

## **BILL ANALYSIS**

Senate Research Center

H.B. 2878  
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Business & Commerce  
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Engrossed

### **DIGEST AND PURPOSE**

Private clubs located in public restaurants (restaurant clubs) are common throughout Texas and are important to the culture of some Texas businesses. Most Texas communities realize that restaurant clubs raise real estate values, create jobs, and require little supervision. Controversies arise, however, because restaurant clubs must cooperate with restaurant management, yet must exist as an independent entity to legally operate. Because the restaurant club is not statutorily authorized, questions are often raised as to whether the restaurant club functions as an independent entity or is operated to benefit the restaurant. H.B. 2878 authorizes a restaurant club to function as an independent corporation and to contract with the management of a restaurant to conduct its operations.

### **RULEMAKING AUTHORITY**

This bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

### **SECTION BY SECTION ANALYSIS**

H.B. 2878 amends the Alcoholic Beverage Code to provide that a restaurant club must be a nonprofit corporation and that a restaurant club originally formed as an association must incorporate before June 1, 2002 with the approval of the administrator of the Texas Alcoholic Beverage Commission (TABC).

The bill requires TABC to issue a replacement permit to the corporate entity for a \$100 fee. The bill sets forth provisions regarding preliminary memberships to restaurant clubs. The bill authorizes a restaurant club to contract with another entity to manage the club if the entity is authorized to conduct business in Texas and complies with requirements applicable to the applicants of a private club registration permit. The bill authorizes the entity to establish and staff a membership committee to purchase and manage the club's alcoholic beverage inventory for club members, establish the price of services provided to club members, and produce club records as required by statute or TABC rule.

The bill sets forth provisions related to the meetings of a club and the documentation of the meetings. The bill authorizes a group of at least 10 individuals who are at least 21 years of age to form a committee to be designated as the charter members of a club. The bill provides that the committee includes all original officers of the club and authorizes the committee to apply for and receive a private club registration permit. The bill prohibits the restaurant club from serving alcoholic beverages to members until the club has met the membership requirements. The bill provides that the charter members of a club or all members of a pool system of storage participate equally in the original purchase of all alcoholic beverages. The bill authorizes the charter members of a club to be compensated for the original alcoholic beverage purchase from future receipts generated from alcoholic beverage service provided to members of the club. The bill sets forth provisions related to the maintenance of an alcoholic beverages replacement account.

The bill requires TABC to provide a management entity written notice of a request for inspection of documents on or before the seventh day before the date of the inspection. A management entity is not required to provide a listing of members that is correct to the last day of the preceding month until the

20th day of the month in which the request is made.

Effective date: September 1, 2001.