

By: Taylor of Galveston

S.B. No. 2146

A BILL TO BE ENTITLED

AN ACT

relating to the application of and use of revenue from hotel occupancy taxes imposed by municipalities and counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 334.001(4), Local Government Code, is amended to read as follows:

(4) "Venue" means:

(A) an arena, coliseum, stadium, or other type of area or facility:

(i) that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including rodeos, livestock shows, agricultural expositions, promotional events, and other civic or charitable events, provided that a facility financed wholly or partly with revenue from a tax imposed under Subchapter H is not, or will not be, primarily used for community, civic, and charitable events that are attended only by residents of the community; and

(ii) for which a fee for admission to the events is charged or is planned to be charged;

(B) a convention center, a convention center facility as defined by Section 351.001(2) or 352.001(2), Tax Code, or a related improvement such as a civic center hotel, theater, opera house, music hall, rehearsal hall, park, zoological park, museum, aquarium, or plaza located in the vicinity of a convention

center or facility owned by a municipality or a county, provided that a related improvement for a facility financed wholly or partly with revenue from a tax imposed under Subchapter H must be in the vicinity of the convention center;

(C) a tourist development area along an inland waterway;

(D) a municipal parks and recreation system, or improvements or additions to a parks and recreation system, or an area or facility that is part of a municipal parks and recreation system;

(E) a project authorized by Section 4A or 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as that Act existed on September 1, 1997; and

(F) a watershed protection and preservation project; a recharge, recharge area, or recharge feature protection project; a conservation easement; or an open-space preservation program intended to protect water.

SECTION 2. Section 351.001(2), Tax Code, is amended to read as follows:

(2) "Convention center facilities" or "convention center complex" means facilities that are primarily used to host conventions and meetings. The term means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in whole or part by the municipality. In a municipality with a population of 1.5 million or more, "convention center facilities" or "convention center complex" means civic

1 centers, civic center buildings, auditoriums, exhibition halls,
 2 and coliseums that are owned by the municipality or other
 3 governmental entity or that are managed in part by the
 4 municipality, hotels owned by the municipality or a nonprofit
 5 municipally sponsored local government corporation created under
 6 Chapter 431, Transportation Code, within 1,000 feet of a convention
 7 center owned by the municipality, or a historic hotel owned by the
 8 municipality or a nonprofit municipally sponsored local government
 9 corporation created under Chapter 431, Transportation Code, within
 10 one mile of a convention center owned by the municipality. The term
 11 includes parking areas or facilities that are for the parking or
 12 storage of conveyances and that are located at or in the vicinity of
 13 other convention center facilities. The term also includes a hotel
 14 owned by or located on land that is owned by an eligible central
 15 municipality or by a nonprofit corporation acting on behalf of an
 16 eligible central municipality and that is located within 1,000 feet
 17 of a convention center facility owned by the municipality. The term
 18 also includes a hotel that is owned in part by an eligible central
 19 municipality described by Subdivision (7)(D) and that is located
 20 within 1,000 feet of a convention center facility. For purposes of
 21 this subdivision, "meetings" means gatherings of people that
 22 enhance and promote tourism and the convention and hotel industry.

23 SECTION 3. Section 351.007, Tax Code, is amended to read as
 24 follows:

25 Sec. 351.007. PREEXISTING CONTRACTS. (a) If a municipality
 26 increases the rate of the tax authorized by this chapter, the
 27 increased tax rate does not apply to the tax imposed on the use or

possession, or the right to the use or possession, of a room under a contract that was executed before the date the increased rate takes effect and ~~[October 1, 1989,]~~ that provides for the payment of the tax at the rate in effect when the contract was executed, unless the contract is subject to change or modification by reason of the tax rate increase.

(b) This subsection applies only to a contract that provides for the payment of one or more taxes imposed on the use or possession, or the right to the use or possession, of a room that is in a hotel, including a tax authorized by Chapter 156 or 352 of this code or by Subchapter H, Chapter 334, Local Government Code. If a municipality adopts an ordinance imposing a tax under this chapter that is not imposed at any rate before the effective date of the tax prescribed by the ordinance, the imposition of the tax does not apply to the use or possession, or the right to the use or possession, of a room under a contract executed before the date the imposition of the tax takes effect, unless the contract is subject to change or modification by reason of the imposition of the new tax.

(c) The tax rate applicable to the use or possession, or the right to the use or possession, of a room under a ~~the~~ contract described by Subsection (a) is the rate in effect when the contract was executed. Notwithstanding Section 351.002(a), no tax is imposed under this chapter on the use or possession, or the right to the use or possession, of a room under a contract described by Subsection (b).

