

## **BILL ANALYSIS**

Senate Research Center

H.B. 1300  
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Natural Resources & Economic Development  
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Engrossed

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

H.B. 1300 amends current law authorizing municipalities to spend their municipal hotel occupancy tax revenues on electronic tax administration systems for the collection of those hotel occupancy taxes. Under current law, a municipality is permitted to spend one percent of the municipal hotel occupancy tax revenue it collects on the creation, maintenance, and operation of an electronic tax administration system to collect that tax. The law does not state that this amount can be spent annually. H.B. 1300 changes the statute to state that the amount can be spent annually on this system, but only up to the lesser of one percent of the amount collected or \$75,000 per year. Additionally, the hotels that must collect and remit the municipal hotel occupancy tax may retain, rather than remit, up to one percent of the revenue they collect to pay for their costs in collecting the tax.

H.B. 1300 amends current law relating to the collection and use of certain hotel occupancy taxes.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas comptroller of public accounts in SECTION 4 (Section 351.0043, Tax Code) and SECTION 10 (Section 352.0042, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 334.001, Local Government Code, by amending Subdivisions (1) and (4) and adding Subdivision (1-a), as follows:

- (1) Defines "active transportation."
- (1-a) Creates this subsection from existing text to define "approved venue project."
- (4) Redefines "venue."

SECTION 2. Amends Section 334.1015, Local Government Code, as follows:

- Sec. 334.1015. APPLICATION. (a) Creates an exception under Subsection (b).
- (b) Authorizes a municipality located on the international border to finance a venue project described by Section 334.001(4)(D) (relating to defining "venue" to mean certain municipal parks and recreation systems) with the revenue from a tax imposed under this subchapter.

SECTION 3. Amends Section 334.2515, Local Government Code, as follows:

Sec. 334.2515. APPLICATION. Provides that this subchapter (Hotel Occupancy Taxes), except as provided by Section 334.2516 (Use of Revenue by Certain Municipalities for Certain Purposes), does not apply to the financing of a venue project that is:

- (1) an area described by Section 334.001(4)(C) (relating to defining "venue" as a tourist development area along an inland waterway);

(2) creates this subdivision from existing text and makes no further changes to this subdivision;

(3) redesignates existing Subdivision (2) as Subdivision (3) and makes conforming and nonsubstantive changes; or

(4) a facility described by Section 334.001(4)(G) (relating to defining "venue" as an airport facility located in a municipality located on the international border).

SECTION 4. Amends Subchapter A, Chapter 351, Tax Code, by adding Section 351.0043, as follows:

Sec. 351.0043. TAX COLLECTION BY SHORT-TERM RENTAL MARKETPLACE.

(a) Defines "booking charge," "host," "short-term rental," and "short-term rental marketplace."

(b) Provides that, notwithstanding Section 351.004 (Tax Collection) or any other law:

(1) a short-term rental marketplace:

(A) is required to collect the appropriate amount of the tax imposed under this chapter (Municipal Hotel Occupancy Taxes) by a municipality in which a short-term rental is located on each booking charge with respect to that short-term rental;

(B) is required to report and remit all taxes collected by the short-term rental marketplace under Paragraph (A) in the manner required of a person owning, operating, managing, or controlling a hotel under this chapter and in accordance with the ordinance adopted by the municipality imposing the tax or if applicable, by an agreement; and

(C) is considered to be the person owning, operating, managing, or controlling the short-term rental for purposes of the collection and enforcement of the tax imposed under this chapter; and

(2) the host is prohibited from collecting and is not liable for a tax imposed by this chapter on a booking charge for a rental made through the short-term rental marketplace.

(c) Authorizes a short-term rental marketplace to enter into an agreement with the Texas comptroller of public accounts (comptroller) to collect and remit to the comptroller certain taxes or to enter into an agreement with a third-party vendor to remit to the municipality certain taxes.

(d) Requires that, to be effective, an agreement described by Subsection (c)(2) (relating to authorizing a short-term rental marketplace to enter into an agreement with a third-party vendor) be approved by the governing body of the municipality. Requires the short-term rental marketplace, during the period an agreement described by Subsection (c) is in effect, to report and remit all taxes collected by the short-term rental marketplace under Subsection (b) to certain entities.

(e) Requires the comptroller or third-party vendor, as applicable, to promulgate a form a short-term rental marketplace is required to use to report the taxes collected by the short-term rental marketplace if an agreement under Subsection (c) is in effect. Requires that the form include certain information.

(f) Prohibits the form from requiring the identification of a specific guest or the host of a short-term rental.

(g) Requires the comptroller, if the short-term rental marketplace collects and remits to the comptroller the taxes imposed by the municipality under this chapter in accordance with an agreement under Subsection (c)(1) (relating to authorizing a short-term rental marketplace to enter into an agreement with the comptroller), to:

(1) deposit the taxes remitted to the comptroller in trust in the separate suspense account of the municipality in which short-term rentals with respect to which the taxes were collected are located; and

(2) send to the municipal treasurer or to the person who performs the office of the municipal treasurer payable to the municipality the municipality's share of the taxes remitted to the comptroller under this chapter at least 12 times during each state fiscal year.

