



Travis County Commissioners Court Agenda Request

Meeting Date: 1/20/2011, 1:30 PM, Work Session
Prepared By: Yolanda Reyes, Planning and Budget Office, 854-9106
Elected/Appointed Official/Dept. Head: Rodney Rhoades, Executive Manager
Sponsors: Judge Biscoe

AGENDA LANGUAGE:

Receive Update on Hotel/Motel and Rental Car Taxes

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

Please see attached documentation.

STAFF RECOMMENDATIONS:

ISSUES AND OPPORTUNITIES:

Please see attached documentation.

FISCAL IMPACT AND SOURCE OF FUNDING:

Please see attached documentation.

REQUIRED AUTHORIZATIONS:

Planning and Budget Office	Rodney Rhoades	Pending
Planning and Budget Office		Pending
County Judge's Office	Cheryl Aker	Pending
Commissioners Court	Cheryl Aker	Pending

PLANNING AND BUDGET OFFICE
TRAVIS COUNTY, TEXAS



314 W. 11th Street
P.O. Box 1748
Austin, Texas 78767

TO: Commissioners Court
FROM: Leroy W. Nellis, Budget Director
DATE: January 11, 2011
SUBJECT: Summary of Hotel/Motel and Rental Car Taxes

The Planning & Budget Office was requested in 2003 by Commissioner Davis to research Hotel/Motel and Short-Term Car Rental Taxes. Attached are the results of that research plus more current research conducted on the subject. Below is an abbreviated summary of the related facts:

1. Maximum tax to be charged is 2% within the Austin city limits and possibly up to 7% outside the boundaries of Austin and other city limits. Further research will be need to be completed to determine the exact maximum limits in each of the various jurisdictions in Travis County.
2. Chapter 334 of the Local Government Code authorizes the imposition of venue taxes for authorized venue projects provided the tax is approved at an election.
3. Bexar County utilized a citizens' advisory committee to recommend projects for funding. Bexar County's citizens advisory process took approximately one year from inception to holding the election.
4. Most counties utilize a consultant to assist with the process and filing the required information with the Comptroller and rapid transit authority.
5. PBO requests direction from Commissioners Court on how to proceed. Rodney and I are available to answer any questions.

xc: Rodney Rhoades
Budget

PLANNING AND BUDGET OFFICE
TRAVIS COUNTY, TEXAS



314 W. 11th Street
P.O. Box 1748
Austin, Texas 78767

MEMORANDUM

TO: Commissioners Court

FROM: Leroy W. Nellis, Budget Director

DATE: January 11, 2011

SUBJECT: Hotel/Motel and Short-Term Car Rental Taxes

PBO has been asked by several members of Commissioners Court to research various aspects and requirements of a Hotel/Motel and Short Term Car Rental Tax in Travis County. As back ground information, I have attached the previous correspondence on the subject:

1. Rodney Rhoades' memo dated November 3, 2010 which explains the general provisions of a Hotel/Motel and Short Term Car Rental Tax.
2. Hotel Occupancy Tax analysis provided by the County Attorney's Office.
3. My memo dated March 31, 2003 (with update) provided to Commissioner Davis.
4. John Hille, Jr. memo to Commissioner Davis dated November 12, 2002 which explains more fully some of the comments in the analysis (#2) above and concludes that "Travis County is not currently able to apply a Hotel/Motel Tax under Chapter 352 of the Tax Code." However, Chapter 334 of the Local Government Code authorizes counties to charge a Hotel/Motel Tax provided the tax is approved in a county wide election and the Comptroller determines that the implementation of the tax will not have a significant negative fiscal impact on State Revenue and the Rapid Transit Authority determines that the implementation will not have a significant negative impact on the Authority's ability to provide service and will not impair any existing contracts.

Based upon our research including conversations with Bexar and Harris Counties, PBO recommends that if the Commissioners Court desires to pursue a Hotel/Motel and Short Term Car Rental tax, a consultant who specializes in setting up these taxes be hired to assist with the process. Bexar County is researching what their consultant cost for the most recent election.

