

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 92  
By: Brimer (Whitmire)  
State Affairs  
5-16-97  
Committee Report (Substituted)

### **DIGEST**

Currently, no statute governs the building of sports and community venue projects, and the most used option was not initially designed to build these types of facilities. This bill sets forth provisions regarding the financing of sports and community venues and related infrastructure; authorizing the imposition of certain local taxes and the issuance of local bonds.

### **PURPOSE**

As proposed, H.B. 92 sets forth provisions regarding the financing of sports and community venues and related infrastructure; and authorizing the imposition of certain local taxes and the issuance of local bonds.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to a municipality or county in SECTION 1 (Sections 334.021(a), 334.081(a) and (b), 334.102(a) and (b), 334.114(b), 334.151(a), 334.153(a), 334.154(a), 334.156(b) and (c), 334.201(a), 334.202(a) and (d), 334.204(a), 334.206(b) and (c), 334.253(a), 334.302(a), 334.303(d), 334.305(a), 334.307(c), and 334.353(a), Government Code) and to a venue district in SECTION 1 (Sec. 335.051(a) and 335.071(a) Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 10C, Local Government Code, by adding Chapters 334 and 335, as follows:

#### **CHAPTER 334. SPORTS AND COMMUNITY VENUES**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 334.001. DEFINITIONS. Defines "approved venue project," "governing body," "related infrastructure," "venue," and "sports and community venue project."

Sec. 334.002. APPLICATION TO CERTAIN MUNICIPALITIES AND COUNTIES. Provides that this chapter applies to a municipality with a population of more than 1.2 million and to a county with a population of more than 2.2 million only under certain conditions.

Sec. 334.003. APPLICATION TO VENUE CONSTRUCTED UNDER OTHER LAW. Authorizes a county or municipality to use this chapter for a venue project relating to a venue and related infrastructure developed in a certain manner under Article 5190.6, V.T.C.S., or Chapter 451E, Transportation Code.

Sec. 334.004. OTHER USES OF VENUE PERMITTED. Provides that this chapter does not prohibit the use of a venue for an event that is not related to the purposes described by Section 334.001, such as a community-related event.

Sec. 334.005. SPECIFIC PERFORMANCE. Provides that the legislature expressly finds and determines certain matters. Requires an agreement described by Subsection (a)(2) to be enforceable by specific performance in the courts of this state. Provides that a waiver of this

remedy is contrary to public policy and is unenforceable and void.

#### SUBCHAPTER B. VENUE PROJECTS

Sec. 334.021. RESOLUTION AUTHORIZING PROJECT. Authorizes a county or municipality by resolution to provide for the planning, acquisition, establishment, development, construction, or renovation of a venue project if certain conditions exist. Sets forth provisions regarding the contents of the resolution.

Sec. 334.022. STATE FISCAL IMPACT ANALYSIS. Sets forth provisions regarding a state fiscal analysis on the resolution by the comptroller.

Sec. 334.023. APPEAL OF COMPTROLLER DETERMINATION. Sets forth provisions regarding the appeal of the comptroller's determination that the resolution will have a negative fiscal impact on state revenue.

Sec. 334.0235. TRANSPORTATION AUTHORITY IMPACT ANALYSIS. Sets forth provisions for an impact analysis to be performed by the rapid transit authority, created under Chapter 451, Transportation Code.

Sec. 334.0236. APPEAL OF AUTHORITY DETERMINATION. Sets forth provisions regarding the appeal of the rapid transit authority's determination that the resolution will have a negative impact on the authority's ability to provide services.

Sec. 334.024. ELECTION. Sets forth provisions for an election on the question of approving and implementing the resolution.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 334.041. GENERAL POWERS. Outlines the duties and powers of a municipality or county regarding certain property.

Sec. 334.0415. USE OF FINANCING FOR CERTAIN PROJECTS. Sets forth provisions prohibiting certain financing methods authorized by this chapter from being used in certain situations.

Sec. 334.042. VENUE PROJECT FUND. Sets forth provisions regarding a venue project fund located in a municipality or county in which an approved venue project is located.

