

BILL ANALYSIS

Senate Research Center
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H.B. 2806
By: Morrison et al. (Alvarado)
Business & Commerce
5/14/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2806 amends current law relating to the creation of the Texas music incubator rebate program to provide for rebates of a portion of certain taxes collected from certain music venues and promoters of certain music festivals.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Music, Film, Television, and Multimedia Office in SECTION 1 (Section 485.047, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 485, Government Code, by adding Subchapter C, as follows:

SUBCHAPTER C. TEXAS MUSIC INCUBATOR REBATE PROGRAM

Sec. 485.041. DEFINITIONS. (a) Provides that, except as provided by Subsection (b), the definitions in Section 1.04 (Definitions), Alcoholic Beverage Code, apply to this subchapter.

(b) Defines "mixed beverage gross receipts tax," "permit holder," "permittee," and "sales tax" and defines "program" to mean the Texas music incubator rebate program (program) for purposes of this subchapter.

Sec. 485.042. TEXAS MUSIC INCUBATOR REBATE PROGRAM. (a) Requires the Music, Film, Television, and Multimedia Office within the Office of the Governor (office) to administer the program under which the office is required to provide to eligible music venues and eligible music festival promoters from money appropriated from the Texas music incubator account a full or partial rebate of the mixed beverage gross receipts taxes and sales tax receipts attributable to the sale of beer and wine and remitted to the comptroller of public accounts of the State of Texas (comptroller) annually by those venues and promoters. Requires the Texas music incubator account to be funded by mixed beverage gross receipts taxes and sales tax receipts attributable to the sale of beer and wine remitted annually by venues and promoters and deposited into that account as required by Sections 151.801(f) and 183.023(c), Tax Code. Provides that the rebates are to assist eligible music venues and eligible music festival promoters in their efforts to support and continue to bring to local communities in this state live musical performances, including the recruitment of musical performance artists.

(b) Prohibits the office from providing a rebate under the program to a music venue or music festival promoter in an amount that exceeds the lesser of:

(1) the amount of mixed beverage gross receipts taxes and sales taxes attributable to the sale of beer and wine remitted in the preceding fiscal year to the comptroller by the music venue or music festival promoter as a permittee or permit holder; or

(2) \$100,000.

Sec. 485.043. ELIGIBILITY FOR REBATE. (a) Requires a music venue or music festival promoter, for at least the two years preceding the date on which the music venue or promoter, as applicable, submits an application under Section 485.044, except as provided by Subsection (b), to qualify for a rebate under the program, to have:

(1) been a permittee subject to the mixed beverage gross receipts tax or a permit holder subject to the sales tax on the sale of beer or wine;

(2) if the applicant is a music venue, been a retail establishment with a dedicated audience capacity of not more than 3,000 persons;

(3) if the applicant is a music festival promoter, held a music festival in a county with a population of less than 100,000;

(4) entered into a written contract with a musical performance artist to conduct a live performance at the venue or festival, as applicable, under which the artist received as compensation a specified percentage of ticket sales for or other sales during the performance, or a guaranteed amount in advance of the performance; and

(5) met at least five of the following criteria, one of which must be described by Paragraph (A) or (B):

(A) the marketing of live music performances through listings in printed or electronic publications;

(B) the provision of live music performances five or more nights per week;

(C) employment or contracting of the services of one or more people who are tasked with two or more of the following positions or services:

(i) sound engineer;

(ii) booker;

(iii) promoter;

(iv) stage manager; or

(v) security personnel;

(D) having live performance and audience space;

(E) the provision of technical sound and lighting support, either in-house or through a contract with a vendor;

(F) having a space for the storage of audio equipment or musical instruments;

(G) the application of cover charges to one or more live music performances through ticketing or the imposition of a front door entrance fee; or

(H) the maintenance of hours of operation that coincide with live music performance show times.

