

1-1 By: Anderson (Senate Sponsor - Birdwell) H.B. No. 3727
 1-2 (In the Senate - Received from the House May 8, 2023;
 1-3 May 12, 2023, read first time and referred to Committee on Natural
 1-4 Resources & Economic Development; May 19, 2023, reported
 1-5 adversely, with favorable Committee Substitute by the following
 1-6 vote: Yeas 8, Nays 0; May 19, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
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	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 3727 By: Birdwell

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to municipal and county hotel occupancy taxes.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Sections 351.001(2), (6), (8), and (10), Tax
 1-24 Code, are amended to read as follows:
 1-25 (2) "Convention center facilities" or "convention
 1-26 center complex" means facilities that are primarily used to host
 1-27 conventions and meetings. The term means civic centers, civic
 1-28 center buildings, auditoriums, exhibition halls, and coliseums
 1-29 that are owned by the municipality or other governmental entity or
 1-30 that are managed in whole or part by the municipality. In a
 1-31 municipality with a population of 1.5 million or more, "convention
 1-32 center facilities" or "convention center complex" means civic
 1-33 centers, civic center buildings, auditoriums, exhibition halls,
 1-34 and coliseums that are owned by the municipality or other
 1-35 governmental entity or that are managed in part by the
 1-36 municipality, hotels owned by the municipality or a nonprofit
 1-37 municipally sponsored local government corporation created under
 1-38 Chapter 431, Transportation Code, within 1,000 feet of a convention
 1-39 center owned by the municipality, or a historic hotel owned by the
 1-40 municipality or a nonprofit municipally sponsored local government
 1-41 corporation created under Chapter 431, Transportation Code, within
 1-42 one mile of a convention center owned by the municipality. The term
 1-43 includes parking areas or facilities that are for the parking or
 1-44 storage of conveyances and that are located at or within 1,500 feet
 1-45 of the [in the vicinity of other] convention center facilities. The
 1-46 term also includes a hotel owned by or located on land that is owned
 1-47 by an eligible central municipality or by a nonprofit corporation
 1-48 acting on behalf of an eligible central municipality and that is
 1-49 located within 1,000 feet of a convention center facility owned by
 1-50 the municipality. The term also includes a hotel that is owned in
 1-51 part by an eligible central municipality described by Subdivision
 1-52 (7)(D) and that is located within 1,000 feet of a convention center
 1-53 facility. For purposes of this subdivision, "meetings" means
 1-54 gatherings ~~[of people]~~ that:
 1-55 (A) are attended by:
 1-56 (i) tourists; or
 1-57 (ii) individuals who spend the night at a
 1-58 hotel or attend a meeting at a hotel; and
 1-59 (B) enhance and promote tourism and the
 1-60 convention and hotel industry.

2-1 (6) "Tourist" means an individual who travels from the
 2-2 individual's residence to a different municipality, county, state,
 2-3 or country for business, pleasure, recreation, education, or
 2-4 culture.

2-5 (8) "Visitor information center" or "tourism
 2-6 information center" means a building or a portion of a building that
 2-7 is primarily used to distribute or disseminate information to
 2-8 tourists.

2-9 (10) "Multiuse facility" means a facility at which the
 2-10 majority of events attract tourists who substantially increase
 2-11 economic activity at hotels in the municipality in which the
 2-12 facility is located. ["Revenue" includes any interest derived from
 2-13 the revenue.]

2-14 SECTION 2. Section 351.009, Tax Code, is amended to read as
 2-15 follows:

2-16 Sec. 351.009. ANNUAL REPORT TO COMPTROLLER. (a) Not
 2-17 later than March 1 [~~February 20~~] of each year, a municipality that
 2-18 imposes the tax authorized by this chapter shall report to the
 2-19 comptroller:

2-20 (1) the rate of:
 2-21 (A) the tax imposed by the municipality under
 2-22 this chapter; and

2-23 (B) if applicable, the tax imposed by the
 2-24 municipality under Subchapter H, Chapter 334, Local Government
 2-25 Code;

2-26 (2) the amount of revenue collected during the
 2-27 municipality's preceding fiscal year from:

