

## **BILL ANALYSIS**

Senate Research Center

S.B. 1678  
By: Deuell et al.  
Economic Development  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1678 amends Article 5190.14, V.T.C.S., in regard to the eligibility, disbursement, and reporting requirements of the Major Events Trust Fund and the Events Trust Fund to require that the incremental increase in tax receipts be at least \$1 million if a site selection organization selects a site in this state as a sole site for the event in a region composed of this state and one or more adjoining states, and changes the time for determining the amount. Attendees from out of state must be included in the annual audited statement of financial record. If a structural improvement obligation is incurred and is expected to derive most of its value from subsequent uses of the site for future events, disbursements from the trust fund for that obligation is limited to five percent. S.B. 1678 also stipulates that the comptroller of public accounts of the State of Texas may not consider a subsequent request to participate in the Major Events Trust Fund for the same event until a post-study is completed. Projected and actual attendance for an event must be calculated.

S.B. 1678 amends current law relating to the events and expenses eligible for and reporting requirements concerning disbursements from the Major Events trust fund and the Events trust fund.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 2 (Section 5A, Article 5190.14, V.T.C.S.) and SECTION 3 (Section 5C, Article 5190.14, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 5A, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, V.T.C.S.), by amending Subsection (a)(4), to redefine "event."

SECTION 2. Amends Section 5A, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, V.T.C.S.), by amending Subsections (a-1), (b-1), (h), (i), (k), (p), and (w) and adding Subsections (a-2), (x), and (y), as follows:

(a-1) Provides that an event not listed in Subsection (a)(4) (defining "event") of this section (Payment of State and Municipal or County Obligations; Major Events Trust Fund) is ineligible, rather than an event so included is eligible, for funding under this section. Authorizes a listed event to receive funding under this section only if:

(1) a site selection organization selects a site located in this state for the event to be held one time or, for an event scheduled to be held each year for a period of years under an event contract, or an event support contract, one time each year for the period of years, after considering, through a highly competitive selection process, one or more sites that are not located in this state;

(2) a site selection organization selects a site in this state as:

(A) the sole site for the event; or

(B) the sole site for the event in a region composed of this state and one or more adjoining states;

(3) the event is held not more than one time in any year; and

(4) the amount of the incremental increase in tax receipts determined by the comptroller of public accounts of the State of Texas (comptroller) under Subsection (b) (relating to requiring the comptroller, if a site selection organization selects a site for an event in this state pursuant to a certain application, to determine for a certain time period, in accordance with procedures developed by the comptroller, the incremental increase in certain receipts) of this section equals or exceeds \$1 million, provided that for an event scheduled to be held each year for a period of years under an event contract or event support contract, the incremental increase in tax receipts shall be calculated as if the event did not occur in the prior year.

(a-2) Provides that Subsection (a-1)(1) of this section does not apply to an event that is the largest event held each year at a sports entertainment venue in this state with a permanent seating capacity, including grandstand and premium seating, of not less than 125,000. Provides that if an endorsing municipality or endorsing county requests the comptroller to make a determination under Subsection (b) of this section for an event described by this subsection, the provisions of this section apply to that event as if it satisfied the eligibility requirements for an event under Subsection (a-1)(1) of this section.

(b-1) Requires that a request for a determination of the amount of incremental increase in tax receipts specified by Subsection (b) of this section be submitted to the comptroller not earlier than one year and not later than 45 days before the date the event begins, rather than not later than three months before the date the event begins.

(h) Authorizes the funds in the Major Events trust fund (METF) to be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) (relating to authorizing an endorsing municipality by ordinance or an endorsing county by order to authorize the issuance of notes to meet its obligations under a certain game support contract or event support contract) of this section and to fulfill obligations of the state or an endorsing municipality or endorsing county to a site selection organization under a game support contract or event support contract. Authorizes the obligations, subject to Subsection (k) of this section, to include the payment of costs relating to the preparations necessary or desirable for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities. Deletes existing text authorizing the funds in the METF to be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) of this section and to fulfill obligations of the state or an endorsing municipality or endorsing county to a site selection organization under a game support contract or event support contract, which obligations are authorized to include the payment of costs relating to the preparations necessary or desirable for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities.

(i) Requires a local organizing committee, endorsing municipality, or endorsing county to provide information required by the comptroller to enable the comptroller to fulfill the comptroller's duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to attendance at the event, including an estimate of the number of people expected to attend the event who are not residents of this state, and to the economic impact of the event. Requires a local organizing committee, endorsing municipality, or endorsing county to

provide an annual audited financial statement required by the comptroller, if any, not later than the end of the fourth month after the date the period covered by the financial statement ends. Requires a local organizing committee, endorsing municipality, or endorsing county, after the conclusion of an event and on the comptroller's request, to provide information relating to the event, such as attendance figures, including an estimate of the number of attendees at the event who are not residents of this state, financial information, or other public information held by the local organizing committee, endorsing municipality, or endorsing county that the comptroller considers necessary.