The following is a list of actions required by Commissioners Court to proceed with considering a Hotel/Motel and Short Term Car Rental Tax:

1. Vote to proceed and hire a consultant.
2. Obtain Comptroller and Rapid Transit Authority determinations required by law.
3. Determine whether a citizen's advisory group would be appointed to make recommendations on projects and help promote support for the tax in the community. Bexar County (description attached) appointed a citizen's advisory committee in June '07 and had an election in May '08.
4. Determine amount of tax up to a maximum of 2% in the city of Austin and significantly more in the unincorporated areas of Travis County. Rodney recommended in his memo to Court dated November 3, 2010 a 5% Short Term Car Rental Tax and a Hotel/Motel Tax not to exceed 1.75%.
5. Determine final list of projects to be funded by tax revenue and method of financing.
6. Set the date for the election.

PBO will be glad to coordinate this effort if the Commissioners Court desires to further pursue the Hotel/Motel and Short Term Car Rental Tax.



Leroy Nellis
Budget Director

Xc: Rodney Rhoades
Budget

Rodney Rhoades - Hotel/Motel and Short Term Car Rental Tax Project

From: Rodney Rhoades
To: Biscoe, Sam; Davis, Ron; Eckhardt, Sarah; Gomez, Margaret; Huber, Karen
Subject: Hotel/Motel and Short Term Car Rental Tax Project
CC: Chavez, Feli; Connolly, Jim; Eckstein, Deece; Einhorn, Peter; Hille,...

Leroy and I have been working on a project related to Hotel/Motel and Short Term Car Rental tax. I wanted to share with you what we have found and give you some general information on the tax(s) and what we have done to date. So far, we have been coordinating with the CA on legal issues and have met with Bexar County on what they have done with their tax. We still have a lot of "vetting" to do in terms of coordination with others such as the Auditor. In addition, we are trying to determine whether we can use funds for on-going expenses such as law enforcement, maintenance or other support functions related to the venue, etc. I have spoken to some of you about this potential source of funding but wanted to give you an idea of the work that still needs to be done before we roll this out. This "user tax" may be an opportunity to fund some needed projects without impacting the tax rate for property owners.

General Info:

Maximum amount to be charged is 2% by using the LGC 334. Based on the 2010 estimate, the City of Austin will collect \$39.5 million. As a frame of reference, Bexar County charges 1.75% for a total tax of 16.75% which is the second highest in the state behind Harris County at 17%.

I would not suggest going higher than a rate of 1.75% should you determine that this is a project worth pursuing. Here is how the tax is currently broken down in the Travis County area: 6% State, 9% City of Austin. The City of Austin currently charges 9% based on a pledge related to the City's Convention Center/Waller Creek Venue projects approved in 1999. If the voters adopted a rate of 1.75% for Travis County, we would be at 16.75% or a rate equal to Bexar County.

In addition, we could also impose a Short Term Car Rental Tax of 5%.

Bexar County estimated 2010 collections for Hot/Mot taxes at \$11.6 million and motor vehicle taxes at \$5.8 million. These revenues as well as other fees paid debt service on such projects as River Walk improvements, parks improvements, a swim center and other infrastructure projects. Prior to these projects, they used funds to pay for part of the development in and around the AT&T Center.

Here are some excerpts from the LGC as well as other material that we have found:

Chapters 334 of the Local Government Code authorize the imposition of venue taxes for authorized venue projects. The permissible venue taxes include; a sales and use tax, short-term motor vehicle rental tax, admissions tax, parking tax, facility use tax, and hotel occupancy tax. The sports venue taxes would have to be approved by the voters at an

election called and held for that purpose. A county, with voter approval, could authorize a hotel occupancy tax rate not to exceed two percent (2%). We must provide the comptroller with a fiscal impact analysis and the Court must pass a resolution on the projects etc. prior to going to the voters. The ballot proposition must specify the maximum rate of the hotel occupancy tax rate to be adopted as well as the amount for the Short Term Car Rental. In addition, we must also specify the projects and estimated cost for each.