2-28 (A) the tax imposed by the municipality under
 2-29 this chapter; and

2-30 (B) if applicable, the tax imposed by the
 2-31 municipality under Subchapter H, Chapter 334, Local Government
 2-32 Code; ~~and~~

2-33 (3) the amount and percentage of the revenue described
 2-34 by Subdivision (2)(A) allocated by the municipality to each use
 2-35 authorized by this chapter for which the municipality used the
 2-36 revenue [~~described by Sections 351.101(a)(1), (2), (3), (4), (5),~~
 2-37 ~~and (9)] during the municipality's preceding fiscal year, stated
 2-38 separately as an amount and percentage for each applicable use; and~~

2-39 (4) the total amount of any revenue described by
 2-40 Subdivision (2)(A) collected in any preceding fiscal year of the
 2-41 municipality that has not yet been spent by the municipality and the
 2-42 amount of that unexpended revenue, if any, that remains in the
 2-43 municipality's possession in the fiscal year in which the report is
 2-44 due [~~of those subdivisions~~].

2-45 (b) The municipality must make the report required by this
 2-46 section by ~~+~~

2-47 [~~(1)~~] submitting the report to the comptroller on a
 2-48 form prescribed by the comptroller ~~+~~ ~~or~~

2-49 [~~(2)~~] ~~providing the comptroller a direct link to, or a~~
 2-50 ~~clear statement describing the location of, the information~~
 2-51 ~~required to be reported that is posted on the Internet website of~~
 2-52 ~~the municipality~~].

2-53 (c) The [~~Subject to Subsection (b)(2), the~~] comptroller
 2-54 shall prescribe the form a municipality must use for the report
 2-55 required to be submitted under this section.

2-56 (d) A municipality that is required to make a report to the
 2-57 comptroller under this section may use a portion of the revenue
 2-58 described by Subsection (a)(2)(A) for the costs incurred by the
 2-59 municipality in making and submitting the report. The amount of
 2-60 revenue a municipality may use each year for the purpose authorized
 2-61 by this subsection may not exceed:

2-62 (1) \$1,000 if the municipality has a population of
 2-63 less than 10,000; or

2-64 (2) \$2,500 if the municipality has a population of
 2-65 10,000 or more.

2-66 (e) The comptroller may adopt rules necessary to administer
 2-67 this section.

2-68 SECTION 3. Section 351.101, Tax Code, is amended by adding
 2-69 Subsection (f-1) to read as follows:

3-1 (f-1) A municipality may not use municipal hotel occupancy
3-2 tax revenue for a visitor information center under Subsection
3-3 (a)(1) to acquire a site for, construct, improve, enlarge, equip,
3-4 repair, staff, operate, or maintain any part of a building or
3-5 facility that is not primarily used to distribute or disseminate
3-6 tourism-related information to tourists.

3-7 SECTION 4. Section 351.1021(a)(3), Tax Code, is amended to
3-8 read as follows:

3-9 (3) "Multipurpose convention center facility project"
3-10 means a project that consists of a hotel owned by an eligible
3-11 municipality or another person and a multipurpose convention center
3-12 facility, the nearest exterior wall of which is located not more
3-13 than 2,500 feet from the nearest exterior wall of the hotel. A
3-14 multipurpose convention center facility project may include:

3-15 (A) each new or existing business located in the
3-16 municipality, regardless of who owns the business or the property
3-17 on which the business is located, the nearest exterior wall of which
3-18 is located not more than 2,500 feet from the nearest exterior wall
3-19 of the multipurpose convention center facility or the hotel that is
3-20 part of the project;

3-21 (B) a parking shuttle or transportation system
3-22 used primarily by tourists; and

3-23 (C) any parking area or structure located in the
3-24 municipality, regardless of who owns the area or structure or the
3-25 property on which the area or structure is located, the nearest
3-26 property line of which is located not more than two miles from the
3-27 nearest exterior wall of the multipurpose convention center
3-28 facility.