(k) Provides that, if an obligation is incurred under a game support contract or event support contract to make a structural improvement to the site or to add a fixture to the site for purposes of an event and that improvement or fixture is expected to derive most of its value from subsequent uses of the site for future events, a disbursement from the trust fund made for purposes of that obligation is limited to five percent of the cost of the improvement or fixture and the remainder of the obligation is not eligible for a disbursement from the trust fund, unless the improvement or fixture is for a publicly owned facility. Prohibits the comptroller, in considering whether to make a disbursement from the trust fund, from considering a contingency clause in an event support contract as relieving a local organizing committee's, endorsing municipality's, or endorsing county's obligation to pay a cost under the contract.

(p) Prohibits the comptroller from undertaking any of the responsibilities or duties set forth in this section unless:

- (1) a request is submitted by the municipality or the county in which the event will be located;
- (2) the event meets all the requirements for funding under this section, including Subsection (a-1) of this section; and
- (3) the request is accompanied by documentation from a site selection organization selecting the site for the event.

Deletes existing text requiring that the request be accompanied by certain documentation.

(w) Requires the comptroller, not later than 10 months after the last day of an event eligible for disbursements from the METF for costs associated with the event, using existing resources to complete a study in the market area of the event on the measurable economic impact directly attributable to the preparation for and presentation of the event and related activities, rather than requiring the comptroller, not later than 18 months after the last day of an event eligible for disbursements from the METF for costs associated with the event, using existing resources to complete a study in the market area of the event on the measurable economic impact directly attributable to the preparation for and presentation of the event and related activities, and post on the comptroller's Internet website the results of the study conducted under Subdivision (1) of this subsection. Requires the comptroller to post on the comptroller's Internet website:

- (1) the results of the study conducted under this subsection, including any source documentation or other information relied on by the comptroller for study;
- (2) the amount of incremental increase in tax receipts for the event determined under Subsection (b) of this section;
- (3) the site selection organization documentation described in Subsection (p)(3) of this section;
- (4) any source documentation or information described under Subsection (i) of this section that was relied on by the comptroller in making the determination of the amount of incremental increase in tax receipts under Subsection (b) of this section; and

(5) documentation verifying that:

(A) a request submitted by a local organizing committee, endorsing municipality, or endorsing county under Subsection (p) of this section is complete and certified as such by the comptroller;

(B) the determination on the amount of incremental increases in tax receipts under Subsection (b) considered the information submitted by a local organizing committee, endorsing municipality, or endorsing county as required under Subsection (b-1) of this section; and

(C) each deadline established under this section was timely met.

(x) Provides that Subsection (w) of this section does not require disclosure of information that is confidential under Chapter 552 (Public Information), Government Code, or confidential or privileged under other law.

(y) Requires the comptroller, after the conclusion of an event, to compare information in the actual attendance figures provided to the comptroller under Subsection (i) of this section with the estimated attendance numbers used to determine the incremental increase in tax receipts under Subsection (b) of this section. Authorizes the comptroller to reduce the amount of a disbursement for an endorsing entity under the METF in proportion to the discrepancy between the actual and estimated attendance and in proportion to the amount contributed to the METF by the entity if the actual attendance figures are significantly lower than the estimated attendance numbers. Requires the comptroller by rule to define "significantly lower" for purposes of this subsection and to provide the manner in which a disbursement is authorized to be proportionately reduced. Provides that this subsection does not affect the remittance of any money remaining in the METF in accordance with Subsection (m) of this section.

SECTION 3. Amends Section 5C, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, V.T.C.S.), by amending Subsections (a-1), (h), (i), and (k) and adding Subsections (b-1), (k-1), (k-2), (r), (s), and (t), as follows:

(a-1) Provides that an event is eligible for funding under this section under certain conditions, including if a site selection organization selects a site for the event located in this state to be held one time or, for an event scheduled to be held each year for a period of years under an event contract, or an events support contract, one time each year for the period of years, after considering, through a highly competitive selection process, one or more sites that are not located in this state.

(b-1) Provides that the number of requests for funding under this section that is authorized to be submitted by an endorsing county or endorsing municipality during any 12-month period for an event for which the comptroller determines that the total amount of the incremental increase in tax receipts under Subsection (b) (relating to requiring the comptroller, if a site selection organization selects a site for an event pursuant to a certain application, not later than three months before the date of the event, to determine for a certain timer period, in accordance with procedures developed by the comptroller, to determine the incremental increase of certain receipts) of this section is less than \$200,000 is limited to, during any 12-month period, not more than 10 events, only three of which may be non-sporting events.

(h) Authorizes the money in the Events trust fund (ETF) to be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) (relating to authorizing an endorsing municipality by ordinance or an endorsing county by order to authorize the issuance of notes to meet its obligations under a certain event support contract) of this section (Events Trust Fund for Certain Municipalities and Counties) and to fulfill obligations of this state or an endorsing municipality or endorsing county to a site selection organization under an event support

contract. Authorizes that obligations, subject to Subsection (k) of this section, include the payment of costs relating to the preparations necessary for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities. Deletes existing text authorizing the money in the ETF to be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) of this section and to fulfill obligations of this state or an endorsing municipality or endorsing county to a site selection organization under an event support contract, which obligations are authorized to include the payment of costs relating to the preparations necessary or desirable for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities.