Sec. 334.0425. BOOKS, RECORDS, AND PAPERS. Provides that certain books, records, and papers relating to an approved venue project and the revenue used to finance the project are public information and subject to disclosure under Chapter 552, Government Code.

Sec. 334.043. BONDS AND OTHER OBLIGATIONS. Sets forth provisions for bonds and other obligations issued by a municipality or county in which an approved venue project is located.

Sec. 334.044. PUBLIC PURPOSE OF VENUE PROJECT. Provides that the legislature finds for all constitutional and statutory purposes that an approved venue project is owned, used, and held for public purposes by the municipality or county. Sets forth provisions relating to the taxation of the venue.

#### SUBCHAPTER D. SALES AND USE TAX

Sec. 334.081. SALES AND USE TAX. Sets forth provisions regarding a sales and use tax imposed by a municipality or a county.

Sec. 334.082. TAX CODE APPLICABLE. Sets forth certain chapters of the Tax Code

which are applicable to this chapter. Provides that the tax imposed by this subchapter is in addition to a tax imposed under other law, including Chapters 321 and 323, Tax Code.

Sec. 334.083. TAX RATE. Requires the rate of tax adopted under this subchapter to be a certain percent. Requires the ballot proposition at the election held to adopt the tax to specify the rate of the tax to be adopted.

Sec. 334.084. RATE INCREASE. Sets forth provisions regarding a rate increase for a municipality or a county.

Sec. 334.085. IMPOSITION IN MUNICIPALITY OR COUNTY WITH OTHER TAXING AUTHORITY. Defines "taxing authority." Sets forth provisions regarding the imposition of certain taxes by other taxing authorities.

Sec. 334.086. IMPOSITION OF TAX. Sets forth provisions regarding the imposition of a sales and use tax.

Sec. 334.087. EFFECTIVE DATE OF TAX. Sets forth the effective date of the tax.

Sec. 334.088. DEPOSIT OF TAX REVENUES. Sets forth provisions regarding the deposit of tax revenues in the venue project fund of the municipality or county imposing the tax.

Sec. 334.089. ABOLITION OF TAX. Sets forth procedures regarding the abolition of a sales and use tax imposed under this subchapter.

#### SUBCHAPTER E. SHORT-TERM MOTOR VEHICLE RENTAL TAX.

Sec. 334.101. DEFINITIONS. Defines "motor vehicle," "rental," and "place of business of the owner." Provides that other words used in this subchapter and defined by Chapter 152, Tax Code, have the same meanings assigned by Chapter 152, Tax Code.

Sec. 334.102. TAX AUTHORIZED. Sets forth provisions regarding the imposition of a tax on the rental in a municipality or county of a motor vehicle.

Sec. 334.103. SHORT-TERM RENTAL TAX. Provides that the tax authorized by this subchapter is imposed at a certain rate. Sets forth provisions regarding the rate of the short term rental tax for certain counties. Requires the ballot proposition at the election held to adopt the tax to specify the maximum rate of the tax to be adopted.

Sec. 334.104. RATE INCREASE. Sets forth provisions regarding a rate increase on a tax imposed under this subchapter.

Sec. 334.105. COMPUTATION OF TAX. Sets forth provisions for the owner of a motor vehicle regarding the computation of the tax.

Sec. 334.106. CONSUMMATION OF RENTAL. Provides that rental of a motor vehicle occurs in the municipality or county in which transfer of possession of the motor vehicle occurs.

Sec. 334.107. EXEMPTIONS APPLICABLE. Provides that the exemptions provided by Chapter 152E, Tax Code, apply to the tax authorized by this subchapter.

Sec. 334.108. NOTICE OF TAX. Sets forth the composition of the notice of tax which is to be located in a conspicuous location.

Sec. 334.109. GROSS RECEIPTS PRESUMED SUBJECT TO TAX. Provides that all gross receipts of an owner of a motor vehicle from the rental of the motor vehicle are presumed to be subject to the tax imposed by this subchapter, with an exception.

Sec. 334.110. RECORDS. Sets forth provisions regarding records used by the owner for rental purposes.

