By:  Anchia H.B. No. 4347

A BILL TO BE ENTITLED

AN ACT

relating to the use of certain tax revenue by certain municipalities for the payment of job training programs and the development of hotel and convention center projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subtitle A, Title 10, Local Government Code, is amended by adding Chapter 310 to read as follows:

SECTION 1.  CHAPTER 310. QUALIFIED MUNICIPAL HOTEL AND CONVENTION CENTER PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 310.001.  DEFINITIONS. In this chapter:

(1)  "Qualified convention center facility" means a convention center facility as defined by Section 351.001, Tax Code, that:

(A)  is owned by a municipality,

(B)  has been constructed or will be constructed in conjunction with the acquisition, lease, construction, repair, remodel or equipping of a hotel that is part of a qualified hotel project, and

(C)  contains at least 4,000 square feet of meeting space.

(2)  "Eligible central municipality" and "eligible coastal municipality" have the meanings assigned by Section 351.001, Tax Code.

(3)  "Hotel" has the meaning assigned by Section 156.001, Tax Code.

(4)  "Qualified hotel project" means a project to acquire, lease, construct, repair, remodel, expand or equip:

(A)  a hotel connected to a qualified convention center facility or not more than 1,000 feet as measured from the closest exterior wall of a qualified convention center facility and a hotel; and

(B)  subject to the limitation of Section 310.103, a facility or business located on the same tract of land as a qualified convention center facility that is included in a plan for the development of a qualified hotel project submitted to a municipality but located no more than 1,500 feet from the closest exterior wall of a qualified convention center facility or hotel regardless of who owns the facility, the business or the real property.

(5)  "Qualified municipality" means a municipality described by Subchapter D.

(6)  "Revenue" has the meaning assigned by Section 351.001, Tax Code.

Sec. 310.002.  NONPROFIT CORPORATION AS MUNICIPAL AGENT. A qualified municipality may authorize a nonprofit corporation to act on behalf of the municipality for any purpose under this chapter.

Sec. 310.004.  RULES. The comptroller may adopt rules as necessary to administer this chapter.

SUBCHAPTER B. AUTHORITY TO ISSUE BONDS AND PLEDGE CERTAIN TAX REVENUE FOR OBLIGATIONS

Sec. 310.051.  AUTHORITY TO ISSUE BONDS AND PLEDGE OF CERTAIN TAX REVENUE FOR OBLIGATIONS FOR QUALIFIED HOTEL PROJECTS AND CONVENTION CENTER FACILITY.

(a)  Notwithstanding Chapters 1504 or 1508, Government Code, a qualified municipality may issue bonds or other obligations and may pledge the revenue derived from the tax imposed under Chapter 351, Tax Code, from a qualified hotel project and the revenue to which the qualified municipality is entitled under Section 310.101 for:

(1)  the cost of workforce training, job creation and job-training programs associated with employees at a qualified hotel project;

(2)  advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality; and

(3)  the payment of bonds or other obligations issued or incurred to acquire, lease, construct, repair, remodel, or equip:

(A)  the hotel that is part of the qualified hotel project;

(B)  a facility or business described by Section 310.001(4)(B);

(C)  a qualified convention center facility described by Section 310.001(1)(B) that will be located not more than the distance specified by Section 310.001(4)(A) from the hotel that is part of the qualified hotel project;

(D)  land where a qualified hotel project will be located;

(E)  parking facilities that support the qualified hotel project or qualified convention center; or

(F)  infrastructure including water, sewer, streets, sidewalks, walkways, trails, plazas that support the hotel project.

(c)  A qualified municipality may pledge revenue from or other assets of a qualified hotel project for the payment of bonds or other obligations issued or incurred only if the qualified hotel project benefits from those bonds or other obligations.

Sec. 310.056.  SUBMISSION OF INFORMATION. (a) The comptroller by rule may establish the information a qualified municipality must submit in a request made under this section.

(b)  The comptroller may require a municipality to submit information prepared by a registered professional land surveyor to satisfy the distance specified by this Chapter.

SUBCHAPTER C. RECEIPT AND USE OF CERTAIN TAX REVENUE

Sec. 310.101.  ENTITLEMENT TO CERTAIN TAX REVENUE. (a) Except as otherwise provided by this chapter, this section applies only to a qualified municipality described by Subchapter D.

