LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 24, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3727** by Anderson (Relating to municipal and county hotel occupancy taxes.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3727, As Passed 2nd House : an impact of $0 through the biennium ending August 31, 2025.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to *General Revenue Related Funds***
2024	$0
2025	$0
2026	$0
2027	($530,000)
2028	($550,000)

All Funds, Five-Year Impact:

Fiscal Year	**Probable Revenue Gain/(Loss) from *General Revenue Fund* 1**
2024	$0
2025	$0
2026	$0
2027	($530,000)
2028	($550,000)

Fiscal Analysis

The bill would amend Chapter 351 of the Tax Code, relating to Municipal Hotel Occupancy Taxes, to add Section 351.152(46), adding a municipality that is the county seat of a county through which the Brazos River flows and in which a national monument is located, to the list of municipalities that are entitled to receive certain tax revenue derived from a hotel and convention center project and to pledge certain revenue for the payment of obligations related to the project.

This bill would amend Chapter 351 of the Tax Code (Municipal Hotel Occupancy Taxes) to amend definitions including adding the definition of “multiuse facility,” change the due date of the annual report to the comptroller to March 1 from February 20 of each year, clarify the type of information and manner in which the report is submitted, and allow the municipality to use a portion of its municipal hotel occupancy tax revenue towards making and submitting the report within certain monetary limits.

Section 351.101 (Use of Tax Revenue) would be amended by adding Subsection (f-1) to provide that a municipality may not use revenue from the municipal hotel occupancy tax for a visitor information center under Subsection (a)(1) to acquire a site for, construct, improve, enlarge, equip, repair, staff, operate, or maintain any part of a building or facility that is not primarily used to distribute or disseminate tourism-related information to tourists.

Section 351.1021(a)(3) (Pledge or Commitment of Certain Tax Revenue for Certain Projects) would be amended to clarify that a multipurpose convention center facility project may include a parking shuttle or transportation system "used primarily by tourists."

Section 351.103 (Allocation of Revenue: General Rule) would be amended to require a municipality with a population of less than 200,000 to spend a minimum amount of hotel occupancy tax revenue on advertising and promotion, and that minimum depends on the hotel rate adopted by the city. A municipality with a population of more than 1.6 million would allocate at least 23 percent of the hotel occupancy tax revenue for advertising and promotion unless the allocation impairs the municipality's ability to operate and maintain its convention center facilities or to pledge revenue for the payment of convention center bonds. A municipality that before January 1, 2023, adopted an ordinance for the allocation of an amount in excess of 15 percent of the municipal hotel occupancy tax revenue collected for the purpose of historical restoration and preservation may allocate tax revenue as provided by that ordinance until certain conditions are met.

Section 351.110 (Allocation of Revenue for Certain Transportation Systems) would be amended to specify that this section does not authorizes revenue from the tax for a transportation system that serves the public other than for a system that is primarily used by tourists.

The bill would add Section 351.162 (Recapture of Lost State Tax Revenue from Certain Municipalities) to recapture lost state tax revenue in the event the total amount of state tax revenue received by the municipality from the state in the first 10 years entitlement exceeds the amount of revenue received by the state from the same sources over the following ten years.

The bill would add Section 351.163 (Report on Qualified Projects) to require the comptroller to prepare a report not later than December 1 of each even-numbered year, to report on the status of each qualified project. The report would contain certain information about each qualified project and would be posted on the comptroller's website.

The bill would amend Chapter 352 of the Tax Code (County Hotel Occupancy Taxes) to change the due date of the annual report to the comptroller to March 1 from February 20 of each year, clarify the type of information and manner in which the report is submitted, and allow the municipality to use a portion of its municipal hotel occupancy tax revenue towards making and submitting the report within certain monetary limits.

Sections 351.103(d) and (e) and Section 351.110(b) on allocation of municipal hotel occupancy tax revenue would be repealed.

Methodology

The bill would add the city of Waco to list of municipalities that would be eligible to receive funds described in Sections 351.156 (Entitlement to Certain Tax Revenue) which provides, in relevant part, that a municipality to which Section 351.152 applies is entitled to receive from the qualified hotel and each restaurant, bar, and retail establishment located in or connected to the hotel or the related qualified convention center facility, the state sales and use tax and the state hotel occupancy tax. Section 351.158 (Period of Entitlement) would entitle Waco to receive the revenue until the tenth anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy.

The bill's provisions relating to the use and allocation of municipal hotel occupancy tax revenue would affect the manner in which a city could use and allocate its municipal hotel tax revenue but there would be no state revenue implications.

The bill's provisions relating to Section 351.162 of the Tax Code (Recapture of Lost State Tax Revenue from Certain Municipalities) would likely not have any state revenue implications if there is any degree of inflation during the 10 years of entitlement or in the 10 years following.

The city of Waco has no current plans for a qualified hotel but could avail itself of the tax rebates should eligibility be acquired through this legislation. The estimate is based on a projected opening date of September 1, 2026, or state fiscal year 2027, a comparison and review of revenues paid to the owners of extant qualified hotel projects, and estimated attributes of such prospective hotel.

Local Government Impact

The bill's provisions relating to the use and allocation of municipal hotel occupancy tax revenue would affect the manner in which a city could use and allocate its municipal hotel tax revenue.

The bill would add the city of Waco to list of municipalities that would be eligible to receive funds described in Sections 351.156. The city of Waco has no current plans for a qualified hotel but could avail itself of the tax rebates should eligibility be acquired through this legislation. The estimate is based on a projected opening date of September 1, 2026, or state fiscal year 2027, a comparison and review of revenues paid to the owners of extant qualified hotel projects, and estimated attributes of such prospective hotel.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, MOc, SD, BRI, KK, CMA