LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 27, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB4305** by Morales, Eddie (Relating to the use of certain tax revenue by certain municipalities.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4305, As Passed 2nd House : an impact of $0 through the biennium ending August 31, 2023. The fiscal impact to the state becomes negative beginning in fiscal year 2025.

General Revenue-Related Funds, Fifteen- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to** *General Revenue Related Funds*
2022	$0
2023	$0
2024	$0
2025	($100,000)
2026	($2,540,000)
2027	($2,740,000)
2028	($2,960,000)
2029	($3,180,000)
2030	($3,410,000)
2031	($3,660,000)
2032	($3,910,000)
2033	($4,180,000)
2034	($4,460,000)
2035	($4,750,000)
2036	($1,610,000)

All Funds, Fifteen-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1
2022	$0
2023	$0
2024	$0
2025	($100,000)
2026	($2,540,000)
2027	($2,740,000)
2028	($2,960,000)
2029	($3,180,000)
2030	($3,410,000)
2031	($3,660,000)
2032	($3,910,000)
2033	($4,180,000)
2034	($4,460,000)
2035	($4,750,000)
2036	($1,610,000)

Fiscal Analysis

This bill would amend Chapter 351 of the Tax Code by adding Section 351.1016 regarding certain qualified projects in border municipalities.

The bill would provide for a municipality that is the county seat of a county bordering the Gulf of Mexico and the United Mexican States to use certain tax revenue to fund a qualified project. A qualified project would consist of a venue as defined in Section 334.001, Local Government Code, subject to specified conditions, or towers and other facilities used by hotel guests and tourists for observation of spacecraft and spaceport activities.

The bill would provide for the municipality to designate a project financing zone, the boundaries of which would be within a one-mile radius of the center of the qualified project and the designation of which would expire not later than the 15th anniversary of the date of the designation.

The bill would entitle the municipality to receive the incremental growth in hotel-associated tax revenue for the period beginning on the first day of the year after the year in which the municipality designates the zone and ending on the last day of the month during which the designation expires. Incremental growth in hotel-associated tax revenue would be the amount by which state sales and use taxes, state hotel occupancy taxes, and state mixed beverage taxes collected by or at hotels within the project financing zone exceed the amounts of such taxes collected in the year the financing zone was designated.

The bill would also provide that municipal hotel occupancy tax revenue may be used to fund a qualified project, and that municipal hotel tax revenue from a hotel located in the project financing zone may be pledged for bonds for the qualified project as well as other local revenues from hotels in the zone that would be available to owners of qualified hotel projects under Section 2303.5055(e) of the Government Code were those hotels qualified hotel projects.

The bill would amend Sections 351.157(b) and (c) to entitle a municipality described by Section 351.152(14) to receive rebates of state sales and use tax revenue derived from qualified establishments – certain restaurants, bars, and retail establishments, and if owned or operated by a qualified hotel, swimming pools and swimming facilities, within 1,000 feet of a qualified hotel or convention center facility. The bill would amend Section 351.157(e) to state that a project entitled to receive taxes derived from qualified establishments must be commenced before September 1, 2027.

The bill would also amend Section 351.10692 of the Tax Code, regarding use by certain municipalities of hotel tax revenue for the promotion and preservation of dark skies. Subsection (a) would be amended to expand the application of the section to 1) a municipality located in a county with a total area of more than 2,200 square miles but less than 2,350 square miles and 2) a municipality located in a county with a total area of more than 3,850 square miles but less than 4,000 square miles.

This bill would also amend Chapter 352 of the Tax Code, regarding county hotel occupancy taxes.

Section 352.002 would be amended by adding Subsection (aa) to provide that the commissioner's court of a county that contains a headquarters and visitor center for a national historical park dedicated to a former president of the United States may impose a tax on the use or possession of a hotel room. The tax imposed under the subsection would not apply to a hotel located in a municipality that imposes a tax under Chapter 351 of the Tax Code applicable to the hotel.

The bill would amend Section 352.003 by adding Subsection (y) to impose a two percent county tax rate ceiling for a county where there is an Indian reservation under the jurisdiction of the United States government. The bill would amend Section 352.002(d) to allow that county's tax to apply in a municipality which imposes a municipal hotel occupancy tax and would add Section 352.114 to authorize the same county to use its tax revenue to make improvements to an airport for up to ten years.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

This bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2021.

Methodology

The bill would apply for a qualified project in the City of Brownsville, which is currently in the early stages of planning for a project that would be a qualified project for purposes of this bill, with the expectation that the project would include retail as well as restaurant activity within a qualified project hotel. This estimate assumes the designation of a project financing zone in 2024, with project opening and rebates of state tax revenues commencing in 2025, and assumed market shares of hotel, retail, restaurant and bar business that would occur with hotels within the project zone.

The bill would provide that the City of Lubbock would be entitled to receive state sales and use tax and state hotel tax revenue generated, paid, and collected by a qualified hotel and each restaurant, bar, and retail establishment not more than 1,000 feet from the hotel or qualified convention center and from swimming pools and swimming facilities owned or operated by the related qualified hotel. Entitlement to state tax revenue would be for a period of 10 years after the qualified hotel is open for initial occupancy.

Lubbock has proposed plans for a 250 room hotel with 7,700 sq. ft. of convention center space and 38,160 sq. ft. of common space in zip code 79401. The planned opening date would be September 2025. The estimate of rebates of state tax revenues for this project is based on the planned room size of the prospective hotel, assumed average nightly room rates 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 project authorized for the additional entitlement to state sales tax revenue from establishments within 1,000 feet of the project hotel.

The bill would also provide that all cities in Jeff Davis and Presidio Counties may allocate and use municipal hotel occupancy tax revenue for the promotion and preservation of dark skies and this provision would have no state revenue implications.

Added Section 352.002(aa) would provide for Blanco County to impose a hotel tax and this provision would have no state revenue implications.

The bill would provide that Maverick County may impose a tax at a rate not to exceed two percent and may use the tax revenue to make improvements to an airport.

Local Government Impact

The bill would apply for a qualified project in the City of Brownsville, which is currently in the early stages of planning for a project that would be a qualified project for purposes of this bill, with the expectation that the project would include retail as well as restaurant activity within a qualified project hotel.

The bill would provide that the City of Lubbock would be entitled to receive state sales and use tax and state hotel tax revenue generated, paid, and collected by a qualified hotel and each restaurant, bar, and retail establishment not more than 1,000 feet from the hotel or qualified convention center and from swimming pools and swimming facilities owned or operated by the related qualified hotel.

The bill would also provide that all cities in Jeff Davis and Presidio Counties may allocate and use municipal hotel occupancy tax revenue for the promotion and preservation of dark skies and this provision.

The bill would allow Blanco County to impose a county hotel occupancy tax.

The bill would provide that Maverick County may impose a tax at a rate not to exceed two percent and may use the tax revenue to make improvements to an airport.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, BRI, AJL, SD