"Related infrastructure" includes any store, restaurant, on-site hotel, concession, automobile parking facility, area transportation facility, road, street, water or sewer facility, park, or other on-site or off-site improvement that relates to and enhances the use, value, or appeal of a venue, including areas adjacent to the venue, and any other expenditure reasonably necessary to construct, improve, renovate, or expand a venue, including an expenditure for environmental remediation. (4) "Venue" means: (A) an arena, coliseum, stadium, or other type of area or facility: (i) that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including rodeos, livestock shows, agricultural expositions, promotional events, and other civic or charitable events; and (ii) for which a fee for admission to the events is charged or is planned to be charged; (B) a convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, auditorium, theater, opera house, music hall, exhibition hall, rehearsal hall, park, zoological park, museum, aquarium, or plaza located in the vicinity of a convention center or facility owned by a municipality or a county; (C) a tourist development area along an inland waterway; (D) a municipal parks and recreation system, or improvements or additions to a parks and recreation system, or an area or facility that is part of a municipal parks and recreation system; (E) a project authorized by Section 4A or 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as that Act existed on September 1, 1997; and (F) a watershed protection and preservation project; a recharge, recharge area, or recharge feature protection project; a conservation easement; or an open-space preservation program intended to protect water.

Leroy and I have been brainstorming on potential uses of such funds. We believe that this may provide an opportunity to fund some nice development projects which could include, improvements to the Expo Center, improvements to parks around Lake Travis which may provide a venue for annual events, parking for events in or around our central campus area related to Wooldridge Park or the HMS as it relates to the master plan efforts, infrastructure improvements on roadways leading into or supporting venue projects etc... Obviously we still need to fully develop a list of projects based on affordability and priorities of the Court.

I hope you think this idea is worth exploring further. If so, please let me know if there are specific questions you might have. We will continue to work with various departments and others outside the County but I wanted to let you know what we have done to date. If you do not think this is an idea worth pursuing, please let me know.

Thanks,

Rodney

Hotel Occupancy Tax

	Chapter 352 Tax Code			Chapter 334 Local Government Code	
	§§	Provision		§§	Provision
Applicability	352.002	Travis County is not currently able to apply this tax.	Applicability	334.002	Questioned, but most likely Travis County can use this tax. See Greb Abbot, Attorney General of Texas, "Economic Development Handbook 2008" 73 (2008).
Uses	N/A	None described	Uses	334.2515	This chapter does not apply to a municipal parks and recreation system (334.001(4)(D)), a project authorized by Section 4A or 4B, Development Corporation Act of 1979 (334.001(4)(E)), and a watershed protection and preservation project (334.001(4)(F)); except if it means an arena, coliseum, stadium, or other type of area or facility that is used for or planned for one or more professional or amateur sports events, community events, or other sports events and a fee for admission is charged or planned to be charged (334.001(4)(A)).
Taxed Entity	352.002(a) 352.002(b) 352.002(c)	On a person who uses/pays for a room in a hotel that costs \$2 or more each day and is ordinarily used for sleeping. The price of the room does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room. Does not apply to a person who is a permanent resident.	Taxed Entity	334.252(a)	On a person who uses/pays for a room in a hotel that costs \$2 or more each day and is ordinarily used for sleeping.
Tax Imposition	N/A	None described	Tax Imposition	334.252(b)	(1) only if an approved venue project is or is planned to be located in the county; AND (2) the tax is approved at an election held under 334.024.

Hotel Occupancy Tax

Election	N/A	None described	Election	334.024(a) 334.024(b) 334.252(e)	First, there must be a determination by the comptroller that the implementation will not have a significant negative fiscal impact on state revenue, and, if applicable, the rapid transi authority determines that the implementation will not have a significant negative impact on the authority's ability to provide service and will not impair any existing contracts. (1) Must allow the voters to vote <u>separately on each venue project</u> ; (2) designate the venue project; (3) designate each method of financing the county wants to use to finance the project and the maximum rate of each method; AND (4) allow the voters to <u>vote on each method of financing that the county wants to use to finance the project and the maximum rate of each method</u> . The Election Code governs the election
Applicable Taxing Code	N/A	None described	Applicable Taxing Code	334.253	The Tax Code, Sections 351-352. This tax is in addition to a tax imposed under Chapter 351 or 352, Tax Code.
Tax Rate	352.003(a)	Any rate <u>not to exceed seven percent</u> of the price paid for a room.	Tax Rate	334.254	Any rate <u>not to exceed two percent</u> of the price paid for a room in a hotel
Rate Increase	N/A	None described	Rate Increase	334.225	If a county has adopted a HOT tax at a rate less than two percent, then the county may increase the rate not to exceed two percent if the increase is approved by a majority of the registered voters.
Tax Collection; Penalty	352.004(a) 352.004(b)	Owner or operator shall report and send the taxes collected to the county. Owner shall pay a penalty of five percent of the amount of the tax due if fails to report the tax and an additional penalty of five percent of the amount of the tax due if the owner fails to report of pay the tax before the 31st day after the date that the report or tax payment was due.	Tax Collection; Penalty	N/A	None described