SECTION 4. Section 351.101(a), Tax Code, as amended by

1 Chapters 666 (H.B. 3772) and 979 (H.B. 3615), Acts of the 84th
2 Legislature, Regular Session, 2015, is reenacted and amended to
3 read as follows:

4 (a) Revenue from the municipal hotel occupancy tax may be
5 used only to promote tourism and the convention and hotel industry,
6 and that use is limited to the following:

7 (1) the acquisition of sites for and the construction,
8 improvement, enlarging, equipping, repairing, operation, and
9 maintenance of convention center facilities or visitor information
10 centers, or both;

11 (2) the furnishing of facilities, personnel, and
12 materials for the registration of convention delegates or
13 registrants;

14 (3) advertising and conducting solicitations and
15 promotional programs to attract tourists and convention delegates
16 or registrants to the municipality or its vicinity;

17 (4) the encouragement, promotion, improvement, and
18 application of the arts, including instrumental and vocal music,
19 dance, drama, folk art, creative writing, architecture, design and
20 allied fields, painting, sculpture, photography, graphic and craft
21 arts, motion pictures, radio, television, tape and sound recording,
22 and other arts related to the presentation, performance, execution,
23 and exhibition of these major art forms;

24 (5) historical restoration and preservation projects
25 or activities or advertising and conducting solicitations and
26 promotional programs to encourage tourists and convention
27 delegates to visit preserved historic sites or museums:

1 (A) at or in the immediate vicinity of convention
2 center facilities or visitor information centers; or

3 (B) located elsewhere in the municipality or its
4 vicinity that would be frequented by tourists and convention
5 delegates;

6 (6) for a municipality located in a county with a
7 population of one million or less, expenses, including promotion
8 expenses, directly related to a sporting event in which the
9 majority of participants are tourists who substantially increase
10 economic activity at hotels and motels within the municipality or
11 its vicinity;

12 (7) subject to Section [351.1076](#), the promotion of
13 tourism by the enhancement and upgrading of existing sports
14 facilities or fields~~[, including facilities or fields for baseball,~~
15 ~~softball, soccer, flag football, and rodeos,~~] if:

16 (A) the municipality owns the facilities or
17 fields;

18 (B) the municipality:

19 (i) has a population of 80,000 or more and
20 is located in a county that has a population of 350,000 or less;

21 (ii) has a population of at least 75,000 but
22 not more than 95,000 and is located in a county that has a
23 population of less than 200,000 but more than 160,000;

24 (iii) has a population of at least 36,000
25 but not more than 39,000 and is located in a county that has a
26 population of 100,000 or less that is not adjacent to a county with
27 a population of more than two million;

(iv) has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000;

(v) has a population of at least 70,000 but less than 90,000 and no part of which is located in a county with a population greater than 150,000;

(vi) is located in a county that:

(a) is adjacent to the Texas-Mexico border;

(b) has a population of at least 500,000; and

(c) does not have a municipality with a population greater than 500,000;

(vii) has a population of at least 25,000 but not more than 26,000 and is located in a county that has a population of 90,000 or less;

(viii) [~~(ix)~~] is located in a county that has a population of not more than 300,000 and in which a component university of the University of Houston System is located; or

(ix) [~~(x)~~] has a population of at least 40,000 and the San Marcos River flows through the municipality; and

(C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments;

(8) for a municipality with a population of at least 70,000 but less than 90,000, no part of which is located in a county

1 with a population greater than 150,000, the construction,
2 improvement, enlarging, equipping, repairing, operation, and
3 maintenance of a coliseum or multiuse facility;

4 (9) signage directing the public to sights and
5 attractions that are visited frequently by hotel guests in the
6 municipality;

7 (10) the construction, improvement, enlarging,
8 equipping, repairing, operation, and maintenance of a coliseum or
9 multiuse facility, if the municipality:

10 (A) has a population of at least 90,000 but less
11 than 120,000; and

12 (B) is located in two counties, at least one of
13 which contains the headwaters of the San Gabriel River; and

14 (11) for a municipality with a population of more than
15 175,000 but less than 225,000 that is located in two counties, each
16 of which has a population of less than 200,000, the construction,
17 improvement, enlarging, equipping, repairing, operation, and
18 maintenance of a coliseum or multiuse facility and related
19 infrastructure or a venue, as defined by Section 334.001(4), Local
20 Government Code, that is related to the promotion of tourism.

21 SECTION 5. Section 352.0031, Tax Code, is amended to read as
22 follows:

23 Sec. 352.0031. PREEXISTING CONTRACTS. (a) If a county
24 increases the rate of the tax authorized by this chapter, the
25 increased tax rate does not apply to the tax imposed on the use or
26 possession, or the right to the use or possession, of a room under a
27 contract that was executed before the date the increased rate takes

effect and ~~[October 1, 1989,]~~ that provides for the payment of the tax at the rate in effect when the contract was executed, unless the contract is subject to change or modification by reason of the tax rate increase.

(b) This subsection applies only to a contract that provides for the payment of one or more taxes imposed on the use or possession, or the right to the use or possession, of a room that is in a hotel, including a tax authorized by Chapter 156 or 351 of this code or by Subchapter H, Chapter 334, Local Government Code. If the commissioners court of a county adopts an order or resolution imposing a tax under this chapter as authorized by Section 352.002 and the tax was not imposed at any rate before the effective date of the tax prescribed by the order or resolution, the imposition of the tax does not apply to the use or possession, or the right to the use or possession, of a room under a contract executed before the date the imposition of the tax takes effect, unless the contract is subject to change or modification by reason of the imposition of the new tax.

(c) The tax rate applicable to the use or possession, or the right to the use or possession, of a room under a ~~the~~ contract described by Subsection (a) is the rate in effect when the contract was executed. Notwithstanding Section 352.002, no tax is imposed under this chapter on the use or possession, or the right to the use or possession, of a room under a contract described by Subsection (b).

SECTION 6. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017,

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1 relating to nonsubstantive additions to and corrections in enacted
2 codes.

3 SECTION 7. This Act takes effect September 1, 2017.