(h) Provides that a suspense account described by Subsection (g)(1) is outside the treasury and authorizes the comptroller to make a payment from the account without the necessity of an appropriation.

(i) Requires the comptroller, before sending any money to a municipality under Subsection (g) and subject to the limitation provided by this subsection, to deduct and deposit to the credit of the general revenue fund a certain amount. Prohibits the comptroller from deducting from the distributions to a municipality more than \$50,000 in each state fiscal year under this subsection.

(j) Requires the vendor, if the short-term rental marketplace enters into an agreement with a third-party vendor under Subsection (c)(2), to report and remit to a municipality that approved the agreement all taxes imposed by the municipality under this chapter and collected by the short-term rental marketplace on rentals of short-term rentals located in that municipality at the times and in the manner provided by the agreement.

(k) Provides that this section, notwithstanding any other law, applies to the collection, remittance, and distribution of taxes imposed by a political subdivision that is authorized to impose a hotel occupancy tax (HOT) under a provision of the Special District Local Laws Code or Vernon's Texas Civil Statutes (V.T.C.S.) in the same manner the section applies to a municipality authorized to impose a HOT under this chapter.

(l) Authorizes the comptroller to adopt rules to implement and administer this section.

SECTION 5. Amends Section 351.005, Tax Code, as follows:

Sec. 351.005. REIMBURSEMENT FOR EXPENSES OF TAX COLLECTION AND USE OF ELECTRONIC TAX ADMINISTRATION SYSTEM. (a) Authorizes a municipality to permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter to withhold not more than one percent of the amount of the tax collected and required to be reported as reimbursement to the person for the cost of collecting the tax, rather than the tax. Deletes existing text authorizing a municipality to permit a person required to collect and pay over to the municipality the authorized tax not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax and, if applicable, the use of an electronic tax administration system described by Section 351.1012 (Electronic Tax Administration System).

(b) Requires a municipality, if the municipality uses revenue derived from the tax authorized by this chapter to create, maintain, operate, or administer an electronic tax administration system as authorized by Section 351.1012, to permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter to withhold not more than one percent of the amount of the tax collected and required to be reported as reimbursement to the person for the cost of collecting the tax.

(c) Creates this subsection from existing text. Authorizes the municipality to provide that the reimbursement provided or required by this section, rather than the reimbursement provided by this section, be forfeited because of a failure to pay the tax or to file a report as required by the municipality.

SECTION 6. (a) Reenacts Section 351.101(a), Tax Code, as amended by Chapters 666 (H.B. 3772) and 979 (H.B. 3615), Acts of the 84th Legislature, Regular Session, 2015, and amends it, as follows:

(a) Authorizes revenue from the municipal HOT to be used only to promote tourism and the convention and hotel industry, and provides that that use is limited to the following:

(1) through (6) makes no changes to these subdivisions;

(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, flag football, and rodeos, if:

(A) makes no changes to this paragraph;

(B) the municipality:

(i) through (vii) makes no changes to these subparagraphs;

(viii) redesignates existing Subparagraphs (ix) and (x) as Subdparagraphs (viii) and (ix) and makes no further changes to these subparagraphs; or

(x) contains an intersection of Interstates 35E and 35W and at least two public universities; and

(C) makes no changes to this paragraph;

(8) through (11) makes no changes to these subdivisions.

(b) Provides that, to the extent of any conflict, this section controls over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

(c) Effective date, this section: upon passage or September 1, 2017.

SECTION 7. Amends Section 351.101, Tax Code, by adding Subsection (o), as follows:

(o) Authorizes a municipality that meets certain criteria, in addition to the purposes provided by Subsection (a), to use revenue from the municipal HOT to promote tourism and the convention and hotel industry by constructing, operating, or expanding a sporting related facility or sports field owned by the municipality, if the majority of the events at the facility or field are directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels in the municipality. Prohibits the municipality, if a municipality to which this subsection

applies uses revenue derived from the municipal HOT for a purpose described by this subsection, from reducing the percentage of revenue from that tax allocated for a purpose described by Subsection (a)(3) (relating to limiting the use of revenue from the municipal HOT to advertising and conducting solicitations and promotional programs) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using the revenue for a purpose described by this subsection.

SECTION 8. Amends Section 351.1012(a), Tax Code, as follows:

(a) Authorizes a municipality, notwithstanding any other provision of this chapter, to spend each year not more than the lesser of one percent or \$75,000 of the revenue derived from the tax authorized by this chapter during that year, rather than to spend not more than one percent of the revenue derived from the tax authorized by this chapter for the creation, maintenance, operation, and administration of an electronic tax administration system. Prohibits a municipality from using revenue the municipality is authorized to spend under this subsection to conduct an audit.