Sec. 334.111. FAILURE TO KEEP RECORDS. Sets forth a penalty for an owner who fails to keep certain rental records.

Sec. 334.112. EFFECTIVE DATE AND ENDING DATE OF TAX. Sets forth provisions regarding the effective date and ending date of a tax imposed under this subchapter.

Sec. 334.113. TAX COLLECTION; PENALTY. Sets forth provisions regarding tax collection by the owner of a motor vehicle under this subchapter. Provides a penalty for failure to collect taxes under this subsections.

Sec. 334.114. COLLECTION PROCEDURES ON PURCHASE OF MOTOR VEHICLE RENTAL BUSINESS. Outlines the procedure for collecting taxes on the purchase of a motor vehicle rental business.

Sec. 334. 115. DEPOSIT OF TAX REVENUE. Requires the tax imposed under this subchapter to be deposited in the venue project fund of the municipality or county imposing the tax.

#### SUBCHAPTER F. ADMISSIONS TAX

Sec. 334.151. TAX AUTHORIZED. Sets forth provisions regarding admissions tax on each ticket sold as admission to an event at an approved venue project in the municipality or county.

Sec. 334.152. TAX RATE. Sets forth provisions regarding the tax rate on tickets sold.

Sec. 334.153. RATE INCREASE. Sets forth provisions regarding a tax rate increase.

Sec. 334.154. COLLECTION. Sets forth provisions for the owner or lessee of an approved venue project regarding collection of admissions taxes.

Sec. 334.155. EFFECTIVE DATE AND ENDING DATE OF TAX. Sets forth the effective date and ending date of an admissions tax under this section.

Sec. 334.156. COLLECTION OF TAX. Sets forth provisions regarding the collection and reporting of taxes received by the municipality or the county under this subsection.

Sec. 334.157. DEPOSIT OF TAX REVENUE. Requires the revenue from the tax imposed under this subchapter to be deposited in the venue project fund of the municipality or county imposing the tax.

#### SUBCHAPTER G. PARKING TAX

Sec. 334.201. EVENT PARKING TAX. Sets forth provisions regarding an event parking tax at an approved venue project in the municipality or county.

Sec. 334.202. TAX RATE. Sets forth provisions regarding the tax rate on a parked vehicle.

Sec. 334.203. RATE INCREASE. Sets forth provisions regarding a tax rate increase.

Sec. 334.204. COLLECTION. Sets forth provisions requiring the owner or lessee of a parking facility to collect an event parking tax.

Sec. 334.205. EFFECTIVE DATE AND ENDING DATE OF TAX. Sets forth the effective date and ending date of an event parking tax.

Sec. 334.206. COLLECTION OF TAX. Sets forth provisions regarding the collection and reporting of taxes received by the municipality or the county under this subsection.

Sec. 334.207. DEPOSIT OF TAX REVENUE. Requires the revenue from the tax imposed under this subchapter to be deposited in the venue project fund of the municipality or county imposing the tax.

#### SUBCHAPTER H. HOTEL OCCUPANCY TAXES.

Sec. 334.251. DEFINITION. Defines "hotel."

Sec. 334.252. APPLICATION OF SUBCHAPTER. Sets forth provisions regarding the application of this section.

Sec. 334.253. IMPOSITION OF TAX. Sets forth provisions regarding the imposition of the hotel tax.

Sec. 334.254. TAX CODE APPLICABLE. Sets forth provisions regarding the applicability of Tax Code sections.

Sec. 334.255. TAX RATE. Sets forth provisions regarding the rate of tax of a hotel room.

Sec. 334.256. RATE INCREASE. Sets forth provisions regarding a rate increase.

Sec. 334.257. NOTICE OF TAX. Sets forth provisions regarding a notice of tax.

Sec. 334.258. EFFECTIVE DATE AND ENDING OF TAX. Sets forth provisions regarding the effective date and the ending date of the tax.

Sec. 334.259. DEPOSIT OF TAX REVENUE. Sets forth provisions regarding the deposit of tax revenue in the venue project fund.

#### SUBCHAPTER I. FACILITY USE TAX

Sec. 334.301. DEFINITION. Defines "major league team."

