

CHAPTER 643

H.B. No. 1123

AN ACT

relating to the use of county hotel occupancy taxes.

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

SECTION 1. Section 352.001, Tax Code, is amended to read as follows:

Sec. 352.001. *DEFINITIONS* [~~DEFINITION~~]. In this chapter:

(1) "Hotel" [~~,"hotel"~~] has the meaning assigned by Section 156.001(1).

(2) "Convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the county or that are managed in whole or part by the county. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the immediate vicinity of other convention center facilities.

(3) "Tourism" means the guidance or management of tourists.

(4) "Tourist" means an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.

(5) "Visitor information center" or "tourism information center" means a building or portion of a building used to distribute or disseminate information to tourists.

SECTION 2. Section 352.005, Tax Code, is amended to read as follows:

Sec. 352.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. [(a)] A county may permit a person who is required to collect and pay over to the county the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

~~[(b) This section does not apply to a county that has no municipality.]~~

SECTION 3. Subchapter B, Chapter 352, Tax Code, is amended by adding Section 352.1015 to read as follows:

Sec. 352.1015. USE OF REVENUE: GENERAL PROVISIONS. (a) The commissioners court of a county 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 commissioners court 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 commissioners court at least quarterly listing the expenditures made by the person with revenue derived from the tax authorized by this chapter. The person must maintain revenue provided 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. The commissioners court may not delegate to any person the management or supervision of its tourist and convention 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 commissioners court of the county of the annual budget of the person to whom the commissioners court delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the tax authorized under the contract.

(b) A person with whom a county contracts under this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the commissioners court of the county or other person, shall make the records available for inspection and review to the commissioners court or other person.

(c) 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 by the applicable provisions of this subchapter governing the use of revenue by that particular county. If a county or other public or private entity that conducts an activity authorized by the applicable provisions of this subchapter governing the use of revenue by that particular county conducts other activities that are not authorized, 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.

(d) County hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner.

(e) Revenue derived from the tax authorized by this chapter is to be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by the applicable provisions of this subchapter governing the use of revenue by that particular county. That revenue may not be used for the general revenue purposes or general governmental operations of a county.

SECTION 4. Sections 352.102, 352.103, and 352.1033, Tax Code, are amended to read as follows:

Sec. 352.102. USE OF REVENUE: COUNTIES BORDERING MEXICO. (a) Except as provided by Subsection (b), the revenue from a tax imposed under this chapter by a county that borders the Republic of Mexico and that is further described by Section 352.002(a)(2) may only be used for:

(1) the purposes provided by Sections 351.101(a)(1) and (2);

(2) ~~acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities including civic center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;~~

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

~~[(3)] general promotion and tourist advertising of the county and its vicinity and conducting a solicitation program to attract conventions and visitors, any of which may be conducted by the county or through contracts with persons or organizations selected by the county; or~~

~~(3) [(4)] the encouragement, promotion, improvement, or application of historical preservation and restoration either by the county or through contracts with persons or organizations selected by the county.~~

(b) A county that borders the Republic of Mexico and that is further described by Section 352.002(a)(2) may use 15 percent or less of the revenue collected each fiscal year from the tax imposed under this chapter for the purposes provided by Section 351.101(a)(4) ~~[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].~~

Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY. The revenue from a tax imposed under this chapter by a county that has no municipality may be used only for:

(1) the purposes provided by Sections 351.101(a)(1), (2), and (4);

(2) ~~[the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities including civic center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;~~

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

~~[(3)] advertising for general promotional and tourist advertising of the county and conducting a solicitation [and operating] program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the commissioners court; and~~

~~(3) [(4) the encouragement, promotion, improvement, and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms; and~~

[(5)] historical preservation and restoration.

Sec. 352.1033. USE OF REVENUE; COUNTIES BORDERING THE GULF OF MEXICO. [(a)] The revenue from a tax imposed under this chapter by a county that borders the Gulf of Mexico authorized to impose the tax by Section 352.002(a)(6) may be used only to:

(1) clean public beaches;

(2) acquire, furnish, or maintain facilities, including parks, that enhance public access to beaches;

(3) provide and maintain public restrooms on or adjacent to beaches or beach access facilities; [and]

(4) provide and maintain litter containers on or adjacent to beaches or beach access facilities; *and*

(5) *advertise and conduct solicitations and promotional programs to attract tourists and convention delegates or registrants to the county or its vicinity, any of which may be conducted by the county or through contracts with persons or organizations selected by the county.*

SECTION 5. (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 are governed by the law in effect on the date the bonds were issued, and that law is continued in effect for that purpose.

SECTION 6. 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 13, 1993.

Effective Sept. 1, 1993.