

BILL ANALYSIS

Senate Research Center

H.B. 4103
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Natural Resources & Economic Development
5/18/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4103 seeks to include or amend multiple municipalities and their authorized collection and subsequent use of certain tax revenue related to authorized municipal hotel and convention center projects and municipal hotel occupancy taxes.

H.B. 4103 amends current law relating to the authority of certain municipalities to receive certain tax revenue derived from certain establishments related to a hotel and convention center project and to pledge certain tax revenue for the payment of obligations related to the project.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 10 (Section 351.161, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 151.429, Tax Code, by adding Subsection (h-1), as follows:

(h-1) Requires the owner of a qualified hotel project that opened for initial occupancy before January 1, 2021, to receive a rebate, refund, or payment of 100 percent of the taxes described by Subsection (h) (relating to requiring that the owner of a qualified hotel project receive a rebate, refund, or payment of 100 percent of certain taxes) during the two-year period beginning immediately following the expiration of the 10-year period authorized under Subsection (h). Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to deposit the taxes and pay each owner of a qualified hotel project eligible taxable proceeds to which the owner is entitled under this subsection in the manner provided by Subsection (h). Provides that this subsection expires January 1, 2033.

SECTION 2. Amends Section 351.101(n), Tax Code, as follows:

(n) Authorizes a municipality that has a population of not more than 1,500 and is located in a county that borders Arkansas and Louisiana, in addition to other authorized uses, to use revenue from the municipal hotel occupancy tax for the promotion of tourism by the enhancement and upgrading of an existing sports facility or field as specified by Subsection (a)(7) (relating to authorizing revenue from the municipal hotel occupancy tax to be used for the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields if certain criteria are met), provided that the requirements of Subsection (a)(7)(A) (relating to authorizing revenue from the municipal hotel occupancy tax to be used for the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields if the municipality owns the facilities or fields) and Section 351.1076 (Allocation of Revenue: Certain Municipalities), rather than the requirements of Subsections (a)(7)(A) and (C) (relating to authorizing revenue from the municipal hotel occupancy tax to be used for the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields if the facilities and fields have been used a combined total of more than 10 times for district, state, regional, or national sports tournaments) and Section 351.1076, are met.

SECTION 3. Amends Section 351.102, Tax Code, by adding Subsection (c-1), as follows:

(c-1) Provides that notwithstanding Section 151.429(h) of this code or Section 2303.5055 (Refund, Rebate, or Payment of Tax Proceeds to Qualified Hotel Project), Government Code, a municipality described by Subsection (e) (relating to authorizing certain municipalities to pledge municipal hotel occupancy taxes from certain hotel projects) is entitled to receive the funds described by Subsection (c) (relating to entitling certain municipalities to receive certain funds only if the municipality has pledged the revenue derived from municipal hotel occupancy taxes for the payment of bonds or other obligations issued or incurred for a hotel project) for a 12-year period if the hotel project opened for initial occupancy before January 1, 2021. Provides that this subsection expires January 1, 2033.

SECTION 4. Amends Section 351.1063(a), Tax Code, as follows:

(a) Provides that Section 351.1063 (Allocation of Revenue for Advertising and Promotion: Certain Municipalities With Certain Projects) applies only to a municipality described by certain sections, including Section 351.1521, other than an eligible central municipality described by Section 351.001(7)(D) (relating to defining "eligible central municipality" to mean a municipality with a population of less than 50,000 that contains a general academic teaching institution that is not a component institution of a university system). Makes nonsubstantive changes.

SECTION 5. Amends Section 351.10712(a), Tax Code, as follows:

(a) Provides that Section 351.10712 (Allocation of Revenue for Construction and Maintenance of Sports-Related Facilities by Certain Municipalities) applies only to certain municipalities, including a municipality 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. Makes nonsubstantive changes.

SECTION 6. Amends Section 351.152, Tax Code, as follows:

Sec. 351.152. APPLICABILITY. Provides that Subchapter C (Municipal Hotel and Convention Center Projects) applies only to:

(1)-(40) makes no changes to these subdivisions;

(41) and (42) makes nonsubstantive changes to these subdivisions;

(43) a municipality 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; and

(44) a municipality with a population of less than 500,000 that is located in two counties and is adjacent to a municipality described by Subdivision (31) (relating to providing that Subchapter C applies to a municipality with a certain population that is located in two counties, one of which has a population of 900,000 or more but less than 1.7 million).