SECTION 9. Amends Section 351.1078, Tax Code, to change references to Section 351.101(i) to Section 351.101(i) or (o).

SECTION 10. Amends Subchapter A, Chapter 352, Tax Code, by adding Section 352.0042, as follows:

Sec. 352.0042. TAX COLLECTION BY SHORT-TERM RENTAL MARKETPLACE.

(a) Defines "booking charge," "host," "short-term rental marketplace," and "short-term rental."

(b) Provides that, notwithstanding Section 352.004 or any other law:

(1) a short-term rental marketplace:

(A) is required to collect the appropriate amount of the tax imposed under this chapter (County Hotel Occupancy Taxes) by a county in which a short-term rental is located on each booking charge with respect to that short-term rental;

(B) is required to report and remit all taxes collected by the short-term rental marketplace under Paragraph (A) in the manner required of a person owning, operating, managing, or controlling a hotel under this chapter and in accordance with the order adopted by the county imposing the tax or if applicable, by an agreement; and

(C) is considered to be the person owning, operating, managing, or controlling the short-term rental for purposes of the collection and enforcement of the tax imposed under this chapter; and

(2) the host is prohibited from collecting and is not liable for a tax imposed by this chapter on a booking charge for a rental made through the short-term rental marketplace.

(c) Authorizes a short-term rental marketplace to enter into an agreement with the comptroller to collect and remit to the comptroller certain taxes or to enter into an agreement with a third-party vendor to remit to the county certain taxes.

(d) Requires that, to be effective, an agreement described by Subsection (c)(2) (relating to authorizing a short-term rental marketplace to enter into an agreement with a third-party vendor) be approved by the commissioners court of the county. Requires the short-term rental marketplace, during the period an agreement

described by Subsection (c) is in effect, to report and remit all taxes collected by the short-term rental marketplace under Subsection (b) to certain entities.

(e) Requires the comptroller or third-party vendor, as applicable, to promulgate a form a short-term rental marketplace is required to use to report the taxes collected by the short-term rental marketplace if an agreement under Subsection (c) is in effect. Requires that the form include certain information.

(f) Prohibits the form from requiring the identification of a specific guest or the host of a short-term rental.

(g) Requires the comptroller, if the short-term rental marketplace collects and remits to the comptroller the taxes imposed by the county under this chapter in accordance with an agreement under Subsection (c)(1) (relating to authorizing a short-term rental marketplace to enter into an agreement with the comptroller), to:

(1) deposit the taxes remitted to the comptroller in trust in the separate suspense account of the county in which short-term rentals with respect to which the taxes were collected are located; and

(2) send to the county treasurer payable to the county the county's share of the taxes remitted to the comptroller under this chapter at least 12 times during each state fiscal year.

(h) Provides that a suspense account described by Subsection (g)(1) is outside the treasury and authorizes the comptroller to make a payment from the account without the necessity of an appropriation.

(i) Requires the comptroller, before sending any money to a county under Subsection (g) and subject to the limitation provided by this subsection, to deduct and deposit to the credit of the general revenue fund a certain amount. Prohibits the comptroller from deducting from the distributions to a county more than \$50,000 in each state fiscal year under this subsection.

(j) Requires the vendor, if the short-term rental marketplace enters into an agreement with a third-party vendor under Subsection (c)(2), to report and remit to a county that approved the agreement all taxes imposed by the county under this chapter and collected by the short-term rental marketplace on rentals of short-term rentals located in that county at the times and in the manner provided by the agreement.

(k) Provides that this section, notwithstanding any other law, applies to the collection, remittance, and distribution of taxes imposed by a political subdivision that is authorized to impose a HOT under a provision of the Special District Local Laws Code or V.T.C.S. in the same manner the section applies to a county authorized to impose a HOT under this chapter.

(l) Authorizes the comptroller to adopt rules to implement and administer this section.

SECTION 11. Amends Section 352.103, Tax Code, as follows:

Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY. (a) Creates an exception under Subsection (b).

(b) Authorizes a county described by Subsection (a) that owns an airport, notwithstanding any other provision of this chapter, to use revenue from a tax imposed under this chapter for repairs and improvements to the county airport or reimbursement for repairs and improvements to the airport.

(c) Prohibits a county to which Subsection (b) applies from using revenue from a tax imposed under this chapter for a purpose described by Subsection (b) in a total amount that would exceed the amount of hotel revenue in the county that is likely to be reasonably attributable to guests traveling through the airport during the 15-year period beginning on the date the county first uses the tax revenue for that purpose.

(d) Prohibits a county to which Subsection (b) applies from using revenue from a tax imposed under this chapter for a purpose described by Subsection (b) after the 10th anniversary of the date the county first uses that revenue for that purpose.

SECTION 12. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 13. Effective date, except as otherwise provided by this Act: January 1, 2018.