

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 4347
By: Anchia et al. (Nelson)
Finance
5/17/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been noted that certain municipalities in Texas are authorized to receive a rebate for state hotel occupancy taxes and state sales taxes collected at certain convention center hotels, which may be used by a city to service the bonds or other obligations incurred for the construction of the project. It has been suggested that financing convention center hotels is challenging, and that public-private financing options such as this are valuable. Furthermore, convention center hotels aid state and local economies by attracting out-of-state visitors and conventions to Texas, in addition to assisting with local development efforts. There have been calls to ensure an adequate supply of hotel rooms located near convention centers to make Texas more competitive in attracting these events.

H.B. 4347 seeks to address this issue by authorizing certain municipalities to use specified tax revenue for hotel and convention center projects and other qualified projects. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 4347 amends current law relating to the authority of certain municipalities to use certain tax revenue for hotel and convention center projects and other qualified projects.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 9 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 351.001, Tax Code, by adding Subdivision (12) to define "retail establishment."

SECTION 2. Amends Sections 351.102(b), (c), and (e), Tax Code, as follows:

(b) Authorizes a municipality described by Subsection (e), rather than a municipality fitting certain criteria, to pledge the revenue derived from the tax imposed under this chapter (Municipal Hotel Occupancy Taxes) from a hotel project that is owned by or located on land owned by the municipality or, in an eligible central municipality, by a nonprofit corporation acting on behalf of an eligible central municipality, and that is located within 1,000 feet of a qualified convention center facility, as defined by Section 351.151, owned by the municipality for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, and equip the hotel and any facilities ancillary to the hotel, including convention center entertainment-related facilities, restaurants, retail establishments, street and water and sewer infrastructure necessary for the operation of the hotel or ancillary facilities, and parking facilities within 1,000 feet of the hotel or convention center facility, rather than convention center entertainment-related facilities, meeting spaces, restaurants, retail establishments, shops, street and water and sewer infrastructure necessary for the operation of the hotel or ancillary facilities, and parking facilities within 1,000 feet of the hotel or convention center facility. Authorizes a municipality described by Subsection (e), rather than an eligible central municipality or a municipality described by this subsection or Subsection (e), to only pledge, for bonds or other obligations issued under this subsection, revenue or other assets of the hotel project

benefiting from those bonds or other obligations. Deletes authorization of a certain municipality to pledge for the payment of bonds or other obligations described by this subsection certain revenue.

(c) Entitles a municipality described by Subsection (e) to receive all funds from a project described by Subsection (b) that an owner of a project is authorized to receive under Section 151.429(h) (relating to requiring the owner of a qualified hotel project to receive certain payment for a certain time period after initial occupancy) of this code, or Section 2303.5055 (Refund, Rebate, or Payment of Tax Proceeds to Qualified Hotel Project), Government Code, and authorizes the municipality to pledge the funds for the payment of obligations issued under this section, but only if the municipality has pledged the revenue derived from the tax imposed under this chapter from the project for the payment of bonds or other obligations issued or incurred for the project, rather than entitling a municipality to which Subsection (b) or (e) applies, except as provided by this subsection, to receive all funds from a project described by Subsection (b) that an owner of a project is authorized to receive under Section 151.429(h) of this code, or Section 2303.5055, Government Code, and authorizing the municipality to pledge the funds for the payment of obligations issued under this section. Removes the provision that a municipality described by Subsection (e) is not entitled to receive funds from a project under this subsection unless the municipality has pledged the revenue derived from the tax imposed under this chapter from the project for the payment of bonds or other obligations issued or incurred for the project.

(e) Provides that Subsection (b) applies only to, rather than providing that, in addition to the municipalities described by Subsection (b), that subsection also applies to:

(1) a municipality with a population of two million or more, rather than a municipality with a population of at least 110,000 but not more than 135,000 at least part of which is located in a county with a population of not more than 135,000;

(2) a municipality with a population of 700,000 or more but less than 1.3 million;

(3) a municipality with a population of 350,000 or more but less than 450,000 in which two professional sports stadiums are located, each of which meet certain criteria; and

(4) Creates this subdivision from existing text of Subdivision (9) and makes no further changes.

Deletes existing text from former Subdivisions (2)–(4) and existing Subdivisions (5)–(8) and (10)–(12) relating to certain municipalities fitting specified criteria.

