

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 16, 2021

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB696 by Zaffirini (Relating to the imposition, rate, and use of hotel occupancy taxes in certain counties and municipalities; authorizing certain counties to impose a hotel occupancy tax; reducing the maximum rate of the hotel occupancy tax imposed by certain counties.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend Chapters 351 and 352 of the Tax Code, regarding municipal and county hotel occupancy tax.

The bill would amend Section 351.10692, 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 6,000 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. The bill would amend Section 351.10692 by adding Subsection (a-1) to exclude from application of the section 1) a municipality that is the county seat of a county that borders A) the United Mexican States, B) a county described by Section 352.002(a)(7), and C) a county described by Section 352.002(a)(14), or 2) a municipality that is located in a county described by Section 352.002(a)(14). The bill would amend Section 351.10692 by adding Subsection (e) to provide that a municipality that uses hotel tax revenue for dark skies promotion and preservation may not reduce the percentage of the tax used for advertising, solicitations, and promotions to attract tourists and conventioners to the municipality or its vicinity.

The county described in the amendment of Subsection (a) of Section 351.10692 as a county with a total area of more than 6,000 square miles is the same county as described in added Subsection (a-1) as a county described by Section 352.002(a)(14). Consequently, Section 351.10692 would apply to municipalities in Brewster County per Subsection (a), and not apply to those municipalities per Subsection (a-1). Because Subsection (a-1) is asserted notwithstanding Subsection (a), Section 351.10692 would not apply to municipalities in the county.

The bill would amend Chapter 351 of the Tax Code, by adding Section 351.111 to authorize the following to use a portion of the revenue derived from municipal hotel occupancy taxes to promote tourism and the convention and hotel industry by enhancing and maintaining public parks: 1) a municipality that has a population of not more than 10,000, that contains an outdoor gear and sporting goods retailer with retail space larger than 175,000 square feet, and that hosts an annual wiener dog race; 2) a municipality that is bisected by U.S. Highway 290 and is located in a county that is adjacent to the county in which the State Capitol is located and has a population of more than 150,000; and 3) a municipality with a population of less than 3,000 that borders the Pecan Bayou and has a visitors and events center.

The bill would place limitations on the amounts of revenue so used.

The bill would amend Section 352.102 regarding the use of county hotel occupancy tax in counties bordering Mexico and would allow counties described by Sections 352.002(a)(7) and 352.002(a)(14) to use revenue for the preservation of dark skies. The bill would repeal Section 351.1035 regarding allocation of municipal hotel occupancy tax revenue in certain border counties.

The bill would amend Section 352.002 by adding Subsection (bb) to provide that the commissioner's court of a county with a population of less than 60,000 in which an annual strawberry festival is held in a location that is not the county seat of the county may impose a hotel occupancy tax. The bill also would amend Section 352.002 by adding Subsection (dd) to provide that the commissioner's court of a county with a population of not more than 40,000 that borders the Red River and includes a wildlife management area may impose a hotel occupancy tax. The bill would amend Section 352.003 by adding Subsection (z) to provide that the tax rate in a county authorized to impose the tax under Section 352.002(bb) may not exceed two percent of the price paid for a room in a hotel. The bill would add Section 352.112 to allow a county authorized to impose the tax under Section 352.002(bb) to use its hotel tax revenue only for the construction, enlarging, equipping, improvement, maintenance, repairing and operation of a civic center with an arena used for rodeos, livestock shows, and agricultural expositions to substantially enhance hotel activity and encourage tourism.

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.

The bill would provide that: 1) all cities in Presidio County, with the exception of Marfa, may allocate and use municipal hotel occupancy tax revenue for the promotion and preservation of dark skies; 2) the cities of Buda, Dripping Springs and Early may allocate municipal hotel tax revenue to enhance and maintain public parks owned by the municipality; 3) Brewster and Jeff Davis counties may use county hotel tax revenue for the promotion and preservation of dark skies; 4) Atascosa and Fannin counties may impose a hotel tax at a rate not to exceed two percent; and 5) 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.

Section 351.10692, as amended by the bill, would include superfluous references to Brewster County. If the superfluity is the result of a drafting error, the bill may have implications for municipalities in that county upon correction.

The bill would have no state revenue implications. Implications for the units of local government cannot be determined.

This bill would take effect September 1, 2021.

Local Government Impact

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Source Agencies: 304 Comptroller of Public Accounts

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