

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION
Revision 1

May 2, 2019

TO: Honorable Rafael Anchia, Chair, House Committee on International Relations & Economic Development

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB2665** by Flynn (Relating to the authority of certain municipalities to receive certain tax revenue or pledge that revenue for the payment of obligations related to projects involving hotels.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2665, Committee Report 1st House, Substituted: a negative impact of (\$11,080,000) through the biennium ending August 31, 2021.

Additionally, the bill would create a negative impact of (\$39,243,000) through the biennium ending August 31, 2023.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	(\$11,080,000)
2022	(\$15,390,000)
2023	(\$23,853,000)
2024	(\$28,078,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from General Revenue Fund 1
2020	\$0
2021	(\$11,080,000)
2022	(\$15,390,000)
2023	(\$23,853,000)
2024	(\$28,078,000)

Fiscal Analysis

SECTION 1

This bill would amend Section 351.102 of the Tax Code regarding the pledge of municipal hotel tax revenue to certain bonds and entitlement of certain municipalities to state tax revenue associated with certain hotel projects.

The bill would amend Subsection (e) to extend its application to additional municipalities by adding Subdivisions as follows:

- (13) a municipality with a population of less than 10,000 that contains a component institution of the Texas A&M University System and is located in a county adjacent to a county that borders Oklahoma;
- (14) a municipality with a population of 13,000 or more that is located on an international border and is located in a county with a population of less than 400,000 and in which is located at least one World Birding Center site;
- (15) a municipality with a population of 4,000 or more that is located on an international border and is located not more than five miles from a state historic site that serves as a visitor center for a state park that contains 300,000 or more acres of land;
- (16) a municipality with a population of 90,000 or more but less than 150,000 that is located in three counties and contains a branch campus of a component institution of the University of Houston System;
- (17) a municipality that is primarily located in a county with a population of four million or more and connected by a bridge to a municipality described by Subdivision (9);
- (18) a municipality with a population of 20,000 or more but less than 25,000 that contains a portion of Mustang Bayou and is wholly located in a county with a population of less than 500,000;
- (19) a municipality with a population of 70,000 or more but less than 85,000 that is located in two counties, one of which has a population of four million or more and the other of which has a population of less than 50,000;
- (20) a municipality with a population of 10,000 or more that is wholly located in a county with a population of four million or more and has a city hall located less than three miles from a space center operated by an agency of the federal government;
- (21) a municipality that is the county seat of a county through which the Pedernales River flows and in which the birthplace of a president of the United States is located;
- (22) a municipality that contains a portion of the U.S. Highway 79 and State Highway 130;
- (23) a municipality with a population 48,000 or more but less than 95,000 that is located in two counties, one of which has a population of 900,000 or more but less than 1.7 million;
- (24) a municipality with a population of less than 25,000 that contains a museum of western American art;
- (25) a municipality with a population of 50,000 or more that is the county seat of a county that contains a portion of the Sam Houston National Forest;
- (26) a municipality with a population of less than 25,000 that contains a cultural heritage museum and is located in a county that borders the United Mexican States and the Gulf of Mexico;
- (27) a municipality that is the county seat of a county that has a population of 115,000 or more, is adjacent to a county with a population of 1.8 million or more; and hosts an annual peach festival;
- (28) 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;
- (29) a municipality with a population of less than 6,100 that is located in two counties each of which has a population of 600,000 or more but less than two million and hosts an annual Cajun festival.

SECTION 2

The bill would add Section 351.1021 to provide authority for a "multipurpose convention center facility project" for an eligible municipality described by Section 351.102(e)(9) (Kemah). Such a project would include: a hotel, whether owned by the municipality or another person; a multipurpose convention center facility to be acquired, constructed, equipped, or leased by the municipality that will be located within 2,500 feet of the project hotel; any new or existing business, regardless of ownership, located in the municipality that is within 2,500 feet of the nearest exterior wall of the multipurpose facility or of the project hotel; and any parking area or structure, regardless of ownership, within two miles of the nearest exterior wall of the multipurpose facility.

An eligible municipality would be entitled to receive all funds from a multipurpose convention center facility project that the owner of a project could receive under Section 151.429(h), Tax Code or Section 2303.5055, Government Code, if a project for purposes of those provisions included a multipurpose convention center facility project. The funds subject to the entitlement would be available for pledge for the payment of bonds or other obligations issued or incurred for the project. The funds would be subject to deposit in a suspense account outside the state treasury, to be paid to the eligible municipality without the necessity of an appropriation.

SECTION 3

The bill would add Section 351.1022 to provide that 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 has a seating capacity of at least 40,000 people and was approved by the voters of the municipality as a sports and community venue project (Arlington) is entitled to use certain tax revenue to fund a qualified hotel project. The municipality would be eligible to receive all funds from a hotel project that an owner of a project may receive under Section 151.429(h), Tax Code or Section 2303.5055 of the Government Code, and all the tax revenue collected under Chapter 183 by or from all permit holders at the hotel project, excluding revenue disbursed by the Comptroller under Section 183.051(b). The municipality could pledge those funds for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, improve, enlarge, and equip the hotel project, and would be entitled to receive funds for a period of 30 years beginning on the date the hotel project is open for initial occupancy.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise it would take effect September 1, 2019.