SECTION 3. Redesignates Section 351.102(d), Tax Code, as 351.1063, Tax Code, and amends it as follows:

Sec. 351.1063. New heading: ALLOCATION OF REVENUE FOR ADVERTISING AND PROMOTION: CERTAIN MUNICIPALITIES WITH CERTAIN PROJECTS. (a) Provides that this section applies only to a municipality described by Section 351.102(e) or 351.152, other than an eligible central municipality described by Section 351.001(7)(D) (relating to including a municipality with a certain population that contains a certain general academic teaching institution in the definition of "eligible central municipality").

(b) redesignates existing Subsection (d) as this Subsection and prohibits a municipality that uses revenue derived from the tax imposed under this chapter or funds received under Section 351.102(c), 351.156, or 351.157 for a hotel project under Section 351.102(b) or a qualified project under Section 351.155, rather than prohibiting an eligible central municipality or another municipality described by Subsection (b) or (e) (relating to certain defined municipalities) that uses revenue derived from the tax imposed under this chapter or funds received under

Subsection (c) (relating to receipt of funds from a hotel project) for a hotel project described by Subsection (b), except as provided by this subsection, from reducing the percentage of revenue from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(3) 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 or funds for the hotel project. Removes the provision that this subsection does not apply to an eligible central municipality described by Section 351.001(7)(D).

SECTION 4. Redesignates Section 351.102(f), Tax Code, as Section 351.1064, Tax Code, and amends it as follows:

Sec. 351.1064. New heading: ALLOCATION OF REVENUE FOR CERTAIN SPORTING EVENT EXPENSES: CERTAIN MUNICIPALITIES WITH QUALIFIED PROJECT. (a) Provides that this section applies only to a municipality with a population of 200,000 or more but less than 300,000 that contains a component institution of the Texas Tech University System.

(b) Redesignates existing Subsection (f) as Subsection (b) and prohibits a municipality that uses revenue derived from the tax imposed under this chapter or funds received under Section 351.156 for repayment of bonds, other obligations, or contractual obligations issued or incurred for a qualified project under Section 351.155, in a fiscal year that begins after the qualified project is complete and during any part of which the bonds, other obligations, or contractual obligations are outstanding, from reducing the amount of revenue derived from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(6) (relating to authorizing the use of revenue from the municipal hotel occupancy tax to be used for certain expenses directly related to a certain sporting event) to an amount that is less than the sum of certain amounts, rather than prohibiting a municipality described by Subsection (e)(3) that uses revenue derived from the tax imposed under this chapter or funds received under Subsection (c) for repayment of bonds or other obligations issued or incurred for a hotel project described by Subsection (b), in a fiscal year that begins after construction of the hotel project is complete and during any part of which the bonds or other obligations are outstanding, from reducing the amount of revenue derived from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(6) to an amount that is less than the sum of certain amounts.

SECTION 5. Amends Subchapter B, Chapter 351, Tax Code, by adding Section 351.1021, as follows:

Sec. 351.1021. PLEDGE OR COMMITMENT OF CERTAIN TAX REVENUE FOR CERTAIN PROJECTS. (a) Defines "eligible municipality," "multipurpose convention center facility," and "multipurpose convention center facility project" for purposes of this section.

(b) Entitles an eligible municipality or local government corporation acting on behalf of an eligible municipality to receive all funds from a multipurpose convention center facility project that the owner of a project could receive under Section 151.429(h) of this code or Section 2303.5055, Government Code, if a project for purposes of those provisions included a multipurpose convention center facility project. Entitles the municipality or local government corporation to receive the funds for a period of 10 years beginning on the date the multipurpose convention center facility is issued a certificate of occupancy.

(c) Authorizes an eligible municipality or local government corporation acting on behalf of an eligible municipality to pledge or commit the funds to which the municipality or local government corporation is entitled as provided by

Subsection (b) for the payment of bonds, other obligations, or contractual obligations issued or incurred for the multipurpose convention center facility project.

(d) Requires the comptroller of public accounts of the State of Texas (comptroller) to deposit the funds to which an eligible municipality or local government corporation is entitled as provided by Subsection (b) in a separate suspense account of the municipality outside the state treasury.

