

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 26, 2021

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB828 by Hughes (Relating to the use of municipal hotel occupancy tax revenue in certain municipalities.), As Passed 2nd House

Estimated Two-year Net Impact to General Revenue Related Funds for SB828, As Passed 2nd House : a negative impact of (\$4,500,000) through the biennium ending August 31, 2023.

General Revenue-Related Funds, Ten- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2022	(\$3,300,000)
2023	(\$1,200,000)
2024	\$0
2025	\$0
2026	\$0
2027	(\$7,800,000)
2028	(\$1,300,000)
2029	(\$1,500,000)
2030	(\$17,700,000)
2031	(\$7,000,000)

All Funds, Ten-Year Impact:

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1
2022	(\$3,300,000)
2023	(\$1,200,000)
2024	\$0
2025	\$0
2026	\$0
2027	(\$7,800,000)
2028	(\$1,300,000)
2029	(\$1,500,000)
2030	(\$17,700,000)
2031	(\$7,000,000)

Fiscal Analysis

The bill would amend Chapter 351 of the Tax Code, regarding municipal hotel occupancy taxes and Chapter 352

of the Tax Code, regarding county hotel occupancy taxes.

The bill would amend Section 351.101 by adding subsections (m-2) and (m-3) to allow a municipality with a population of 6,500 or less that has at least 800 hotel rooms within the corporate boundaries of the municipality and that is located in a county adjacent to a county with a population of 3.3 million or more to use municipal hotel occupancy tax revenue, in addition to other authorized uses, for an extension of a road or wastewater pipeline subject to certain conditions.

The bill would allow a municipality that has a population of not more than 1,500 and is located in a county that borders Arkansas and Louisiana, and a municipality described by Section 351.152(33) as 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, to use revenue from the municipal hotel occupancy tax for the enhancement and upgrading of an existing sports facility or field regardless of whether the sports facility or field has been used in the preceding calendar year a combined total of more than 10 times for district, state, regional or national sports tournaments.

The bill would provide that a municipality with a population of more than 7,500 but less than 12,000 that has at least one hotel within 350 feet of a city park and is wholly located in a county with a population of more than 1.8 million but less than 2.3 million may use revenue from the hotel occupancy tax to promote tourism and the convention and hotel industry by constructing a sports facility and amphitheater, subject to certain conditions.

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 extend the application of the section to 1) a municipality with a population of less than 3,500 located in a county that i) is adjacent to the county in which the State Capitol is located and has a population of not more than 25,000 or ii) contains portions of the Blanco and Pedernales Rivers and has a population of more than 150,000 and 2) a municipality that has a population of not more than 20,000, 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.

The bill would amend Section 351.158 to extend the period of entitlement for a municipality described by Section 351.152(10) as a municipality with a population of 96,000 or more that is located in a county that contains the headwaters of the San Gabriel River until the 11th anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy.

The bill would amend Section 351 of the Tax Code to add Subchapter D to provide for extension of entitlement to qualified hotel project revenue for certain municipalities for an additional 12 months immediately following the expiration of the 10-year period for rebates, refunds, or payments of taxes under Sections 151.429(h), 351.102, 351.156, or 351.157 of the Tax Code. This subchapter expires January 1, 2033.

The bill would amend Section 352.003 by adding Subsection (y) to impose a 2 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 owned for 10 years by the county.

The bill would take effect September 1, 2021.

Methodology

The bill's provisions regarding use and allocation of municipal hotel occupancy tax would apply to the cities of Buda, Conroe, Queen City, Richland Hills, Shenandoah, and cities with population less than 3,500 if located in Blanco or Hays County; the bill would not, however, affect those cities' municipal hotel tax revenue collections. These parts of the bill would have no state revenue implications.

New Subchapter D of Chapter 351 of the Tax Code would extend the period of entitlement for an additional year for municipalities entitled to rebates, refunds, or payments of taxes at any time during the period beginning March 12, 2021 and ending January 1, 2022 relating to a hotel project or qualified hotel, convention center facility, or establishment as applicable. Cities with projects entitled to rebates during that period include

Amarillo, Arlington, Dallas, El Paso, Houston, Irving, Nacogdoches, Odessa, and Round Rock.

The amendment of Section 351.158 providing specifically for a project of the City of Round Rock to be entitled to an additional year of entitlement to rebates does not include an expiration date and is not limited to a project entitled to rebates during the March 12, 2021 to January 1, 2022 period and would thus provide an eleven year period of entitlement rather than ten year period for any future qualified project undertaken by the City of Round Rock.

The entitlement period for the project in the City of Dallas expires October 31, 2021 under current law; consequently, the one year extension of entitlement will entail additional rebate payments distributed over fiscal years 2022 and 2023. The extensions for other projects would not have fiscal implications before fiscal 2027. In the case of projects with rebate history prior to the pandemic, additional rebate estimates were extrapolated from pre-pandemic rebate amounts to the two year period following the ten year period of entitlement provided under current law. In the case of projects without significant pre-pandemic rebate history, their pandemic rebate amounts were multiplied by the ratio of pre-pandemic to pandemic rebate amounts observed for projects with longer rebate histories, and those adjusted amounts extrapolated to the periods following the ten year periods applicable under current law to those more recently opened hotel projects.

The bill's provisions also refer to Maverick County. This part of the bill would have no state revenue implications.

Local Government Impact

The bill's provisions regarding use and allocation of municipal hotel occupancy tax would apply to the cities of Buda, Conroe, Queen City, Richland Hills, Shenandoah, and cities with population less than 3,500 if located in Blanco or Hays County; the bill would not, however, affect those cities' municipal hotel tax revenue collections.

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The bill's provisions also refer to Maverick County.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD, BRI