Hotel Occupancy Tax

Exemption			Exemption	N/A	None described
	352.007(a)	A United States governmental entity is exempt from the payment of this tax.			
	352.007(b)	A state governmental entity shall pay the tax imposed under Section 156.103(b), but is entitled to a refund of the tax paid.			
	352.007(c)	A state officer or employee of a state governmental entity, other than an institution of higher education, for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act applies and who is provided with photo identification verifying the identity and exempt status of the person (156.103(d)) is exempt from the payment of the tax.			
	352.007(d)	A state officer or employee of a state governmental entity, other than an institution of higher education, who is entitled to reimbursement for the cost of lodging and for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act is not applicable (156.103(c)) shall pay the tax imposed, but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.			

DUPLICATE

To: Commissioner Ron Davis
From: Leroy W. Nellis
Subject: Hotel-Motel Tax
Date: 31 March 2003



Per your request, I have contacted Harris County concerning their Hotel Tax. Mike Austin (713-755-8171) of Harris County has indicated that Harris County has a hotel tax of 7% on all hotels outside the city limits of Houston and 2% on every hotel in the city limits of Houston. Additionally, the city of Houston has a 7% hotel tax inside the city. Mike indicated that the statute Harris County utilizes prohibits the proceeds from their Hotel Tax being used for General Government Expenditures.

Furthermore, the City of Austin Hotel-Motel Occupancy Tax Report for the 2002 fiscal year indicates that the City of Austin received \$24,759,397 in hotel tax from a 9% hotel tax. You asked what Travis County would receive from a 2% Hotel Tax in the City of Austin. If Travis County were allowed to charge a 2% Hotel Tax inside the city limits of Austin, it would yield approximately 2/9 of \$24,759,397 or \$5,502,088. I have contacted the State Comptroller's Office to see if there is a way to determine the amount of revenue from hotels outside the city of Austin and in Travis County. Unfortunately there is no way to determine that revenue without reviewing every hotel address in every city in the metropolitan area to determine whether or not the hotel is within the city limits.

I hope this information is helpful.

Xc: Christian Smith
Commissioners Court

Commissioner Davis,

Per your request, I am updating my memo to you dated 31 March 2003 concerning Hotel-Motel Tax. As previously reported, I contacted Mike Austin(713-755-8171) of Harris County and he indicated that Harris County has a hotel tax of 7% on all hotels outside the Houston city limits and 2% on every hotel in the Houston city limits. Additionally, the city of Houston has a 7% hotel tax inside the city. Mike indicated that the statute Harris County utilizes prohibits the proceeds from their Hotel Tax being used for General Government Expenditures.

The City of Austin's 2003 Fiscal Year CAFR indicates the City of Austin received \$25,508,000 in hotel tax from a 9% hotel tax. If Travis County were allowed to collect a 2% Hotel Tax within the city limits of Austin, it would yield approximately \$5.6 million per year. This number is an estimate since some of the hotels in the city of Austin are in Williamson County and wouldn't be included in any Travis County Hotel Tax. According to the State Comptroller's Office, there is no way to determine the revenue from hotels outside the city limits of Austin without reviewing every hotel address in every city in the metropolitan area.

I hope this update is helpful.



