

CHAPTER 680

H.B. No. 1122

AN ACT

relating to the use of municipal hotel occupancy taxes.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 351.001, Tax Code, is amended by adding Subdivision (8) to read as follows:

(8) *“Visitor information center” or “tourism information center” means a building or a portion of a building used to distribute or disseminate information to tourists.*

SECTION 2. Section 351.0025, Tax Code, is amended to read as follows:

Sec. 351.0025. EXTRATERRITORIAL JURISDICTION. (a) A municipality with a population of less than 35,000 by ordinance may impose the tax authorized under Section 351.002 in the municipality’s extraterritorial jurisdiction.

(b) *The municipality may not impose a tax under this section if as a result of the adoption the combined rate of state, county, and municipal hotel occupancy taxes in the extraterritorial jurisdiction exceeds 15 percent of the price paid for a room in a hotel.*

SECTION 3. Sections 351.101(a), (b), (c), and (f), Tax Code, are amended to read as follows:

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

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

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

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

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

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

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

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists *and*[,] convention delegates[, ~~or other visitors to the municipality~~].

(b) Revenue derived from the tax authorized by this chapter *shall* [is to] be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by Subsection (a). That revenue may not be used for the general revenue purposes or general governmental operations of a municipality.

(c) The governing body of a municipality by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this chapter. The governing body in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the governing body at least *quarterly* [annually] listing the expenditures made by the person *with* [of] revenue from the tax authorized by this chapter [~~provided by the municipality~~]. The person must maintain revenue provided [by the municipality] from the tax authorized by this chapter in a separate account established for that purpose and may not commingle that revenue with any other money [~~or maintain it in any other account~~]. The municipality may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with revenue from the tax authorized by this chapter other than by contract as provided by this subsection. The approval by the governing body of the municipality of the annual budget of the person to whom the governing body delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the *tax authorized by this chapter* [~~municipality to the person under the contract~~].

(f) Hotel occupancy tax revenue spent for a purpose authorized by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a)(1) or (3) [351.101]. If a municipal or other public or private entity that conducts an activity *authorized* [~~for which hotel occupancy tax revenue may be used~~] under this section conducts other activities *that are not authorized under this section* [~~for which hotel occupancy tax revenue may not be used~~], the portion of the total administrative costs of the entity for which hotel occupancy tax revenue may be used may not exceed the portion of those administrative costs actually incurred in conducting the *authorized* activities [~~for which the hotel occupancy tax revenue may be used~~].

SECTION 4. Section 351.1015(d), Tax Code, is amended to read as follows:

(d) For any [eligible] municipality described in Subsection (b), a nonprofit manned spaced flight tourism facility shall conclusively be deemed to be a convention center facility within the meaning of Section 351.101(a)(1).

SECTION 5. Section 351.103, Tax Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) At least 50 percent of the hotel occupancy tax revenue collected by a municipality with a population of 200,000 or greater [~~according to the most recent federal decennial census,~~] must be allocated for the purposes provided by Section 351.101(a)(3). *For* [~~According to the most recent federal decennial census, for~~] municipalities with a population of less than 200,000, allocations for the purposes provided by Section 351.101(a)(3) are as follows:

(1) if the tax rate in a municipality is not more than three percent of the cost paid for a room, not less than the amount of revenue received by the municipality from the tax at a rate of one-half of one percent of the cost of the room; or

(2) if the tax in a municipality exceeds three percent of the cost of a room, not less than the amount of revenue received by the municipality from the tax at a rate of one percent of the cost of a room. This subsection does not apply to a municipality, *regardless of population*, that before October 1, 1989, adopted an ordinance providing for the allocation of an amount in excess of 50 percent of the hotel occupancy tax revenue collected by the municipality for one or more specific purposes provided by Section 351.101(a)(1) until the ordinance is repealed or expires or until the revenue is no longer used for those specific purposes in an amount in excess of 50 percent of the tax revenue.

*(e) A municipality may use hotel occupancy tax revenue collected by the municipality for a purpose provided by Section 351.101(a)(1) only if the municipality complies with the applicable provisions of this section.*

SECTION 6. Section 351.105(a), Tax Code, is amended to read as follows:

(a) An eligible coastal municipality that levies and collects an occupancy tax authorized by this chapter at a rate of seven percent [~~or more~~] shall pledge a portion of the revenue equal to at least one percent of the cost of a room to either or both of the following purposes:

(1) the payment of the bonds that the municipality or a park board of trustees may issue under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), or under Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6081g-1, Vernon's Texas Civil Statutes), in order to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair of public improvements, including parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality; or

(2) the maintenance, improvement, or operation of the parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality.

SECTION 7. (a) This Act takes effect September 1, 1993.

(b) This Act does not apply to the use of tax revenue pledged to secure bonds issued before the effective date of this Act. Tax revenue pledged to secure bonds issued before the effective date of this Act is governed by the law in effect on the date the bonds were issued, and that law is continued in effect for that purpose.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 12, 1993, by a non-record vote; passed by the Senate on May 21, 1993, by a viva-voce vote.

Approved June 15, 1993.

Effective Sept. 1, 1993.