the governing body of the municipality or other  
16 person, shall make the records available for inspection and review  
17 to the governing body or other person.

18 (e) Hotel occupancy tax revenue spent for a purpose  
19 authorized by this section may be spent for day-to-day operations,  
20 supplies, salaries, office rental, travel expenses, and other  
21 administrative costs only if those administrative costs are  
22 incurred directly in the promotion and servicing expenditures  
23 authorized under Section 351.101(a). If a municipal or other  
24 public or private entity that conducts an activity authorized under  
25 this section conducts other activities that are not authorized  
26 under this section, the portion of the total administrative costs  
27 of the entity for which hotel occupancy tax revenue may be used may

1 not exceed the portion of those administrative costs actually  
2 incurred in conducting the authorized activities.

3 (f) Municipal hotel occupancy tax revenue may not be spent  
4 for travel for a person to attend an event or conduct an activity  
5 the primary purpose of which is not directly related to the  
6 promotion of tourism and the convention and hotel industry or the  
7 performance of the person's job in an efficient and professional  
8 manner.

9 (g) Nothing in this section shall prohibit any private  
10 entity, person, or organization from making subgrants by contract  
11 to any other person, entity, or private organization for  
12 expenditures under Section 351.101(a)(4). A subgrantee shall:

13 (1) at least annually make periodic reports to the  
14 governing body of its expenditures from the tax authorized by this  
15 chapter; and

16 (2) make records of these expenditures available for  
17 review to the governing body or other person.

18 (8) constructing and maintaining a children's  
19 playground located in the vicinity of a hotel in a general law city.

20 SECTION 2. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2009.