

By: Morrison, Cyrier, Moody, Allen, et al.

H.B. No. 2806

A BILL TO BE ENTITLED

AN ACT

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.

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

SECTION 1. Chapter 485, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. TEXAS MUSIC INCUBATOR REBATE PROGRAM

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

(b) In this subchapter:

(1) "Mixed beverage gross receipts tax" means the tax imposed by Subchapter B, Chapter 183, Tax Code.

(2) "Permit holder" means a person who holds a permit issued under Section 151.201, Tax Code.

(3) "Permittee" has the meaning assigned by Section 183.001(b), Tax Code.

(4) "Program" means the Texas music incubator rebate program.

(5) "Sales tax" means the tax imposed by Chapter 151, Tax Code.

Sec. 485.042. TEXAS MUSIC INCUBATOR REBATE PROGRAM. (a)

The office shall administer the Texas music incubator rebate program under which the office shall 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 annually by those venues and promoters. The Texas music incubator account shall 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. 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) The office may not provide 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) Except as provided by Subsection (b), to qualify for a rebate under the program, 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, must 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:

1 (i) sound engineer;

2 (ii) booker;

3 (iii) promoter;

4 (iv) stage manager; or

5 (v) security personnel;

6 (D) having live performance and audience space;

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

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

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

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

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

24 Sec. 485.044. REBATE APPLICATION. (a) The office shall:

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

27 (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) The application must:

(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) The office shall accept rebate applications beginning September 1 of each year and may provide rebates until all the money in the Texas music incubator account is exhausted.

(d) The office may 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) After reviewing applications for a rebate under the program, the office shall 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,

1 and to the Texas music industry, including live music performers.

2 (b) As directed by the office, the comptroller shall issue a
3 warrant for a rebate granted by the office under this section drawn
4 on the Texas music incubator account.

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

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

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

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

14 (b) Money in the account may be appropriated only to the
15 office for the purpose of paying rebates to music venues and certain
16 music festival promoters under the program.

17 (c) Interest and other earnings from money in the account
18 shall be credited to the account.

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

24 Sec. 485.047. RULES. The office shall adopt rules
25 necessary to implement and administer this subchapter.

26 SECTION 2. Section 151.801, Tax Code, is amended by
27 amending Subsection (a) and adding Subsection (f) to read as

1 follows:

2 (a) Except for the amounts allocated under Subsections (b),
3 (c), ~~[and]~~ (c-2), and (f), all proceeds from the collection of the
4 taxes imposed by this chapter shall be deposited to the credit of
5 the general revenue fund.

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

10 SECTION 3. Section 183.023, Tax Code, is amended by
11 amending Subsection (b) and adding Subsection (c) to read as
12 follows:

13 (b) Except for the amounts allocated under Subsection (c),
14 the [The] comptroller shall deposit the revenue received under this
15 section in the general revenue fund.

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

20 SECTION 4. (a) Not later than September 1, 2020, the Music,
21 Film, Television, and Multimedia Office within the office of the
22 governor shall establish the Texas music incubator rebate program
23 as required under Subchapter C, Chapter 485, Government Code, as
24 added by this Act.

25 (b) Notwithstanding Section 485.044(c), Government Code, as
26 added by this Act, the Music, Film, Television, and Multimedia
27 Office shall begin accepting rebate applications as authorized

H.B. No. 2806

1 under that section beginning September 1, 2020.

2 SECTION 5. This Act takes effect September 1, 2019.