Methodology

SECTION 1

The following municipalities would be affected and have plans for qualified hotel projects as follows:

The Cities of Commerce, Alvin, Kerrville, San Benito, Weatherford, Rio Grande City, and Celina have not yet developed specific plans; however, this estimate assumes that each city would act on the authorization provided by this bill, and that given time required for planning and construction, a project eligible for rebates of state tax revenue would be undertaken but not be operational before fiscal 2023.

The City of Pearland currently has plans for a 225 room hotel expected to be operational in September of 2023.

The City of Seabrook currently has plans for a 250 room hotel expected to be operational in January of 2022.

The City of Baytown currently has plans for a 208 room hotel expected to be operational in December 2020.

The City of Webster currently has plans for a 400 room hotel expected to be operational in June 2021.

The City of Fredericksburg currently has plans for a 161 room hotel expected to be operational in April 2021.

The City of Hutto currently has plans for a 750 room hotel expected to be operational in May 2022.

The City of Cedar Park currently has plans for a 250 room hotel expected to be operational in December 2022.

The City of Conroe currently has plans for 252 room hotel expected to be operational in April 2021.

The City of Richmond currently has plans for a 400 room hotel expected to be operational in March 2021.

The City of Presidio currently has plans for an 84 room hotel expected to be operational in Spring of 2021.

The cities would be entitled to state sales tax and state hotel tax associated with a qualified hotel project under Section 151.429(h) of the Tax Code via Sections 351.102(b) and (c) of the Tax Code. Such funds must be deposited in a suspense account outside the state treasury to be paid to the owner of a qualified hotel project.

This estimate is based on the planned room size of the prospective hotel, an assumed average nightly room rate and annual average occupancy rate, and the ratio of state sales tax to hotel tax revenues paid to the owners of the extant qualified hotel projects. The entitlement to state tax revenue would be for a period of ten years after the hotel is open for initial occupancy.

In fiscal 2018, a total of \$17,676,000 in state tax revenue was allocated for qualified hotel projects in the cities of Amarillo, Dallas, Fort Worth, Houston, Nacogdoches, and San Antonio.

SECTION 2

The bill would authorize the City of Kemah to establish a multipurpose convention center facility project. The entitlement to funds under Section 151.429(h), Tax Code would be to 100 percent of state hotel tax collected by the project hotel, and 100 percent of state sales tax under Chapter 151 collected by the project hotel or by businesses located at the hotel or at the multipurpose facility, as well as sales tax collected by new or existing businesses within 2,500 feet of the project components, which include the project hotel, the prospective multipurpose facility, and parking facilities.

Sales taxable activity in Kemah is concentrated in the Kemah Boardwalk, an entertainment district. That the city would be authorized to designate a hotel, including an existing hotel, as the project hotel means that the Boardwalk Inn would be eligible to be the project hotel, in which case all state sales taxes collected by the restaurants, shops, and entertainment establishments in the Boardwalk would be subject to payment to the City of Kemah.

In view of the limited geographic extent of Kemah and the concentration of taxable activity in the Boardwalk district, it is likely that most state sales tax revenue collected by businesses in the city would be subject to payment to the City of Kemah.

The entitlement to state tax revenue would be for a period of ten years after the multipurpose convention center facility project is declared in existence by the City of Kemah, which may be on any date after the effective date of the bill and in advance of construction or entry into a development agreement for the construction of the multipurpose facility.

The City of Kemah has not yet announced specific plans for the construction of a multipurpose convention center facility. However, this estimate assumes that the city would act on the authorization provided by the bill. As declaration of a project and entitlement to state revenues may precede construction of a multipurpose facility, for purposes of this estimate it is assumed that payments to City of Kemah would begin with fiscal 2021. As the entitlement to the payments includes tax revenue received from existing businesses, the estimate is based on recent historical data for hotel tax and sales tax reported by establishments in Kemah. Once a new multipurpose facility is operational, additional growth in tax receipts subject to project entitlement would be expected to the extent the new facility would attract taxable spending into project venues in Kemah that otherwise would occur elsewhere in the region and the state.

SECTION 3

The bill would authorize the City of Arlington to establish a qualified hotel project which would be entitled to receive a rebate of 100 percent of state sales tax, state hotel tax, and mixed beverage taxes paid or collected by the hotel, businesses or permit holders located in the hotel project. The entitlement to state tax revenue would be for a period of thirty years after the qualified hotel is open for initial occupancy. Such funds must be deposited in a suspense account outside the state treasury to be paid to the owner of a qualified hotel project.

Currently, the City of Arlington is considering plans for the construction of an 880 room hotel as a qualified hotel project, but has not yet committed to development. However, this estimate assumes that the city would act on the authorization provided by the bill, and that given time required for planning and construction, a project eligible for rebates of state tax revenue would be undertaken but not be operational before fiscal 2023.

This estimate is based on the planned room size of the prospective hotel, average nightly room rate and annual average occupancy rate as indicated in the City of Arlington's consultant study for the project, the ratio of state sales tax to hotel tax revenues paid to the owners of the extant qualified hotel projects, and the ratio of state mixed beverage tax to state sales tax paid to the owners of the one extant project that receives state mixed beverage tax revenue. The entitlement to state tax revenue would be for a period of 30 years after the hotel is open for initial occupancy.

Local Government Impact

The bill would effect the Cities of Commerce, Alvin, Kerrville, San Benito, Weatherford, Rio

Grande City, Celina, Pearland, Seabrook, Baytown, Webster, Fredericksburg, Hutto, Cedar Park, Conroe, Richmond, and Presidio.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, SD, KK