(b) Authorizes the office to, at the office's discretion, provide a rebate under the program to a music venue or a music festival promoter that fails to meet the eligibility requirements prescribed by Subsection (a) solely because the venue is located, or the festival is usually held, as applicable, in a county located wholly or partly in an area that at any time during the preceding two-year period was declared to be a disaster area by the governor or by the president of the United States.

Sec. 485.044. REBATE APPLICATION. (a) Requires the office to:

(1) subject to Subsection (b), prescribe the application form for obtaining a rebate under the program; and

(2) establish an online portal on the office's public Internet website that allows a music venue or music festival promoter to submit the application to the office for consideration.

(b) Requires the application to:

(1) state the amount of mixed beverage gross receipts tax and sales tax receipts attributable to the sale of beer and wine that was remitted to the comptroller by the music venue or music festival promoter in the preceding fiscal year;

(2) include sufficient evidence for the office to determine that the music venue or promoter qualifies for a rebate; and

(3) include any other information the office determines necessary to administer the program.

(c) Requires the office to accept rebate applications beginning September 1 of each year and authorizes the office to provide rebates until all the money in the Texas music incubator account is exhausted.

(d) Authorizes the office to expedite the review of an application submitted by a music venue or music festival promoter, if the venue is located, or the festival is usually held, as applicable, in a county located wholly or partly in an area that at any time during the preceding two-year period was declared to be a disaster area by the governor or by the president of the United States.

Sec. 485.045. REVIEW OF APPLICATIONS; REBATES. (a) Requires the office, after reviewing applications for a rebate under the program, to grant rebates to eligible music venues and music festival promoters that the office determines provide or have committed to provide the most economic benefit to the communities in which the music venues are located or the festivals are held, as applicable, and to the Texas music industry, including live music performers.

(b) Requires the comptroller, as directed by the office, to issue a warrant for a rebate granted by the office under this section drawn on the Texas music incubator account.

Sec. 485.046. TEXAS MUSIC INCUBATOR ACCOUNT. (a) Provides that the Texas music incubator account is a dedicated account in the general revenue fund. Provides that the account is composed of:

(1) money deposited to the credit of the account under Sections 151.801(f) and 183.023(c), Tax Code;

(2) gifts, grants, and other money received by the office for the program; and

(3) other amounts deposited to the credit of the account.

(b) Authorizes money in the account to be appropriated only to the office for the purpose of paying rebates to music venues and certain music festival promoters under the program.

(c) Requires interest and other earnings from money in the account to be credited to the account.

(d) Requires the comptroller, on the last day of each state fiscal biennium, to transfer any money deposited to the account under Subsection (a)(1) that is unobligated and unexpended on that date to the general revenue fund to be used in accordance with legislative appropriation.

Sec. 485.047. RULES. Requires the office to adopt rules necessary to implement and administer this subchapter.

SECTION 2. Amends Section 151.801, Tax Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Requires all proceeds from the collection of the taxes imposed by this chapter (Limited Sales, Excise, and Use Tax), except for the amounts allocated under Subsections (b), (c), (c-2), and (f), rather than under Subsections (b), (c), and (c-2), to be deposited to the credit of the general revenue fund.

(f) Requires the comptroller to deposit each fiscal year \$100,000 of the revenue received under this chapter to the credit of the Texas music incubator account under Section 485.046, Government Code.

SECTION 3. Amends Section 183.023, Tax Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Creates an exception under Subsection (c) to the requirement that the comptroller deposit the revenue received under this section in the general revenue fund.

(c) Requires the comptroller to deposit each fiscal year \$10 million of the revenue received under this section to the credit of the Texas music incubator account under Section 485.046, Government Code.

SECTION 4. (a) Requires the office, not later than September 1, 2020, to establish the program as required under Subchapter C, Chapter 485, Government Code, as added by this Act.

(b) Requires the office, notwithstanding Section 485.044(c), Government Code, as added by this Act, to begin accepting rebate applications as authorized under that section beginning September 1, 2020.

SECTION 5. Effective date: September 1, 2019.