Sec. 334.302. TAX AUTHORIZED. Sets forth provisions regarding a facility use tax imposed on members of a major league team that play a professional sports game in the approved venue project.

Sec. 334.303. TAX RATE. Sets forth provisions regarding the tax rate for the facility use tax.

Sec. 334.304. RATE INCREASE. Sets forth provisions regarding a tax rate increase.

Sec. 334.305. COLLECTION. Sets forth provisions regarding the collection of the tax imposed under this subchapter.

Sec. 334.306. EFFECTIVE DATE AND ENDING DATE OF TAX. Sets forth provisions for the effective date and ending date of the tax imposed under this subchapter.

Sec. 334.307. COLLECTION OF TAX. Sets forth provisions regarding the collection and recording of taxes received by the municipality or the county under this subsection.

Sec. 334.308. DEPOSIT OF TAX REVENUE. Requires the revenue from the tax imposed under this subchapter to be deposited in the venue project fund of the municipality or county imposing the tax.

## SUBCHAPTER I. ATHLETIC EVENTS IN CERTAIN MUNICIPALITIES

Sec. 334.351. DEFINITION. Defines "athletic event."

Sec. 334.352. APPLICATION OF SUBCHAPTER. Provides that this subchapter applies only to a municipality with a population of more than 500,000 that is located in a county that borders the United Mexican States.

Sec. 334.353. SHORT-TERM MOTOR VEHICLE RENTAL TAX. Sets forth provisions regarding a tax imposed on the rental in the municipality of a motor vehicle.

Sec. 334.354. USE OF REVENUE. Authorizes the municipality to use the revenue from this tax for certain purposes.

## CHAPTER 335. SPORTS AND COMMUNITY VENUE DISTRICTS

### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 335.001. DEFINITIONS. Defines "approved venue project," "board," "district," "related infrastructure," "venue," and "venue project."

Sec. 335.002. APPLICATION TO VENUE CONSTRUCTED UNDER OTHER LAW. Authorizes a district to use this chapter for certain purposes.

Sec. 335.003. OTHER USES OF VENUE PERMITTED. Provides that this chapter does not prohibit the use of a venue for an event that is not related to a purpose described by Section 334.001, such as a community-related event.

Sec. 335.004. SPECIFIC PERFORMANCE. Provides that the legislature expressly finds and determines certain happenings. Requires an agreement under Subsection (a)(2) to be enforceable by specific performance in the court of this state. Provides that a waiver of this remedy is contrary to public policy and is unenforceable and void.

### SUBCHAPTER B. VENUE DISTRICT

Sec. 335.021. CREATION. Creates a venue district.

Sec. 335.022. ORDER CREATING DISTRICT. Authorizes a certain combination of municipalities and/or counties to create a district under this chapter by adopting concurrent orders. Requires a concurrent order to contain certain information.

Sec. 335.023. POLITICAL SUBDIVISION; OPEN MEETINGS. Provides that a district is a political subdivision of the creating political subdivisions and of the state. Provides that a district is subject to Chapter 551, Government Code.

### SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 335.031. COMPOSITION AND APPOINTMENT OF BOARD. Sets forth the composition and appointment of a board of directors for a venue district.

Sec. 335.032. COMPENSATION. Provides that a board member is not entitled to compensation, but is entitled to reimbursement for actual and necessary expenses.

Sec. 335.033. MEETINGS. Requires the board to conduct its meetings in the district.

Sec. 335.034. OFFICERS. Provides that the presiding officer is designated as provided by the concurrent order. Requires the board to designate from the members of the board a secretary and other officers the board considers necessary.

#### SUBCHAPTER D. VENUE PROJECTS

Sec. 335.051. RESOLUTION AUTHORIZING PROJECT. Sets forth provisions on a district's use of a resolution regarding the planning, acquisition, establishment, development, construction, or renovation of a venue project.

Sec. 335.052. STATE FISCAL IMPACT ANALYSIS. Sets forth provisions regarding a state fiscal impact analysis of the resolution by the comptroller.