KEN ODEN
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November 12, 2002

Honorable Ron Davis
Commissioner, Precinct One
P.O. Box 1748
Austin, Texas 78767

COMMISSIONER'S OFFICE
TRAVIS COUNTY
2002 NOV 18 AM 9:55

RE: Hotel Tax [Opinion];
File No. 189.37

Dear Commissioner Davis:

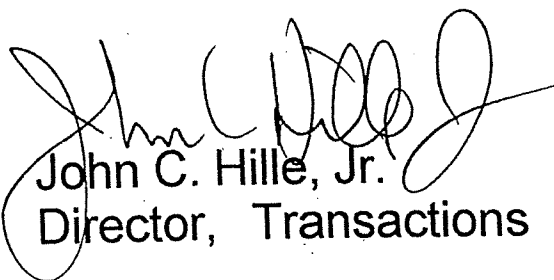
A file has been opened in our office regarding the above referenced matter. It has been given the above file number and will be handled by me. Please feel free to contact me at any time if you have any questions about the progress or status of this matter.

It will help us if you will refer to our file number in any

60150-1 189.037

communication with us about this matter.

Sincerely,



John C. Hille, Jr.
Director, Transactions

Division

JCH:clt

From: John Hille
To: Ron Davis
Date: Fri, Nov 15, 2002 3:11 PM
Subject: Bed Tax

I have continued to review this tax. Another section from the Local Government Code you will need in analyzing this tax is below:

§ 334.253. Tax Code Applicable

(a) > Sections 351.002(c), > 351.004, > 351.0041, > 351.005, and > 351.006, Tax Code, govern the imposition, computation, administration, collection, and remittance of a municipal tax authorized under this subchapter except as inconsistent with this subchapter.

(b) > Sections 352.002(c), > 352.004, > 352.0041, > 352.005, and > 352.007, Tax Code, govern the imposition, computation, administration, collection, and remittance of a county tax authorized under this subchapter except as inconsistent with this subchapter.

(c) The tax imposed by this subchapter is

in addition to a tax imposed under Chapter 351 or 352, Tax Code.

I am concerned that subsection b above, limits our use of the tax. It references the Tax Code section below:

§ 352.002. Tax Authorized

(a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping:

(1) a county that has a population of more than 3.3 million;

(2) a county that has a population of 90,000 or more, borders the Republic of Mexico, and does not have three or more cities that each have a population of more than 17,500;

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(3) a county in which there is no municipality;

(4) a county in which there is located an Indian reservation under the jurisdiction of the United States government;

(5) a county that has a population of 17,500 or less, that has no more than one municipality with a population of less than 2,500, and that borders two counties located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(6) a county that borders the Gulf of Mexico;

(7) a county that has a population of less than 5,000, that borders the Republic of Mexico, and in which there is located a major observatory;

(8) a county that has a population of 12,000 or less and borders the Toledo Bend Reservoir;

(9) a county that has a population of less than 12,000 and an area of less than 275 square miles;

(10) a county that has a population of 30,000 or less and borders Possum Kingdom Lake;

(11) a county that borders the Republic of Mexico and has a population of more than 300,000 and less than 600,000;

(12) a county that has a population of 35,000 or more and borders or contains a portion of Lake Fork Reservoir;

(13) a county that borders the Republic of Mexico and in which there is located a national recreation area;

(14) a county that borders the Republic of Mexico and in which there is located a national park of more than 400,000 acres;

(15) a county that has a population of 28,000 or less, that has no more than four municipalities, and that is located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and

(16) a county that has a population of 25,000 or less, whose territory is less than 750 square miles, and that has two incorporated municipalities, each with a population of 800 or less, located on the Frio River.

(b) The price of a room in a hotel does not include the cost of food served by the hotel

and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

(c) The tax does not apply to a person who is a permanent resident under Section 156.101 of this code.

(d) The tax imposed by a county authorized by Subsection (a)(4), (6), (8), (10), (11), or (12) to impose the tax does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel. This subsection does not apply to a county authorized by Subsection (a)(6) to impose the tax that:

(1) has a population of less than 40,000 and adjoins the most populous county in this state; or

(2) has a population of more than 200,000 and borders the Neches River.

I do not think Travis County fits any of the sections listed in subsection (a). Perhaps we should raise this issue with our County

Legislative Consultant when he comes for the November 19th Comm. Ct. meeting. He could suggest a bill which would remedy this problem.

CC: Chris Fanuel