3-29 SECTION 5. Sections 351.103(a), (b), and (c), Tax Code, are
3-30 amended to read as follows:

3-31 (a) A municipality [At least 50 percent of the hotel
3-32 occupancy tax revenue collected by a municipality with a population
3-33 of 200,000 or greater must be allocated for the purposes provided by
3-34 Section 351.101(a)(3). For municipalities] with a population of
3-35 less than 200,000 shall allocate[, allocations] for the purposes
3-36 provided by Section 351.101(a)(3) an amount of hotel occupancy tax
3-37 revenue collected by the municipality that is [are as follows:

3-38 [(1) if the tax rate in a municipality is not more than
3-39 three percent of the cost paid for a room, not less than the amount
3-40 of revenue received by the municipality from the tax at a rate of
3-41 one-half of one percent of the cost of the room, or

3-42 [(2) if the tax in a municipality exceeds three
3-43 percent of the cost of a room,] not less than the amount of revenue
3-44 received by the municipality from the tax at a rate of one percent
3-45 of the cost of a room. [This subsection does not apply to a
3-46 municipality, regardless of population, that before October 1,
3-47 1989, adopted an ordinance providing for the allocation of an
3-48 amount in excess of 50 percent of the hotel occupancy tax revenue
3-49 collected by the municipality for one or more specific purposes
3-50 provided by Section 351.101(a)(1) until the ordinance is repealed
3-51 or expires or until the revenue is no longer used for those specific
3-52 purposes in an amount in excess of 50 percent of the tax revenue.]

3-53 (b) A [Subsection (a) does not apply to a municipality in a
3-54 fiscal year of the municipality if the total amount of hotel
3-55 occupancy tax collected by the municipality in the most recent
3-56 calendar year that ends at least 90 days before the date the fiscal
3-57 year begins exceeds \$2 million. A municipality excepted from the
3-58 application of Subsection (a) by this subsection shall allocate
3-59 hotel occupancy tax revenue by ordinance, consistent with the other
3-60 limitations of this section. The portion of the tax revenue
3-61 allocated by a] municipality with a population of more than 1.6
3-62 million shall allocate at least 23 percent of the hotel occupancy
3-63 tax revenue collected by the municipality for the purposes provided
3-64 by Section 351.101(a)(3) [may not be less than 23 percent], except
3-65 that the allocation is subject to and may not impair the authority
3-66 of the municipality to:

3-67 (1) pledge all or any portion of that tax revenue to
3-68 the payment of bonds as provided by Section 351.102(a) or bonds
3-69 issued to refund bonds secured by that pledge; or

4-1 (2) spend all or any portion of that tax revenue for
 4-2 the payment of operation and maintenance expenses of convention
 4-3 center facilities.

4-4 (c) Not more than 15 percent of the hotel occupancy tax
 4-5 revenue collected by a municipality, other than a municipality
 4-6 having a population of more than 1.6 million, or the amount of tax
 4-7 received by the municipality at the rate of one percent of the cost
 4-8 of a room, whichever is greater, may be used for the purposes
 4-9 provided by Section 351.101(a)(4). Not more than 19.30 percent of
 4-10 the hotel occupancy tax revenue collected by a municipality having
 4-11 a population of more than 1.6 million, or the amount of tax received
 4-12 by the municipality at the rate of one percent of the cost of a room,
 4-13 whichever is greater, may be used for the purposes provided by
 4-14 Section 351.101(a)(4). Not more than 15 percent of the hotel
 4-15 occupancy tax revenue collected by a municipality [~~having a~~
 4-16 ~~population of more than 125,000~~] may be used for the purposes
 4-17 provided by Section 351.101(a)(5). A municipality that before
 4-18 January 1, 2023, adopted in accordance with state law an ordinance
 4-19 providing for the allocation of an amount in excess of 15 percent of
 4-20 the hotel occupancy tax revenue collected by the municipality for
 4-21 one or more of the specific purposes provided by Section
 4-22 351.101(a)(5) may allocate tax revenue as provided by that
 4-23 ordinance until the ordinance is repealed or expires or until the
 4-24 revenue is no longer used for those specific purposes.

4-25 SECTION 6. Section 351.110(c), Tax Code, is amended to read
 4-26 as follows:

4-27 (c) This section does not authorize the use of revenue
 4-28 derived from the tax imposed under this chapter for a
 4-29 transportation system that serves the general public other than for
 4-30 a system [~~that transports tourists as~~] described by Subsection (a)
 4-31 that is primarily used by tourists.