(b)  Subject to the limitation in Sections 310.102, 310.103, and 310.104, a qualified municipality is entitled to receive the revenue derived from the following taxes generated, paid, and collected by a qualified hotel project including each facility or business located in a qualified hotel project located in a qualified municipality:

(1)  the sales and use tax imposed under Chapter 151, Tax Code but not including sales if the customer did not take possession or consume the good;

(2)  the hotel occupancy tax imposed under Chapter 156, Tax Code; and

(3)  if a political subdivision that is entitled to receive the revenue from the tax agrees in writing to pay the revenue to the municipality:

(A)  the sales and use tax imposed by the political subdivision under Chapter 322 or 323, Tax Code;

(B)  the hotel occupancy tax imposed by the political subdivision under Chapter 352, Tax Code;

(C)  the municipal portion of the mixed beverage tax imposed under Chapter 183, Tax Code; and

(D)  the ad valorem tax imposed by the political subdivision under Title 1, Tax Code.

Sec. 310.102.  PERIOD OF ENTITLEMENT. A qualified municipality is entitled to receive revenue under this subchapter from a qualified hotel project until the 10th anniversary of the date the hotel that is part of the qualified hotel project is open for initial occupancy.

Sec. 310.103.  NEW COMMERICAL DEVELOPMENT IN A QUALIFIED HOTEL PROJECT (a) If the construction of a facility or business located in a qualified hotel project occurs:

(1)  no earlier than twenty-four months before the date a qualified hotel project is open for initial occupancy; or

(2)  before the 10th anniversary of the date the hotel opens for initial occupancy, a qualified municipality is entitled to receive:

(A)  twenty percent of the sales and use tax imposed under Chapter 151, Tax Code and one hundred percent of the municipal portion of the mixed beverage tax imposed under Chapter 183, Tax Code generated, paid, and collected by each facility or business in a qualified hotel project located in the qualified municipality in the first and second year in which the qualified hotel is open for initial occupancy; and

(B)  eighty percent of the sales and use tax imposed under Chapter 151, Tax Code and one hundred percent of the municipal portion of the mixed beverage tax imposed under Chapter 183, Tax Code generated, paid, and collected by each facility or business in a qualified hotel project located in the qualified municipality during the third through tenth years the qualified hotel is open for initial occupancy.

Sec 310.104.  EXISTING COMMERICAL DEVELOPMENT IN A QUALIFIED HOTEL. (a) If a facility or business located in qualified hotel project was constructed more than twenty-four months before the date the qualified hotel opens for initial occupancy, a qualified municipality is not entitled to receive revenue under this subchapter for the taxes generated by that facility or business.

Sec. 310.105.  LIMITATION ON ENTITLEMENT; USE OF REVENUE. A qualified municipality may use the revenue received under this subchapter for the payment of bonds or other obligations issued or incurred for a qualified hotel project, except that the qualified municipality is only entitled to receive the revenue if the qualified municipality pledges a portion of the revenue derived from the tax imposed under Chapter 351, Tax Code, from the hotel that is part of the qualified hotel project for the payment of bonds or other obligations issued or incurred for the qualified hotel project.

Sec. 310.106.  DEPOSIT OF REVENUE. Notwithstanding any other law, the comptroller shall deposit the revenue from the taxes described by Section 310.101(b) that were collected by or forwarded to the comptroller in trust in a separate suspense account of the qualified hotel project. The suspense account is outside the state treasury and the comptroller may make a payment authorized by this subchapter without the necessity of an appropriation.

Sec. 310.107.  APPLICATION FOR PAYMENT. The comptroller by rule shall establish the requirements and procedures by which a qualified municipality may apply for a payment authorized by this subchapter.

Sec. 310.108.  QUARTERLY PAYMENTS. The comptroller shall pay to each qualified municipality the revenue to which the municipality is entitled under this subchapter at least quarterly.

Sec. 310.109.  PLEDGE OF CERTAIN TAX REVENUE BY POPULOUS MUNICIPALITIES FOR OBLIGATIONS FOR CERTAIN HOTELS. (a) This section applies only to a municipality with a population of 1.5 million or more.

(b)  Subject to the limitations provided by this section and Subchapter B, Chapter 351, Tax Code, a municipality may pledge the revenue derived from the tax imposed under Chapter 351, Tax Code, for the payment of the principal of or interest on bonds or other obligations of a municipally sponsored local government corporation created under Chapter 431, Transportation Code, issued to pay the cost of:

(1)  acquisition and construction of a convention center hotel; or

(2)  acquisition, remodeling, or rehabilitation of a historic hotel structure.

(c)  A municipality may pledge under this section only revenue that is collected at the hotel for which the revenue is pledged.

Sec. 310.110.  PLEDGE OF CERTAIN TAX REVENUE FOR OBLIGATIONS FOR HOTEL AND CONVENTION CENTER PROJECT. (a) In this section, "hotel and convention center project" means a project that is:

(1)  an existing hotel owned by a municipality or another person; and

(2)  a convention center facility to be acquired, constructed, equipped, or leased.

