

House Bill 2048
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter F, Chapter 156, Tax Code, is amended by adding Section 156.2513 to read as follows:

Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN MUNICIPALITIES AND COUNTIES. Not later than the last day of the month following a calendar quarter, the comptroller shall:

(1) compute the amount of revenue, excluding penalties and interest, derived from the collection of taxes imposed by this chapter that resulted from documentation or other information described by Section 351.008 or 352.008; and

(2) issue a warrant drawn on the general revenue fund in the amount of 20 percent of the revenue computed under Subdivision (1) to the municipality or county that provided the documentation or other information.

SECTION 2. Sections 351.004(a), (a-1), (a-2), and (a-3), Tax Code, are amended to read as follows:

(a) ~~The [municipal attorney or other attorney acting for the] municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality, and who has failed to file a tax report or pay the tax when due, to collect the tax not paid or to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order. In addition to the amount of any tax owed under this chapter, the person is liable to the municipality for:~~

~~(1) the municipality's reasonable attorney's fees;~~

~~(2) the costs of an audit conducted under Subsection (a-1)(1), as determined by the municipality using a reasonable rate, but only if;~~

SENATE VERSION (IE)

SECTION 1. Subchapter F, Chapter 156, Tax Code, is amended by adding Section 156.2513 to read as follows:

Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN MUNICIPALITIES AND COUNTIES. Not later than the last day of the month following a calendar quarter, the comptroller shall:

(1) compute the amount of revenue, excluding penalties and interest **and amounts paid under protest**, derived from the collection of taxes imposed by this chapter that resulted from documentation or other information described by Section 351.008 or 352.008; and

(2) issue a warrant drawn on the general revenue fund in the amount of 20 percent of the revenue computed under Subdivision (1) to the municipality or county that provided the documentation or other information. [FA1(1)]

SECTION 2. Same as House version.

CONFERENCE

House Bill 2048
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(A) the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and

(B) the municipality has not received a disbursement from the comptroller as provided by Section 156.2513 related to the person's concurrent state tax delinquency described by Section 351.008; and

(3) a penalty equal to 15 percent of the total amount of the tax owed if the tax has been delinquent for at least one complete municipal fiscal quarter.

(a-1) If a person required to file a tax report under this chapter does not file the report as required by the municipality, the [~~municipal attorney or other attorney acting for the~~] municipality may determine the amount of tax due under this chapter by:

(1) conducting an audit of each hotel in relation to which the person did not file the report as required by the municipality; or

(2) using the tax report filed for the appropriate reporting period under Section 156.151 in relation to that hotel.

(a-2) If the person did not file a tax report under Section 156.151 for that reporting period in relation to that hotel, the [~~municipal attorney or other attorney acting for the~~] municipality may estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year under this chapter or Section 156.151. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.

(a-3) The authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or ordinance. A municipality may directly perform an audit authorized by this section or contract with another person to perform the audit on an hourly rate or fixed-fee

House Bill 2048
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

basis. A municipality shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this section.

SECTION 3. Subchapter A, Chapter 351, Tax Code, is amended by adding Section 351.008 to read as follows:

Sec. 351.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 351.004, a municipality obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the municipality shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a municipality under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156, the comptroller shall distribute a percentage of the amount collected to the municipality as provided by Section 156.2513 to defray the cost of the municipal audit.

SECTION 4. Section 352.004, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) If a person required to file a tax report under this chapter does not file the report as required by the county, the county may determine the amount of tax due under this chapter by conducting an audit of each hotel in relation to which the person did not file the report as required by the county. A

SENATE VERSION (IE)

SECTION 3. Subchapter A, Chapter 351, Tax Code, is amended by adding Section 351.008 to read as follows:

Sec. 351.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 351.004, a municipality obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the municipality shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a municipality under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the municipality as provided by Section 156.2513 to defray the cost of the municipal audit. [FA1(2)]

SECTION 4. Same as House version.

CONFERENCE

House Bill 2048
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

county may directly perform an audit authorized under this subsection or contract with another person to perform the audit on an hourly rate or fixed-fee basis. A county shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this subsection.

SECTION 5. Subchapter A, Chapter 352, Tax Code, is amended by adding Section 352.008 to read as follows:

Sec. 352.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 352.004, a county obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the county shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a county under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156, the comptroller shall distribute a percentage of the amount collected to the county as provided by Section 156.2513 to defray the cost of the county audit.

SECTION 6. The change in law made by this Act applies only to an audit performed by a municipality or county on or after the effective date of this Act. An audit performed by a municipality or county before the effective date of this Act is

SENATE VERSION (IE)

SECTION 5. Subchapter A, Chapter 352, Tax Code, is amended by adding Section 352.008 to read as follows:

Sec. 352.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 352.004, a county obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the county shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a county under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the county as provided by Section 156.2513 to defray the cost of the county audit. [FA1(3)]

SECTION 6. Same as House version.

CONFERENCE

House Bill 2048
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2011.

No equivalent provision.

SENATE VERSION (IE)

SECTION 7. Same as House version.

SECTION __. (a) Section 351.101(a), Tax Code, as amended by Chapters 402 (H.B. 1789), 1220 (S.B. 1247), and 1322 (H.B. 3098), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

- (1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;
- (2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- (3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
- (4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;
- (5) historical restoration and preservation projects or

CONFERENCE

House Bill 2048
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

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

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

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

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

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;

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

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

(iv) has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000;

(v) has a population of at least 65,000 but less than 80,000 and no part of which is located in a county with a population greater than 150,000; ~~or~~

House Bill 2048
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (vi) is located in a county that:
 - (a) is adjacent to the Texas-Mexico border;
 - (b) has a population of at least 500,000; and
 - (c) does not have a municipality with a population greater than 500,000; or
 - (vii) has a population of at least 25,000 but not more than 26,000 and is located in a county that has a population of 90,000 or less; and
- (C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments; ~~and~~
- (8) for a municipality with a population of at least 65,000 but less than 80,000, no part of which is located in a county with a population greater than 150,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility;
- (9) [(8)] signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality; and
- (10) [(8)] the construction of a recreational venue in the immediate vicinity of area hotels, if:
 - (A) the municipality:
 - (i) is a general-law municipality;
 - (ii) has a population of not more than 900; and
 - (iii) does not impose an ad valorem tax;
 - (B) not more than \$100,000 of municipal hotel occupancy tax revenue is used for the construction of the recreational venue;
 - (C) a majority of the hotels in the municipality request the municipality to construct the recreational venue;
 - (D) the recreational venue will be used primarily by hotel guests; and
 - (E) the municipality will pay for maintenance of the

House Bill 2048
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

recreational venue from the municipality's general fund.

(b) To the extent of any conflict, this section prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

(c) Notwithstanding any other provision of this Act, this section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for this section to have immediate effect, this section takes effect September 1, 2011. [FA2]