LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 16, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

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

IN RE: **SB2194** by Lucio (relating to the authority of certain municipalities to use certain tax revenue for hotel and convention center projects and other qualified projects.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2194, Committee Report 2nd House, Substituted: a negative impact of ($980,000) through the biennium ending August 31, 2021.

Additionally, there would be a negative impact of ($45,853,000) 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	($980,000)
2022	($11,760,000)
2023	($34,093,000)
2024	($48,037,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1
2020	$0
2021	($980,000)
2022	($11,760,000)
2023	($34,093,000)
2024	($48,037,000)

Fiscal Analysis

The bill would amend Chapter 351, Tax Code to provide authority for certain municipalities to use certain state and local tax revenue for hotel and convention center projects.

Section 351.102 (Pledge For Bonds) would be amended to strike extant limiting descriptions of municipalities subject to the section and to add limiting descriptions as follows: (1) a municipality with population of two million or more (Houston); (2) a municipality with population of 700,000 or more but less than 1.3 million (Austin, Dallas, Fort Worth); (3) a municipality with population of 350,000 or more but less than 450,000 in which two sports stadiums with specified characteristics are located (Arlington); and (4) a municipality with population less than 2,000 that is located (A) adjacent to a bay connected to the Gulf of Mexico and (B) in a county with population of 290,000 or more adjacent to a county with population of 4 million or more, and that has a boardwalk on the bay (Kemah).

The bill would add Section 351.1021 to provide authority for a "multipurpose convention center facility project" for a certain eligible municipality (Kemah). Such a project would include: a hotel, whether owned by the municipality or another person; a multipurpose convention center facility 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; a parking shuttle or transportation system; 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. The entitlement to state revenue would be for a period of 10 years beginning on the date the multipurpose facility is issued a certificate of occupancy.

The bill would add Section 351.1022 to provide that an eligible municipality (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 add Subchapter C to Chapter 351 regarding municipal hotel and convention center projects.

A "qualified convention center facility" would be a facility primarily used or to be used to host conventions or meetings, is wholly owned by a municipality and none of which may be owned through an undivided common interest, is connected to a qualified hotel or is not more than 1,000 feet from a qualified hotel, is not located in a hotel, sports stadium, or other structure, has at least 10,000 square feet of continuous meeting space, and is configurable to simultaneously accommodate multiple events.

A "qualified hotel" would be the hotel designated by a municipality as part of a qualified project, on land owned by the designating municipality, and connected to or within 1,000 feet of the qualified convention center facility.

A "qualified project" would be a project to acquire, construct, repair, remodel, expand, or equip a qualified convention center facility or a qualified hotel, or lease of the latter, and could include a restaurant, bar, retail establishment, or spa located in or connected to the qualified facility or qualified hotel, a parking area or structure located within 1,000 feet of the qualified facility or qualified hotel, and infrastructure located within the property lines of or not more than 1,000 feet from a property line of the qualified facility or qualified hotel.

A "retail establishment" would be an establishment engaged in activities described by North American Industry Classification System codes 442 (Furniture and Home Furnishings Stores), 443 (Electronics and Appliance Stores), 445 (Food and Beverage Stores), 446 (Health and Personal Care Stores), 448 (Clothing and Clothing Accessories Stores), 451 (Sporting Goods, Hobby, Musical Instrument, and Book Stores), 452 (General Merchandise Stores), or 453 (Miscellaneous Store Retailers).

Subchapter C would provide limiting descriptions of the municipalities to which it applies: (1) Corpus Christi, (2) Nacogdoches, (3) El Paso, (4) Arlington, (5) San Antonio, (6) Grand Prairie, (7) Irving, (8) Amarillo, (9) Tyler, (10) Round Rock, (11) Odessa, (12) Abilene and Midland, (13) Prosper, (14) Lubbock, (15) Lewisville, (16) Cedar Hill, (17) Roanoke, (18) Rowlett, (19) League City, (20) Kemah, (21) Sugar Land, (22) Katy, (23) Port Aransas, (24) Pearland, (25) Seabrook, (26) Alvin, (27) Baytown, (28) Webster, (29) Fredericksburg, (30) Hutto, (31) Cedar Park, (32) Kerrville, (33) Conroe, (34) San Benito, (35) Weatherford, (36) Richmond, (37) Commerce, (38) Celina, (39) Rio Grande City, and (40) Presidio.