(b)  This section applies only to a municipality that:

(1)  is the county seat of a county that:

(A)  borders the United Mexican States;

(B)  has a population of less than 300,000; and

(C)  contains one or more municipalities with a population of 200,000 or more; and

(2)  holds an annual jalapeno festival.

(c)  A municipality is entitled to receive all revenue from a hotel and convention center project that a municipality is entitled to receive under Section 310.101 if a project for purposes of that section included a hotel and convention center project. The municipality may pledge the revenue for payment of obligations issued for the hotel and convention center project.

Sec. 310.111.  LIMITATION ON AUTHORITY OF CERTAIN MUNICIPALITIES TO PLEDGE CERTAIN TAX REVENUE FOR OBLIGATIONS. (a) This section applies only to a municipality described by Section 310.101(a)(6) that is not an eligible central municipality.

(b)  A municipality may not pledge revenue under Section 310.051 for a hotel project after the earlier of:

(1)  the 20th anniversary of the date the municipality first pledged the revenue for the hotel project; or

(2)  the date the revenue pledged for the hotel project equals 40 percent of the hotel project's total construction cost.

SUBCHAPTER D. QUALIFIED MUNICIPALTIES

Section 310.101(a) A qualified municipality means:

(1)  a municipality with a population of more than 140,000 but less than 1.5 million that:

(A)  is located in a county with a population of one million or more; and

(B)  has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(2)  a municipality with a population of 250,000 or more that:

(A)  is located wholly or partly on a barrier island that borders the Gulf of Mexico;

(B)  is located in a county with a population of 300,000 or more; and

(C)  has adopted a capital improvement plan to expand an existing convention center facility;

(3)  a municipality with a population of 116,000 or more that:

(A)  is located in two counties both of which have a population of 660,000 or more; and

(B)  has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(4)  a municipality with a population of less than 50,000 that contains a general academic teaching institution that is not a component institution of a university system, as those terms are defined by Section 61.003, Education Code;

(5)  a municipality with a population of 640,000 or more that:

(A)  is located on an international border; and

(B)  has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(6)  a municipality with a population of 173,000 or more that is located within two or more counties;

(7)  a municipality with a population of 96,000 or more that is located in a county that borders Lake Palestine;

(8)  a municipality with a population of 96,000 or more that is located in a county that contains the headwaters of the San Gabriel River;

(9)  a municipality with a population of at least 99,900 but not more than 111,000 that is located in a county with a population of 135,000 or more;

(10)  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;

(11)  a municipality with a population of at least 9,000 but not more than 10,000 that is located in two counties, each of which has a population of 662,000 or more and a southern border with a county with a population of 2.3 million or more;

(12)  a municipality with a population of at least 200,000 but not more than 300,000 that contains a component institution of the Texas Tech University System;

(13)  a municipality with a population of 95,000 or more that borders Lake Lewisville;

(14)  a municipality that:

(A)  contains a portion of Cedar Hill State Park;

(B)  has a population of more than 45,000;

(C)  is located in two counties, one of which has a population of more than two million and one of which has a population of more than 149,000; and

(D)  has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(15)  a municipality with a population of less than 6,000 that:

(A)  is located in two counties each with a population of 600,000 or more that are both adjacent to a county with a population of two million or more;

(B)  has full-time police and fire departments; and

(C)  has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(16)  a municipality with a population of 56,000 or more that:

(A)  borders Lake Ray Hubbard; and

(B)  is located in two counties, one of which has a population of less than 80,000;

(17)  a municipality with a population of more than 83,000 that:

(A)  borders Clear Lake; and

(B)  is primarily located in a county with a population of less than 300,000;

(18)  a municipality with a population of less than 2,000 that:

(A)  is located adjacent to a bay connected to the Gulf of Mexico;

(B)  is located in a county with a population of 290,000 or more that is adjacent to a county with a population of four million or more; and

(C)  has a boardwalk on the bay;

(19)  a municipality with a population of 75,000 or more that:

(A)  is located wholly in one county with a population of 575,000 or more that is adjacent to a county with a population of four million or more; and

(B)  has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(20)  a municipality with a population of less than 75,000 that is located in three counties, at least one of which has a population of four million or more;

(21)  an eligible coastal municipality with a population of more than 3,000 but less than 5,000;

(22)  a municipality with a population of 65,200 or more that:

(A)  is located in a county with a population of 449,000 or more; and

(B)  contains a portion of Lake Conroe and hosts an annual catfish festival;