(e) Authorizes the comptroller to make a rebate, refund, or payment authorized under this section without the necessity of an appropriation. Requires the comptroller to rebate, refund, or pay to the eligible municipality the funds to which the municipality or local government corporation is entitled as provided by Subsection (b) at least quarterly.

SECTION 6. Amends Subchapter B, Chapter 351, Tax Code, by adding Section 351.1022, as follows:

Sec. 351.1022. PLEDGE OR COMMITMENT OF CERTAIN TAX REVENUE BY CERTAIN MUNICIPALITIES WITH SPORTS STADIUMS. (a) Provides that this section applies only to a municipality described by Section 351.102(e)(3).

(b) Entitles a municipality to receive all funds from a hotel project described by Section 351.102(b) that an owner of a project is authorized to receive under Section 151.429(h) of this code or Section 2303.5055, Government Code, and all tax revenue collected under Chapter 183 (Mixed Beverage Taxes) by or from all permittees at the hotel project, excluding revenue disbursed by the comptroller under Section 183.051(b) (relating to requiring the comptroller to issue to certain counties a warrant in a certain amount for taxes received from permittees within the county during the quarter). Entitles the municipality, notwithstanding any other law, to receive the funds for a period of 30 years beginning on the date the hotel project is open for initial occupancy.

(c) Authorizes the municipality to pledge the funds to which the municipality is entitled as provided by Subsection (b) for the payment of bonds, other obligations, or contractual obligations issued or incurred to acquire, lease, construct, improve, enlarge, and equip the hotel project.

(d) Requires the comptroller to deposit the funds to which the municipality is entitled as provided by Subsection (b) in a separate suspense account of the municipality outside the state treasury.

(e) Authorizes the comptroller to make a rebate, refund, or payment authorized under this section without the necessity of an appropriation. Requires the comptroller to rebate, refund, or pay to the municipality the funds to which the municipality is entitled as provided by Subsection (b) at least monthly.

SECTION 7. Amends Chapter 351, Tax Code, by adding Subchapter C, as follows:

SUBCHAPTER C. MUNICIPAL HOTEL AND CONVENTION CENTER PROJECTS

Sec. 351.151. DEFINITIONS. Defines "infrastructure," "qualified convention center facility," "qualified hotel," and "qualified project" for purposes of this subchapter.

Sec. 351.152. APPLICABILITY. Provides that this subchapter applies only to certain municipalities.

Sec. 351.153. EXCEPTION TO OWNERSHIP REQUIREMENT. (a) Provides that this section applies only to a municipality described by Section 351.152(6) (relating to a municipality with a population of 150,000 or more but less than 200,000 that is partially

located in at least one county with a population of 125,000 or more) or (29) (relating to a municipality that is the county seat of a certain county).

(b) Provides that Section 351.151(2)(B) (relating to a facility that has been or will be constructed and that is wholly owned by a municipality to which this subchapter applies, and none of which is or may be owned through an undivided common interest) does not apply to a facility that otherwise meets the requirements of a qualified convention center facility under Section 351.151.

(c) Provides that Section 351.151(3)(A) (relating to a qualified hotel that is required to be located on land owned by the designating municipality) does not apply to a hotel that otherwise meets the requirements of a qualified hotel under Section 351.151.

Sec. 351.154. NONPROFIT CORPORATION AS MUNICIPAL AGENT. Authorizes a municipality to authorize a nonprofit corporation to act on behalf of the municipality for any purpose under this subchapter.

Sec. 351.155. PLEDGE OR COMMITMENT OF CERTAIN TAX REVENUE FOR OBLIGATIONS FOR QUALIFIED PROJECT. (a) Authorizes a municipality, in addition to the authority of a municipality to issue debt under Chapter 1504 (Obligations For Municipal Buildings), Government Code, to pledge or commit the revenue derived from the tax imposed under this chapter from a qualified hotel and the revenue to which the municipality is entitled under Section 351.156 and, if applicable, Section 351.157 for the payment of certain bonds and obligations.

(b) Authorizes a municipality to pledge or commit revenue for the payment of bonds, other obligations, or contractual obligations under Subsection (a) only if the qualified hotel that is a component of the qualified project for which that revenue is pledged or committed benefits from the pledging or committing of that revenue.

(c) Authorizes a municipality to pledge or commit revenue under this section for only one qualified project. Prohibits a municipality, after a municipality pledges or commits revenue under this section for a qualified project, from ever again pledging or committing revenue for a qualified project.