4-32 SECTION 7. Subchapter C, Chapter 351, Tax Code, is amended
 4-33 by adding Sections 351.161, 351.162, and 351.163 to read as
 4-34 follows:

4-35 Sec. 351.161. APPLICATION OF OTHER LAW. This subchapter
 4-36 may not be construed as authorizing the taking of private property
 4-37 for economic development purposes in a manner inconsistent with the
 4-38 requirements of Section 17, Article I, Texas Constitution, or
 4-39 Section 2206.001, Government Code.

4-40 Sec. 351.162. RECAPTURE OF LOST STATE TAX REVENUE FROM
 4-41 CERTAIN MUNICIPALITIES. (a) This section:

4-42 (1) applies only to a qualified project that is first
 4-43 commenced on or after:

4-44 (A) January 1, 2024, unless Paragraph (B) applies
 4-45 to the qualified project; or

4-46 (B) January 1, 2027, if the qualified project was
 4-47 authorized before January 1, 2023, by a municipality with a
 4-48 population of 175,000 or more; and

4-49 (2) notwithstanding Subdivision (1), does not apply to
 4-50 a qualified project that is the subject of an economic development
 4-51 agreement authorized by Chapter 380, Local Government Code, entered
 4-52 into on or before January 1, 2022.

4-53 (b) On the 20th anniversary of the date a hotel designated
 4-54 as a qualified hotel by a municipality as part of a qualified
 4-55 project to which this section applies is open for initial
 4-56 occupancy, the comptroller shall determine:

4-57 (1) the total amount of state tax revenue received
 4-58 under Section 351.156 and, if applicable, under Section 351.157 by
 4-59 the municipality from the qualified project during the period for
 4-60 which the municipality was entitled to receive that revenue; and

4-61 (2) the total amount of state tax revenue described by
 4-62 Subdivision (1) received by the state during the period beginning
 4-63 on the 10th anniversary of the date the qualified hotel opened for
 4-64 initial occupancy and ending on the 20th anniversary of that date
 4-65 from the same sources from which the municipality received the
 4-66 revenue described by Subdivision (1).

4-67 (c) If the amount determined under Subsection (b)(1)
 4-68 exceeds the amount determined under Subsection (b)(2), the
 4-69 comptroller shall promptly provide written notice to the

5-1 municipality stating that the municipality must remit to the
 5-2 comptroller the difference between those two amounts in the manner
 5-3 provided by this subsection. The municipality shall, using money
 5-4 lawfully available to the municipality for the purpose, remit
 5-5 monthly payments to the comptroller in an amount equal to the total
 5-6 amount of municipal hotel occupancy tax revenue received by the
 5-7 municipality from the qualified hotel in the preceding month until
 5-8 the amount remitted to the comptroller equals the total amount due
 5-9 as stated in the notice. The first payment required under this
 5-10 subsection must be made not later than the 30th day after the date
 5-11 the municipality receives the notice from the comptroller.
 5-12 Subsequent payments are due on the 20th day of each month until the
 5-13 total amount stated in the notice is paid. The comptroller shall
 5-14 prescribe the procedure a municipality must use to remit a payment
 5-15 required by this subsection to the comptroller.

5-16 (d) The comptroller shall deposit revenue received under
 5-17 this section in the manner prescribed by Section 156.251.

5-18 Sec. 351.163. REPORT ON QUALIFIED PROJECTS. (a) Not later
 5-19 than December 1 of each even-numbered year, the comptroller shall
 5-20 prepare a report on the status of each qualified project.

5-21 (b) The report must include, for each qualified project:

5-22 (1) the location and a description of the project,
 5-23 including the current status of the project;

5-24 (2) the number of qualified hotels and qualified
 5-25 convention center facilities associated with the project;

5-26 (3) the total amount of tax revenue received by a
 5-27 municipality under Section 351.156 and, if applicable, Section
 5-28 351.157 as a result of the project;

5-29 (4) the amount of state tax revenue generated by the
 5-30 project that has been received by the state after the period of
 5-31 entitlement for the project as prescribed by Section 351.158 has
 5-32 ended; and

5-33 (5) whether the municipality is required to remit
 5-34 payments to the comptroller under Section 351.162 as a result of the
 5-35 project.