(23)  a municipality with a population of 22,300 or more that:

(A)  is located in a county with a population of 49,600 or more; and

(B)  contains a portion of the Guadalupe River and the Kerrville Schreiner park;

(24)  a municipality with a population of 6,100 or less that:

(A)  is located in two counties one with a population of 788,400 or more and the other county with a population of 666,700 or more; and

(B)  contains a portion of state highway 289;

(25)  a municipality with a population of 90,000 or more but less than 150,000 that:

(A)  is located in three counties; and

(B)  contains a branch campus of a component institution of the University of Houston System;

(26)  a municipality that is the county seat of a county that has a population of 585,000 or more and is adjacent to a county with a population of four million or more, except that the municipality may also pledge revenue derived from the tax imposed under this chapter from a hotel project that is owned by or located on land owned by a nonprofit corporation or eleemosynary foundation acting on behalf of or in concert with the municipality;

(27)  a municipality that is the county seat of a county that has a population of at least 585,000 and is adjacent to a county with a population of four million or more; and

(28)  a municipality with a population of 25,200 or more that:

(A)  is located in a county with a population of 116,500 or more that is adjacent to a county with a population of 1.8 million or more; and

(B)  hosts an annual county peach festival.

SECTION 2.  Section 351.001(2), Tax Code, is amended to read as follows:

(2)  "Convention center facility [~~facilities~~]" [~~or "convention center complex"~~] means a facility regardless if the facility is a separate structure or connected to a hotel [~~facilities~~] that is [~~are primarily~~] used to host conventions, meetings and gatherings of people that enhance and promote tourism and the convention and hotel industry, a [~~meetings. The term means~~] civic center [~~centers~~], civic center building [~~buildings~~], auditorium [~~auditoriums~~], exhibition hall [~~halls~~], or coliseum [~~and coliseums~~] that is [~~are~~] owned by the municipality or other governmental entity or that is [~~are~~] managed in whole or part by the municipality, and including a parking area or facility that is for the parking or storage of conveyances and is located at or in the vicinity of a convention center facility. The term includes:

(A)  in [~~. In~~] a municipality with a population of 1.5 million or more:

(i)  a hotel, the nearest property line of which is located not more than [~~, "convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in part by the municipality, hotels owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within~~] 1,000 feet of a convention center owned by the municipality; and

(ii)  [~~, or~~] a historic hotel [~~owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code~~], the nearest property line of which is located not more than [~~within~~] one mile from the nearest property line of a convention center owned by the municipality;

(B)  in an eligible central municipality, [~~. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the vicinity of other convention center facilities. The term also includes~~] a hotel, the nearest property line of which [~~owned by or located on land that is owned by an eligible central municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that~~] is located not more than [~~within~~] 1,000 feet of another [~~a~~] convention center facility owned by the municipality, except as provided by Paragraph (C); and

(C)  in an eligible central municipality described by Subdivision (7)(D), [~~. The term also includes~~] a hotel, the nearest property line of which [~~that is owned in part by an eligible central municipality described by Subdivision (7)(D) and that~~] is located not more than [~~within~~] 1,000 feet of another [~~a~~] convention center facility. [~~For purposes of this subdivision, "meetings" means gatherings of people that enhance and promote tourism and the convention and hotel industry.~~]

SECTION 3.  Section 351.102(a), Tax Code, is amended to read as follows:

(a)  Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the tax imposed under this chapter for:

(1)  the payment of revenue bonds [~~that are~~] issued under Section 1504.002(a), Government Code; and

(2)  [~~, for~~] one or more of the purposes provided by Section 351.101 or authorized by Chapter 310, Local Government Code [~~, in the case of a municipality of 1,500,000 or more, for the payment of principal of or interest on bonds or other obligations of a municipally sponsored local government corporation created under Chapter 431, Transportation Code, that were issued to pay the cost of the acquisition and construction of a convention center hotel or the cost of acquisition, remodeling, or rehabilitation of a historic hotel structure; provided, however, such pledge may only be that portion of the tax collected at such hotel~~].

SECTION 4.  Section 351.102(d), Tax Code, is redesignated as Section 351.1063, Tax Code, and amended to read as follows:

Sec. 351.1063.  ALLOCATION OF REVENUE FOR ADVERTISING AND PROMOTION: CERTAIN MUNICIPALITIES WITH HOTEL PROJECT. (a) This section applies only to a municipality described by Section 310.051, Local Government Code, other than an eligible central municipality described by Section 351.001(7)(D).

