

1-1 By: Morrison, et al. (Senate Sponsor - Alvarado) H.B. No. 2806
 1-2 (In the Senate - Received from the House April 24, 2019;
 1-3 April 25, 2019, read first time and referred to Committee on
 1-4 Business & Commerce; May 20, 2019, reported favorably by the
 1-5 following vote: Yeas 7, Nays 1; May 20, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15			X	
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the creation of the Texas music incubator rebate
 1-20 program to provide for rebates of a portion of certain taxes
 1-21 collected from certain music venues and promoters of certain music
 1-22 festivals.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 485, Government Code, is amended by
 1-25 adding Subchapter C to read as follows:

1-26 SUBCHAPTER C. TEXAS MUSIC INCUBATOR REBATE PROGRAM

1-27 Sec. 485.041. DEFINITIONS. (a) Except as provided by
 1-28 Subsection (b), the definitions in Section 1.04, Alcoholic Beverage
 1-29 Code, apply to this subchapter.

1-30 (b) In this subchapter:

1-31 (1) "Mixed beverage gross receipts tax" means the tax
 1-32 imposed by Subchapter B, Chapter 183, Tax Code.

1-33 (2) "Permit holder" means a person who holds a permit
 1-34 issued under Section 151.201, Tax Code.

1-35 (3) "Permittee" has the meaning assigned by Section
 1-36 183.001(b), Tax Code.

1-37 (4) "Program" means the Texas music incubator rebate
 1-38 program.

1-39 (5) "Sales tax" means the tax imposed by Chapter 151,
 1-40 Tax Code.

1-41 Sec. 485.042. TEXAS MUSIC INCUBATOR REBATE PROGRAM. (a)
 1-42 The office shall administer the Texas music incubator rebate
 1-43 program under which the office shall provide to eligible music
 1-44 venues and eligible music festival promoters from money
 1-45 appropriated from the Texas music incubator account a full or
 1-46 partial rebate of the mixed beverage gross receipts taxes and sales
 1-47 tax receipts attributable to the sale of beer and wine and remitted
 1-48 to the comptroller annually by those venues and promoters. The
 1-49 Texas music incubator account shall be funded by mixed beverage
 1-50 gross receipts taxes and sales tax receipts attributable to the
 1-51 sale of beer and wine remitted annually by venues and promoters and
 1-52 deposited into that account as required by Sections 151.801(f) and
 1-53 183.023(c), Tax Code. The rebates are to assist eligible music
 1-54 venues and eligible music festival promoters in their efforts to
 1-55 support and continue to bring to local communities in this state
 1-56 live musical performances, including the recruitment of musical
 1-57 performance artists.

1-58 (b) The office may not provide a rebate under the program to
 1-59 a music venue or music festival promoter in an amount that exceeds
 1-60 the lesser of:

1-61 (1) the amount of mixed beverage gross receipts taxes

2-1 and sales taxes attributable to the sale of beer and wine remitted
 2-2 in the preceding fiscal year to the comptroller by the music venue
 2-3 or music festival promoter as a permittee or permit holder; or
 2-4 (2) \$100,000.

2-5 Sec. 485.043. ELIGIBILITY FOR REBATE. (a) Except as
 2-6 provided by Subsection (b), to qualify for a rebate under the
 2-7 program, a music venue or music festival promoter, for at least the
 2-8 two years preceding the date on which the music venue or promoter,
 2-9 as applicable, submits an application under Section 485.044, must
 2-10 have:

2-11 (1) been a permittee subject to the mixed beverage
 2-12 gross receipts tax or a permit holder subject to the sales tax on
 2-13 the sale of beer or wine;

2-14 (2) if the applicant is a music venue, been a retail
 2-15 establishment with a dedicated audience capacity of not more than
 2-16 3,000 persons;

2-17 (3) if the applicant is a music festival promoter,
 2-18 held a music festival in a county with a population of less than
 2-19 100,000;

2-20 (4) entered into a written contract with a musical
 2-21 performance artist to conduct a live performance at the venue or
 2-22 festival, as applicable, under which the artist received as
 2-23 compensation a specified percentage of ticket sales for or other
 2-24 sales during the performance, or a guaranteed amount in advance of
 2-25 the performance; and

2-26 (5) met at least five of the following criteria, one of
 2-27 which must be described by Paragraph (A) or (B):

2-28 (A) the marketing of live music performances
 2-29 through listings in printed or electronic publications;

2-30 (B) the provision of live music performances five
 2-31 or more nights per week;

2-32 (C) employment or contracting of the services of
 2-33 one or more people who are tasked with two or more of the following
 2-34 positions or services:

2-35 (i) sound engineer;

2-36 (ii) booker;

2-37 (iii) promoter;

2-38 (iv) stage manager; or

2-39 (v) security personnel;

2-40 (D) having live performance and audience space;

2-41 (E) the provision of technical sound and lighting
 2-42 support, either in-house or through a contract with a vendor;

2-43 (F) having a space for the storage of audio
 2-44 equipment or musical instruments;

2-45 (G) the application of cover charges to one or
 2-46 more live music performances through ticketing or the imposition of
 2-47 a front door entrance fee; or

2-48 (H) the maintenance of hours of operation that
 2-49 coincide with live music performance show times.