Sec. 335.530. APPEAL OF COMPTROLLER DETERMINATION. Sets forth provisions regarding the appeal of the comptroller's determination that the resolution will have a negative fiscal impact on state revenue.

Sec. 335.0535. TRANSPORTATION AUTHORITY IMPACT ANALYSIS. Sets forth provisions for an impact analysis to be performed by the rapid transit authority.

Sec. 335.0536. APPEAL OF AUTHORITY DETERMINATION. Sets forth provisions regarding the appeal of the rapid transit authority determination that the resolution will have a negative impact on the authority's liability to provide services.

Sec. 335.054. ELECTION. Sets forth provisions for certain elections on the question of approving and implementing the resolution.

#### SUBCHAPTER E. POWERS AND DUTIES

Sec. 335.071. GENERAL POWERS OF DISTRICT. Sets forth provisions regarding the powers of a district.

Sec. 335.0715. USE OF FINANCING FOR CERTAIN PROJECTS. Sets forth provisions regarding the use of financing for certain projects.

Sec. 335.072. VENUE PROJECT FUND. Sets forth provisions regarding a venue project fund located in a municipality or county in which an approved venue project is located.

Sec. 335.0725 BOOKS, RECORD, AND PAPERS. Provides that certain books, records, and papers relating to an approved venue project and the revenue used to finance the project are public information and subject to disclosure under Chapter 552, Government Code.

Sec. 335.073. BONDS AND OTHER OBLIGATIONS. Sets forth provisions for bonds and other obligations issued by a municipality or county in which an approved venue project is located.

Sec. 335.074. PUBLIC PURPOSE OF VENUE PROJECT. Provides that the legislature finds for all constitutional and statutory purposes that an approved venue project is owned, used, and held for public purposes by the district. Sets forth provisions relating to the taxation of the venue.

Sec. 335.075. CONTRIBUTION OF DEDICATION OF CERTAIN REVENUE BY POLITICAL SUBDIVISION. Sets forth provisions regarding the contribution or dedication of certain revenue received by a political subdivision.

Sec. 335.076. COUNTY VENUE DISTRICT. Authorizes a county to create a venue district on certain land to carry out certain functions.

SECTION 2. Amends Section 4A, Article 5190.6, V.T.C.S. (Development Corporation Act of 1979) by adding Subsection (s), to set forth provisions for a city that creates or has created a corporation governed by this section. Sets forth provisions regarding an election to authorize the use of the sales or use tax for a specific project or for a specific category of projects not authorized under this section, including sports venues and related infrastructure. Sets forth provisions for a public

hearing to be held in the city to provide certain information concerning the project before an election may be held. Prohibits an election from being held on the same project or category of project before a certain date if a majority of the voters voting on the issue did not approve the project. Defines "related infrastructure" and "sports venue."

SECTION 3. Amends Section 4B, Article 5190.6, V.T.C.S., by amending Subsections (a-3) and (a-4), to make conforming changes.

SECTION 4. Amends Chapter 321F, Tax Code, by adding Section 321.508, as follows:

Sec. 321.508. PLEDGE OF TAX REVENUE. Sets forth provisions regarding an election on the issue of authorizing the municipality to pledge a percentage of the sales and use tax revenue received under Section 321.101(a) or (b) to the payment of certain obligations. Defines "sports and community venue project."

SECTION 5. Makes application of this Act prospective.

SECTION 6. (a) Provides that this Act does not affect the authority of certain municipalities or industry development corporations.

(b) Makes application of this Act prospective.

SECTION 7. Provides that certain elections are negated under this section.

SECTION 8. Provides that a municipality, county, or venue district is not required to obtain from the comptroller a determination of state fiscal impact under certain conditions.

SECTION 9. Provides that all acts or proceedings authorized or undertaken by a sports and community venue district or by a county or municipality that created the district that were undertaken before the effective date of this Act do not apply to an act or proceeding that is subject to litigation that is pending on the effective date of this Act.

SECTION 10. Severability clause.

SECTION 11. Emergency clause.  
Effective date: upon passage.

## **SUMMARY OF COMMITTEE CHANGES**

SECTION 1.