(b)  A [~~(d) Except as provided by this subsection, an eligible central~~] municipality [~~or another municipality described by Subsection (b) or (e)~~] that uses revenue derived from the tax imposed under this chapter or funds received under Section 310.101, Local Government Code, [~~Subsection (c)~~] for a hotel project under Section 310.051, Local Government Code, [~~described by Subsection (b)~~] may not reduce 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. [~~This subsection does not apply to an eligible central municipality described by Section 351.001(7)(D).~~]

SECTION 5.  Section 351.102(f), Tax Code, is redesignated as Section 351.1064, Tax Code, and amended to read as follows:

Sec. 351.1064.  ALLOCATION OF REVENUE FOR CERTAIN SPORTING EVENT EXPENSES: CERTAIN MUNICIPALITIES WITH HOTEL PROJECT. (a) This section applies only to a municipality with a population of at least 200,000 but not more than 300,000 that contains a component institution of the Texas Tech University System.

(b) [~~(f)~~]  A municipality [~~described by Subsection (e)(3)~~] that uses revenue derived from the tax imposed under this chapter or funds received under Section 310.101, Local Government Code, [~~Subsection (c)~~] for repayment of bonds or other obligations issued or incurred for a hotel project under Section 310.051, Local Government Code, [~~described by Subsection (b)~~] may not, 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, reduce 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:

(1)  the amount of the revenue derived from the tax imposed under this chapter and allocated by the municipality for a purpose described by Section 351.101(a)(6) during the fiscal year beginning October 1, 2016; and

(2)  three percent of the amount of revenue derived from the tax imposed under this chapter during the fiscal year for which the amount required by this subsection is being determined.

SECTION 6.  Section 351.103(b), Tax Code, is amended to read as follows:

(b)  Subsection (a) does not apply to a municipality in a fiscal year of the municipality if the total amount of hotel occupancy tax collected by the municipality in the most recent calendar year that ends at least 90 days before the date the fiscal year begins exceeds $2 million. A municipality excepted from the application of Subsection (a) by this subsection shall allocate hotel occupancy tax revenue by ordinance, consistent with the other limitations of this section. The portion of the tax revenue allocated by a municipality with a population of 1.5 million or more [~~than 1.6 million~~] for the purposes provided by Section 351.101(a)(3) may not be less than 23 percent, except that the allocation is subject to and may not impair the authority of the municipality to:

(1)  pledge all or any portion of that tax revenue to the payment of bonds as provided by Section 351.102(a) of this code or Section 310.109, Local Government Code, or bonds issued to refund bonds secured by that pledge; or

(2)  spend all or any portion of that tax revenue for the payment of operation and maintenance expenses of convention center facilities.

SECTION 7.  Section 351.106(a), Tax Code, is amended to read as follows:

(a)  A municipality that has a population of 1.18 million or more, is located predominantly in a county that has a total area of less than 1,000 square miles, and [~~that~~] has adopted a council-manager form of government shall use the amount of revenue from the tax imposed under this chapter that is derived from the application of the tax at a rate of more than four percent of the cost of a room as follows:

(1)  no more than 55 percent to:

(A)  construct, improve, enlarge, equip, and repair [~~constructing, improving, enlarging, equipping, and repairing~~] the municipality's convention center facilities [~~complex~~]; or

(B)  pledge [~~pledging~~] payment of revenue bonds and revenue refunding bonds issued under Subchapter A, Chapter 1504, Government Code, for the municipality's convention center facilities [~~complex~~]; and

(2)  at least 45 percent for the purposes provided by Section 351.101(a)(3).

SECTION 8.  The following provisions of the Tax Code are repealed:

(1)  Sections 351.102(b), (b-1), (c), (c-1), (e), and (g); and

(2)  Section 351.106(c).

SECTION 9.  The changes in law made by this Act apply only to a hotel project as defined by Section 310.001, Local Government Code, as added by this Act, for which a municipality first pledges revenue for bonds or other obligations under Chapter 310 of that code on or after September 1, 2017. A hotel project described by Section 351.102(b), Tax Code, as repealed by this Act, for which a municipality first pledges revenue for bonds or other obligations before September 1, 2017, is governed by the law in effect when the revenue was first pledged, and that law is continued in effect for purposes of those hotel projects.

SECTION 10.  The changes in law made by this Act do not affect the validity of a bond or other obligation for which revenue was pledged under 351.102, Tax Code, before January 1, 2020. Bonds or other obligations for which revenue was pledged before January 1, 2020, are governed by the law in effect when the revenue was pledged, and that law is continued in effect for purposes of the validity of those bonds and obligations.

SECTION 11.  This Act takes effect immediately if it 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 immediate effect, this Act takes effect September 1, 2019.