SECTION 7. Amends Subchapter C, Chapter 351, Tax Code, by adding Section 351.1521, as follows:

Sec. 351.1521. APPLICABILITY TO CERTAIN ADDITIONAL MUNICIPALITIES. Provides that, in addition to the municipalities described by Section 351.152, this subchapter applies to a municipality that:

(1) has a population of more than 67,000; and

(2) is located in two counties with 90 percent of the municipality's territory located in a county with a population of at least 580,000, and the remaining territory located in a county with a population of at least four million.

SECTION 8. Amends Sections 351.157(a), (b), (c), and (e), Tax Code, as follows:

(a) Redefines "qualified establishment" for Section 351.157 (Additional Entitlement for Certain Municipalities).

(b) Provides that this section applies only to:

(1)-(4) makes no changes to these subdivisions;

(4-a) a municipality described by Section 351.152(14) (relating to providing that Subchapter C applies only to a municipality with a certain population that contains a component institution of the Texas Tech University System);

(5)-(9) makes no changes to these subdivisions;

(10) and (11) makes nonsubstantive changes to these subdivisions; and

(12) a municipality described by Section 351.152(43).

(c) Provides that a municipality is entitled to receive revenue under Subsection (d) (relating to entitling a municipality to which this section applies to receive the revenue derived from certain taxes generated, paid, and collected from a qualified establishment located in the municipality) derived from the following types of establishments that meet the requirements of certain subsections:

(1) makes no changes to this subdivision;

(2) for a municipality described by Subsection (b)(2) (relating to providing that this section applies to a municipality with a population of 150,000 or more but less than 200,000 that is partially located in at least one county with a population of 125,000 or more), swimming pools and swimming facilities, restaurants, bars, and retail establishments;

(3) and (4) makes no changes to these subdivisions;

(4-a) for a municipality described by Subsection (b)(4-a), restaurants, bars, and retail establishments, and swimming pools and swimming facilities owned or operated by the related qualified hotel;

(5)-(9) makes no changes to these subdivisions;

(10) and (11) makes nonsubstantive changes to these subdivisions; and

(12) for a municipality described by Subsection (b)(12), restaurants, bars, and retail establishments, and swimming pools and swimming facilities owned or operated by the related qualified hotel.

(e) Provides that a municipality to which this section applies is not entitled to receive revenue under Subsection (d) unless the municipality commences a qualified project under this subchapter before September 1, 2027, rather than September 1, 2023.

SECTION 9. Amends Section 351.158, Tax Code, as follows:

Sec. 351.158. PERIOD OF ENTITLEMENT. (a) Creates this subsection from existing text. Provides that a municipality is entitled to receive revenue as provided by Sections

351.156 (Entitlement to Certain Tax Revenue) and 351.157 until the 10th anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy.

(b) Provides that notwithstanding Subsection (a), a municipality described by Section 351.152(10) (relating to providing that Subchapter C applies to 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) is entitled to receive revenue as provided by Sections 351.156 and 351.157 until the 13th anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy.

(c) Provides that notwithstanding Subsection (a) and except as provided by Subsection (b), a municipality described by Section 351.152 is entitled to receive revenue as provided by Sections 351.156 and 351.157 until the 12th anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy if the qualified hotel opened for initial occupancy before January 1, 2021. Provides that this subsection expires January 1, 2033.

SECTION 10. Amends Subchapter C, Chapter 351, Tax Code, by adding Section 351.161, as follows:

Sec. 351.161. COMPTROLLER PRIVATE LETTER RULING. (a) Authorizes a municipality to request that the comptroller provide a private letter ruling that determines whether:

(1) a project described in the request is a qualified project for purposes of this subchapter;

(2) the municipality will be entitled to receive revenue under Sections 351.156 and 351.157, as applicable; and

(3) taxable items, as defined by Section 151.010 (Taxable Item), purchased in connection with the qualified project are exempt from state and local sales and use taxes.

(b) Requires the comptroller to issue a private letter ruling that makes the requested determination not later than the 60th day after the date the municipality submits the request to the comptroller.

(c) Authorizes the comptroller by rule to establish the information a municipality is required to submit in a request made under this section.

(d) Authorizes the municipality to rely on the comptroller's determination included in a private letter ruling provided under this section.

SECTION 11. Effective date: upon passage or September 1, 2021.