A municipality would be entitled to receive the revenue from state sales and use tax imposed under Chapter 151 and state hotel tax imposed under Chapter 156 generated, paid, and collected by a qualified hotel and each restaurant, bar, and retail establishment located in or connected to the hotel. The entitlement to state tax revenue would be for a period of 10 years after the qualified hotel is open for initial occupancy.

A municipality could also receive, if agreed to by the pertinent political subdivision, transit authority and county sales tax, county hotel tax, and the county share of mixed beverage tax generated, paid, or collected by a qualified hotel and each restaurant, bar, and retail establishment located in or connected to the hotel.

Additionally, some municipalities (El Paso, Grand Prairie, Irving, Round Rock, Cedar Hill, Katy, Seabrook, San Benito, Weatherford, Richmond, and Celina) would be entitled to receive state sales tax revenue generated, paid, and collected from a qualified establishment. "Qualified establishment" would be defined as an establishment that is (1) located on land owned by a municipality and not more than 1,000 feet from the closest exterior wall of a qualified hotel or qualified convention center facility, (2) is constructed on of after the date of commencement of the qualified project, (3) is not a sports stadium, and (4) is a restaurant, bar, or retail establishment. Additionally, for some municipalities (El Paso, Round Rock, Richmond, and Celina) a qualified establishment would include a swimming pool, swimming facilities, and related facilities owned or operated by the related qualified hotel.

A municipality would be authorized to pledge the state tax revenue it is entitled to receive in relation to a qualified project, as well as municipal hotel occupancy tax revenue from the qualified hotel, for the payment of bonds or other obligations issued for the qualified project, and contractual obligations under a contract authorized by Chapter 380, Local Government Code, for the qualified project. A municipality could pledge such revenue for only one qualified project, except that a municipality with population of 175,000 or more (Amarillo, Arlington, Corpus Christi, El Paso, Grand Prairie, Irving, Lubbock, and San Antonio) would not be limited to one qualified project.

A municipality would not be entitled to receive revenue under Subchapter C unless it commences a qualified project before September 1, 2023.

The bill would take effect September 1, 2019.

Methodology

With respect to municipalities that do not have authorization to pledge state sales tax and hotel tax revenue for a hotel or convention center hotel project under current law, to the extent that pertinent information was available regarding plans for a project, estimates are based on 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. When pertinent information was not available for a municipality, estimates were developed proportionally to estimates for other municipalities of comparable population.

Estimates were adjusted upward for the municipalities that would be authorized to receive additional state sales tax revenues from qualified establishments not located within or connected to project hotels. Estimates for municipalities with authorization to pledge and receive state tax revenues under current law were developed and included for this fiscal note only if the municipality would be entitled to receive additional state sales tax revenues from qualified establishments not located within or connected to project hotels.

With respect to the multipurpose convention center facility project authorization for the City of Kemah, as the entitlement to state sales tax revenue includes tax revenue received from existing businesses within 2,500 feet of the project hotel, which may be an existing hotel and within 2,500 feet of the prospective multipurpose facility, the estimate is based on recent historical data for hotel tax and sales tax reported by establishments in Kemah. The entitlement to state revenue would begin when the multipurpose facility is issued a certificate of occupancy, which is not expected to occur before sometime in 2023.

Local Government Impact

The bill would make multiple changes, described above, to the statutes governing municipal hotel occupancy tax.

Source Agencies: 304 Comptroller of Public Accounts
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