(d) Provides that Subsection (c) does not apply to a municipality with a population of 175,000 or more.

(e) Provides that a municipality is not entitled to receive revenue under Section 351.156 or 351.157 unless the municipality has pledged or committed a portion of the revenue derived from the tax imposed under this chapter and collected by the qualified hotel for the payment of bonds, other obligations, or contractual obligations described by Subsection (a) and issued or incurred for the qualified project.

Sec. 351.156. ENTITLEMENT TO CERTAIN TAX REVENUE. Entitles a municipality, subject to Sections 351.155(e) and 351.158, to receive the revenue derived from certain specified taxes generated, paid, and collected by a qualified hotel, and each restaurant, bar, and retail establishment located in or connected to the hotel or the related qualified convention center facility, that is located in the municipality.

Sec. 351.157. ADDITIONAL ENTITLEMENT FOR CERTAIN MUNICIPALITIES. (a) Defines "qualified establishment" for purposes of this section to mean an establishment:

(1) that is located on land owned by a municipality or owned by any person if the establishment is located in a municipality described by Section 351.152(3);

(2) the nearest exterior wall of which is located not more than 1,000 feet from the nearest exterior wall of a qualified hotel or qualified convention center facility;

(3) that is constructed on or after the date the municipality commences a qualified project under this subchapter or at any time if the establishment is located in a municipality described by Section 351.152(3);

(4) that is not a sports stadium; and

(5) that is the type of establishment described by Subsection (c) from which the municipality is entitled to receive revenue under Subsection (d).

(b) Provides that this section applies only to certain municipalities.

(c) Entitles a municipality to receive revenue under Subsection (d) derived from the certain types of establishments that meet the requirements of Subsections (a)(1), (2), (3), and (4).

(d) Entitles a municipality to which this section applies, subject to Subsection (e), in addition to the revenue to which the municipality is entitled under Section 351.156, to receive the revenue derived from certain taxes generated, paid, and collected from a qualified establishment located in the municipality.

(e) Provides that a municipality to which this section applies is not entitled to receive revenue under Subsection (d) unless the municipality commences a qualified project under this subchapter before September 1, 2023.

Sec. 351.158. PERIOD OF ENTITLEMENT. Entitles a municipality to receive revenue as provided by Section 351.156 or 351.157 until the 10th anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy.

Sec. 351.159. DEPOSIT OF REVENUE. Requires the comptroller, notwithstanding any other law, to deposit the revenue from the taxes described by Section 351.156 or 351.157 that were collected by or forwarded to the comptroller in trust in a separate suspense account of the qualified project. Provides that the suspense account is outside the state treasury and authorizes the comptroller to make a payment authorized by this subchapter without the necessity of an appropriation.

Sec. 351.160. QUARTERLY PAYMENTS. Requires the comptroller to pay to each municipality the revenue to which the municipality is entitled under this subchapter at least quarterly.

SECTION 8. Repealer: Section 351.102(b-1) (relating to prohibiting a certain municipality that not an eligible central municipality from pledging certain revenue relating to a particular hotel project after certain dates), Tax Code.

Repealer: Section 351.102(c-1) (relating to entitling a municipality to certain funds and authorizing the municipality to pledge the funds to certain purposes), Tax Code.

Repealer: Section 351.102(g) (relating to prohibiting a municipality from receiving or pledging certain funds for a hotel project unless the municipality enters into a certain agreement before September 1, 2019), Tax Code.

SECTION 9. Authorizes the comptroller to adopt rules as necessary to administer this Act.

SECTION 10. Makes application of Subchapter B, Chapter 351, Tax Code, as amended by this Act, with respect to a hotel project described by Section 351.102(b), prospective.

SECTION 11. Makes application of Subchapter C, Chapter 351, Tax Code, as added by this Act, prospective.

SECTION 12. Provides that the changes in law made by this Act do not affect the validity of a bond, other obligation, or contractual obligation for which revenue was pledged or committed under Section 351.102, Tax Code, before the effective date of this Act. Provides that bonds, other obligations, or contractual obligations for which revenue was pledged or committed before the effective date of this Act are governed by the law in effect when the revenue was pledged or committed, and that law is continued in effect for purposes of the validity of those bonds, obligations, and contractual obligations.

SECTION 13. Effective date: September 1, 2019.