(i) Requires a local organizing committee, endorsing municipality, or endorsing county to provide information required by the comptroller to enable the comptroller to fulfill the comptroller's duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to attendance at the event, including an estimate of the number of people expected to attend the event who are not residents of this state, and to the economic impact of the event. Requires a local organizing committee, endorsing municipality, or endorsing county, after the conclusion of an event and on the comptroller's request, to provide information relating to the event, such as attendance figures, including an estimate of the number of people who are not residents of this state who attended the event, financial information, or other public information held by the local organizing committee, endorsing municipality, or endorsing county that the comptroller considers necessary.

(k) Authorizes the comptroller to make a disbursement from the ETF on the prior approval of each contributing endorsing municipality or endorsing county for a purpose for which a local organizing committee, an endorsing municipality, or an endorsing county or this state is obligated under an event support contract, including an obligation to pay costs incurred in the conduct of the event and costs incurred in making preparations necessary for the event. Provides that, if an obligation is incurred under an event support contract to make a structural improvement to the site or to add a fixture to the site for purposes of an event and that improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events, a disbursement from the ETF made for purposes of that obligation is limited to five percent of the cost of the improvement or fixture and the remainder of the obligation is not eligible for a disbursement from the trust fund, unless the improvement or fixture is for a publicly owned facility. Prohibits the comptroller, in considering whether to make a disbursement from the trust fund, from considering a contingency clause in an event support contract as relieving a local organizing committee's, endorsing municipality's, or endorsing county's obligation to pay a cost under the contract.

(k-1) Prohibits a disbursement from being made from the ETF that the comptroller determines would be used for the purpose of:

- (1) soliciting the relocation of a professional sports franchise located in this state;
- (2) constructing an arena, stadium, or convention center; or
- (3) conducting usual and customary maintenance of a facility.

(k-2) Provides that Subsection (k-1) of this section does not prohibit:

- (1) a disbursement from the trust fund for the construction of temporary structures within an arena, stadium, or convention, if those temporary structures are necessary for the conduct of the event; or

(2) temporary maintenance of a facility that is necessary for the preparation for or conduct of the event.

(r) Authorizes the comptroller to adopt a model event support contract and to make the contract available on the comptroller's Internet website. Provides that the adoption by the comptroller of a model event support contract under this subsection does not require use of the model event support contract for purposes of this section.

(s) Authorizes the comptroller to adopt rules necessary to implement this section.

(t) Requires the comptroller, after the conclusion of an event, to compare information in the actual attendance figures provided to the comptroller under Subsection (i) of this section with the estimated attendance numbers used to determine the incremental increase in tax receipts under Subsection (b) of this section. Authorizes the comptroller to reduce the amount of a disbursement for an endorsing entity under the ETF in proportion to the discrepancy between the actual and estimated attendance and in proportion to the amount contributed to the ETF by the entity if the actual attendance figures are significantly lower than the estimated attendance numbers. Requires the comptroller by rule to define "significantly lower" for purposes of this subsection and to provide the manner in which a disbursement is authorized to be proportionately reduced. Provides that this subsection does not affect the remittance of any money remaining in the ETF in accordance with Subsection (m) (relating to requiring the comptroller, on payment of all state, municipal, or county obligations under an event support contract related to the location of any particular event in this state, to remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the ETF) of this section.

SECTION 4. Repealers: Sections 5A(r) (relating to providing that this subsection applies only to an event that the comptroller determines under Subsection (b) of this section will generate at least \$15 million in state and local tax revenue), (s) (relating to prohibiting the term of a certain agreement to not exceed 10 years and is required to terminate on the final termination date provided in the agreement or if the event covered by the agreement is not held during any 18-month period covered by the agreement), (t) (relating to requiring that the total amount of the state's initial contribution under a certain agreement, on termination of the agreement, be repaid to the state from certain funds or from any other source specified in the agreement), and (u) (relating to requiring the comptroller to deposit a certain amount into the METF for the limited purpose of paying the costs of attracting and securing a certain event), Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, V.T.C.S.).

SECTION 5. (a) Requires the comptroller to conduct a study to determine:

(1) the economic impact of the events that qualify for funding through an events trust fund; and

(2) whether the events would likely be held in this state in the absence of the incentives provided through the fund.

(b) Requires the comptroller to prepare a report of the findings from the study conducted under Subsection (a) of this section. Requires the comptroller, not later than January 1, 2015, to electronically file a copy of the report with the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the senate and house of representatives having primary jurisdiction over fiscal matters or matters related to tourism or recreation.

(c) Provides that this section expires September 1, 2015.

SECTION 6. Provides that the changes in law made by this Act apply only to a request submitted to the comptroller by an endorsing municipality or endorsing county under Section 5A or 5C, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, V.T.C.S.), on or after the effective date of this Act. Provides that a request submitted

under Section 5A or 5C before that date is governed by the law in effect on the date the request is submitted, and that law is continued in effect for that purpose.

SECTION 7. Effective date: upon passage or September 1, 2013.