2-50 (b) The office may, at the office's discretion, provide a
 2-51 rebate under the program to a music venue or a music festival
 2-52 promoter that fails to meet the eligibility requirements prescribed
 2-53 by Subsection (a) solely because the venue is located, or the
 2-54 festival is usually held, as applicable, in a county located wholly
 2-55 or partly in an area that at any time during the preceding two-year
 2-56 period was declared to be a disaster area by the governor or by the
 2-57 president of the United States.

2-58 Sec. 485.044. REBATE APPLICATION. (a) The office shall:

2-59 (1) subject to Subsection (b), prescribe the
 2-60 application form for obtaining a rebate under the program; and

2-61 (2) establish an online portal on the office's public
 2-62 Internet website that allows a music venue or music festival
 2-63 promoter to submit the application to the office for consideration.

2-64 (b) The application must:

2-65 (1) state the amount of mixed beverage gross receipts
 2-66 tax and sales tax receipts attributable to the sale of beer and wine
 2-67 that was remitted to the comptroller by the music venue or music
 2-68 festival promoter in the preceding fiscal year;

2-69 (2) include sufficient evidence for the office to

3-1 determine that the music venue or promoter qualifies for a rebate;
3-2 and

3-3 (3) include any other information the office
3-4 determines necessary to administer the program.

3-5 (c) The office shall accept rebate applications beginning
3-6 September 1 of each year and may provide rebates until all the money
3-7 in the Texas music incubator account is exhausted.

3-8 (d) The office may expedite the review of an application
3-9 submitted by a music venue or music festival promoter, if the venue
3-10 is located, or the festival is usually held, as applicable, in a
3-11 county located wholly or partly in an area that at any time during
3-12 the preceding two-year period was declared to be a disaster area by
3-13 the governor or by the president of the United States.

3-14 Sec. 485.045. REVIEW OF APPLICATIONS; REBATES. (a) After
3-15 reviewing applications for a rebate under the program, the office
3-16 shall grant rebates to eligible music venues and music festival
3-17 promoters that the office determines provide or have committed to
3-18 provide the most economic benefit to the communities in which the
3-19 music venues are located or the festivals are held, as applicable,
3-20 and to the Texas music industry, including live music performers.

3-21 (b) As directed by the office, the comptroller shall issue a
3-22 warrant for a rebate granted by the office under this section drawn
3-23 on the Texas music incubator account.

3-24 Sec. 485.046. TEXAS MUSIC INCUBATOR ACCOUNT. (a) The Texas
3-25 music incubator account is a dedicated account in the general
3-26 revenue fund. The account is composed of:

3-27 (1) money deposited to the credit of the account under
3-28 Sections 151.801(f) and 183.023(c), Tax Code;

3-29 (2) gifts, grants, and other money received by the
3-30 office for the program; and

3-31 (3) other amounts deposited to the credit of the
3-32 account.

3-33 (b) Money in the account may be appropriated only to the
3-34 office for the purpose of paying rebates to music venues and certain
3-35 music festival promoters under the program.

3-36 (c) Interest and other earnings from money in the account
3-37 shall be credited to the account.

3-38 (d) On the last day of each state fiscal biennium, the
3-39 comptroller shall transfer any money deposited to the account under
3-40 Subsection (a)(1) that is unobligated and unexpended on that date
3-41 to the general revenue fund to be used in accordance with
3-42 legislative appropriation.

3-43 Sec. 485.047. RULES. The office shall adopt rules
3-44 necessary to implement and administer this subchapter.

3-45 SECTION 2. Section 151.801, Tax Code, is amended by
3-46 amending Subsection (a) and adding Subsection (f) to read as
3-47 follows:

3-48 (a) Except for the amounts allocated under Subsections (b),
3-49 (c), ~~and~~ (c-2), and (f), all proceeds from the collection of the
3-50 taxes imposed by this chapter shall be deposited to the credit of
3-51 the general revenue fund.

3-52 (f) The comptroller shall deposit each fiscal year \$100,000
3-53 of the revenue received under this chapter to the credit of the
3-54 Texas music incubator account under Section 485.046, Government
3-55 Code.

3-56 SECTION 3. Section 183.023, Tax Code, is amended by
3-57 amending Subsection (b) and adding Subsection (c) to read as
3-58 follows:

3-59 (b) Except for the amounts allocated under Subsection (c),
3-60 the ~~The~~ comptroller shall deposit the revenue received under this
3-61 section in the general revenue fund.

3-62 (c) The comptroller shall deposit each fiscal year \$10
3-63 million of the revenue received under this section to the credit of
3-64 the Texas music incubator account under Section 485.046, Government
3-65 Code.

3-66 SECTION 4. (a) Not later than September 1, 2020, the Music,
3-67 Film, Television, and Multimedia Office within the office of the
3-68 governor shall establish the Texas music incubator rebate program
3-69 as required under Subchapter C, Chapter 485, Government Code, as

4-1 added by this Act.

4-2 (b) Notwithstanding Section 485.044(c), Government Code, as
4-3 added by this Act, the Music, Film, Television, and Multimedia
4-4 Office shall begin accepting rebate applications as authorized
4-5 under that section beginning September 1, 2020.

4-6 SECTION 5. This Act takes effect September 1, 2019.

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