

BILL ANALYSIS

Senate Research Center
87R18787 SRA-F

H.B. 4305
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Natural Resources & Economic Development
5/18/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current Texas law, local hotel occupancy tax (HOT) revenue can be used only to directly promote tourism and the convention/hotel industry. The tri-county area of Presidio, Brewster, and Jeff Davis Counties in the Greater Big Bend Region depends on dark skies as a tourist attraction and primary driver of their economy. The tri-county area in the Big Bend Region is designated as a dark sky reserve by the International Dark Sky Association. Dark sky designation is only given when areas are able to meet certain criteria such as standards for typical nighttime conditions and initiatives to increase dark sky compliant lighting.

Current state law only allows municipalities that meet certain geographic and population requirements to use revenue collected from the municipal hotel occupancy tax for the promotion and preservation of dark skies. The tri-county area of the Big Bend Region should also be allowed the same authority to use HOT funds for night sky friendly lighting to help promote tourism and preserve the valuable clear sky that drives economic development in the region. As people continue to find respite in parks and nature, now is the time to plan for future investments in night sky infrastructure with HOT funds—a proactive step that will preserve the night sky as an economic driver and protect our treasured national parks.

H.B. 4305 will update the hotel occupancy tax code to allow communities and counties of Brewster, Presidio and Jeff Davis to use HOT revenue towards dark sky friendly infrastructure, if they so choose. H.B. 4305 will help provide counties in the greater Big Bend region with the resources they need to reduce light pollution and sky glow and ultimately preserve dark skies.

H.B. 4305 amends current law relating to the use of hotel occupancy tax revenue by certain municipalities and counties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 351.10692, Tax Code, by amending Subsections (a) and (c) and adding Subsection (e), as follows:

- (a) Provides that Section 351.10692 (Allocation of Revenue: Certain Municipalities) applies only to:
 - (1) creates this subdivision from existing text and makes nonsubstantive changes;
 - (2) a municipality located in a county with a total area of more than 6,000 square miles; and
 - (3) a municipality located in a county with a total area of more than 3,850 square miles but less than 4,000 square miles.

(c) Provides that a municipality that uses revenue from the municipal hotel occupancy tax for a purpose described by Subsection (b) (relating to authorizing certain municipalities to use revenue from the municipal hotel occupancy tax for the promotion and preservation of dark skies):

(1) is required to make a good-faith estimate based on reasonable documentation of the annual amount of area hotel revenue attributable to dark skies related events and activities, rather than is required to determine the amount of area hotel revenue attributable to dark skies related events and activities for five years after the date the municipality first uses hotel occupancy tax revenue for a purpose described by Subsection (b); and

(2) is prohibited from spending municipal hotel occupancy tax revenue for the purposes described by Subsection (b) in an annual amount, rather than a total amount, that exceeds the amount determined under Subdivision (1).

(e) Prohibits a municipality that uses municipal hotel occupancy tax revenue under this section from reducing the percentage of revenue from that tax allocated for a purpose described by Section 351.101(a)(3) (relating to authorizing the revenue from municipal hotel occupancy taxes to be used for advertising and conducting solicitations and promotional programs to attract tourism to a municipality) to a percentage that is less than the average percentage of the revenue from that tax allocated by the municipality for the purpose described by Section 351.101(a)(3) during the 36-month period preceding the date the municipality begins using revenue for a purpose described by this section.

SECTION 2. Amends Section 352.102, Tax Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Provides that a county that borders the Republic of Mexico and that is further described by Section 352.002(a)(14) (relating to authorizing the commissioners court of a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres to impose county hotel occupancy taxes):

(1) creates this subdivision from existing text and makes a nonsubstantive change; and

(2) is authorized to use revenue from the tax imposed under Chapter 352 (County Hotel Occupancy Taxes) in the same manner that a municipality to which Section 351.10692 applies is authorized to use revenue from the municipal hotel occupancy tax under that section.

(d) Authorizes a county that borders the United Mexican States and that is further described by Section 352.002(a)(7) (relating to authorizing the commissioners court of a county that has a population of less than 5,000, that borders the United Mexican States, and in which there is located a major observatory to impose county hotel occupancy taxes) to use revenue from the tax imposed under this chapter in the same manner that a municipality to which Section 351.10692 applies is authorized to use revenue from the municipal hotel occupancy tax under that section.

SECTION 3. Repealer: Section 351.1035 (Allocation of Revenue: Certain Municipalities in Border Counties), Tax Code.

SECTION 4. Effective date: upon passage or September 1, 2021.