5-36 (c) The comptroller may include in the report any additional
 5-37 information the comptroller determines is necessary to evaluate the
 5-38 effect of each qualified project on the economy of this state.

5-39 (d) The comptroller shall:

5-40 (1) post a copy of the report on the comptroller's
 5-41 Internet website; and

5-42 (2) provide a copy of the report to the lieutenant
 5-43 governor, the speaker of the house of representatives, and each
 5-44 other member of the legislature.

5-45 SECTION 8. Section 352.009, Tax Code, is amended to read as
 5-46 follows:

5-47 Sec. 352.009. ANNUAL REPORT TO COMPTROLLER. (a) Not
 5-48 later than March 1 [~~February 20~~] of each year, a county that imposes
 5-49 the tax authorized by this chapter shall report to the comptroller:

5-50 (1) the rate of:

5-51 (A) the tax imposed by the county under this
 5-52 chapter; and

5-53 (B) if applicable, the tax imposed by the county
 5-54 under Subchapter H, Chapter 334, Local Government Code; ~~and~~

5-55 (2) the amount of revenue collected during the
 5-56 county's preceding fiscal year from:

5-57 (A) the tax imposed by the county under this
 5-58 chapter; and

5-59 (B) if applicable, the tax imposed by the county
 5-60 under Subchapter H, Chapter 334, Local Government Code;

5-61 (3) the amount and percentage of the revenue described
 5-62 by Subdivision (2)(A) allocated by the county to each use
 5-63 authorized by this chapter for which the county used the revenue
 5-64 during the county's preceding fiscal year, stated separately as an
 5-65 amount and percentage for each applicable use; and

5-66 (4) the total amount of any revenue described by
 5-67 Subdivision (2)(A) collected in any preceding fiscal year of the
 5-68 county that has not yet been spent by the county and the amount of
 5-69 that unexpended revenue, if any, that remains in the county's

6-1 possession in the fiscal year in which the report is due.

6-2 (b) The county must make the report required by this section
6-3 by[+]

6-4 [~~(1)~~] submitting the report to the comptroller on a
6-5 form prescribed by the comptroller[~~, or~~

6-6 [~~(2)~~ providing the comptroller a direct link to, or a
6-7 clear statement describing the location of, the information
6-8 required to be reported that is posted on the Internet website of
6-9 the county].

6-10 (c) The [~~Subject to Subsection (b)(2), the~~] comptroller
6-11 shall prescribe the form a county must use for the report required
6-12 to be submitted under this section.

6-13 (d) A county that is required to make a report to the
6-14 comptroller under this section may use a portion of the revenue
6-15 described by Subsection (a)(2)(A) for the costs incurred by the
6-16 county in making and submitting the report. The amount of revenue a
6-17 county may use each year for the purpose authorized by this
6-18 subsection may not exceed:

6-19 (1) \$1,000 if the county has a population of less than
6-20 10,000; or

6-21 (2) \$2,500 if the county has a population of 10,000 or
6-22 more.

6-23 (e) The comptroller may adopt rules necessary to administer
6-24 this section.

6-25 SECTION 9. The following provisions of the Tax Code are
6-26 repealed:

6-27 (1) Sections 351.103(d) and (e); and

6-28 (2) Section 351.110(b).

6-29 SECTION 10. The comptroller of public accounts shall
6-30 prescribe the form of the report required under Sections 351.009
6-31 and 352.009, Tax Code, as amended by this Act, not later than
6-32 January 1, 2024. A municipality or county required to make a report
6-33 under those sections must submit the 2024 report using the form
6-34 prescribed by the comptroller under this section.

6-35 SECTION 11. This Act takes effect immediately if it
6-36 receives a vote of two-thirds of all the members elected to each
6-37 house, as provided by Section 39, Article III, Texas Constitution.
6-38 If this Act does not receive the vote necessary for immediate
6-39 effect, this Act takes effect September 1, 2023.

6-40 * * * * *