Amends Sec. 334.002, Chapter 334, Local Government Code, to make a nonsubstantive change.

Amends Sec. 334.0235, Chapter 334, Local Government Code, to provide that the reduction in tax rates applies to a regional transportation authority created under Chapter 452, Transportation Code.

Adds new Sec. 334.0415, Chapter 334, Local Government Code, regarding the use of financing for certain projects.

Amends Section 334.0425, Chapter 334, Local Government Code, to make a nonsubstantive change.

Amends Section 334.044, Chapter 334, Local Government Code, to authorize, rather than



require, a municipality or county to deposit certain money into the venue project fund. Deletes certain money and revenue received from a venue from these provisions.

Amends Section 334.082, Chapter 334, Local Government Code, to provide that the tax imposed by this subchapter is in addition to a tax imposed under other law, including Chapters 321 and 323, Tax Code.

Amends Section 334.085, Chapter 334, Local Government Code, to make a nonsubstantive change.

Amends Section 334.088, Chapter 334, Local Government Code, to delete proposed Subsection (b) regarding the use of revenue by a municipality or county under certain conditions.

Amends Section 334.103, Chapter 334, Local Government Code, regarding short-term rental tax for municipalities and counties with certain populations.

Amends Section 334.104, Chapter 334, Local Government Code, to provide that the tax rate adopted under this subchapter is less than five or 10 percent.

Deletes proposed Section 334.107, Chapter 334, Local Government Code, regarding short-term tax applicability. Renumbers existing sections accordingly.

Amends Section 334.112, Chapter 334, Local Government Code, to authorize a municipality or county to impose a tax under this subchapter before the first anniversary of the date the tax is imposed. Prohibits the municipality or county from imposing the tax after those bonds or other obligations are paid in full.

Amends Section 334.151, Chapter 334, Local Government Code, to authorize a municipality by ordinance or a county by order to impose a tax on each ticket sold as admission to certain events, rather than on each person admitted to an event.

Amends Section 334.156, Chapter 334, Local Government Code, to authorize a municipality by ordinance or a county by order to permit a person who is required to collect a tax under this subchapter to retain a certain percentage of the amount collected as reimbursement. Authorize the municipality or county to provide that the person may retain the amount only under certain conditions.

Amends Section 334.206, Chapter 334, Local Government Code, to make a conforming change.

Adds new SUBCHAPTER H, Chapter 334, Local Government Code, regarding a hotel occupancy tax. Reletters existing subchapters accordingly.

Amends Section 334.307, Chapter 334, Local Government Code, to make a conforming change.

Amends Section 335.021, Chapter 335, Local Government Code, to make nonsubstantive changes.

Amends Section 335.0535, Chapter 335, Local Government Code, to make a conforming change.

Amends Section 335.054, Chapter 335, Local Government Code, to authorize the board to order a district-wide election or separate election under this section. Sets forth provisions regarding district-wide and separate elections.

Amends Section 335.071, Chapter 335, Local Government Code, to delete a provision authorizing a district to dispose of property or an interest in property at fair market value.

Provides that a district has the right and power of eminent domain under Chapter 21, Property Code, to perform certain functions. Makes conforming changes.

Amends Section 335.0715, Chapter 335, Local Government Code, to set forth provisions regarding the use of financing for certain projects.

Amends Section 335.072, Chapter 335, Local Government Code, to make conforming changes.

Amends Section 335.0725, Chapter 335, Local Government Code, to make conforming changes.

Adds new Section 335.075, Chapter 335, Local Government Code, regarding contributions or dedications of certain revenue by political subdivisions. Deletes proposed Section 335.075.

Adds new Section 335.076, Chapter 335, Local Government Code, to authorize a county, acting through its commissioners court, to create a venue district on certain land to plan, construct, or renovate one or more venue projects in the venue district provided that the land meets certain requirements. Sets forth the authority of the county venue district.

Adds new SECTION 7 and renumbers existing sections accordingly.

#### SECTION 7.

Sets forth provisions regarding certain elections added by this Act.

Deletes proposed SECTION 10.