

- SUBJECT:** Establishing the Texas music incubator rebate program
- COMMITTEE:** Culture, Recreation and Tourism — favorable, without amendment
- VOTE:** 7 ayes — K. King, Gervin-Hawkins, Burns, Clardy, Israel, Krause, Martinez
- 0 nays
- 2 absent — Frullo, C. Morales
- WITNESSES:** For — Joe Ables, Saxon Pub; (*Registered, but did not testify:* Nicole Kralj and Claudia Russell, Music Venue Alliance of Austin; Aaron Lack, The Austin Federation of Musicians Local 433)
- Against — (*Registered, but did not testify:* Anna Alkire; Beth Maynard; Ruth York)
- BACKGROUND:** Government Code ch. 485, subch. F establishes the Music, Film, Television, and Multimedia Office in the Office of the Governor to promote the development of the music industry in the state by informing members of that industry and the public about the resources available in the state for music production.
- Interested parties have noted that many music venues, dance halls, and festivals have shut down or left Texas as a result of increasing costs and the consequences of the COVID-19 pandemic. Some have called for the state to establish a mixed beverage tax rebate program to provide financial relief that could help preserve these important cultural institutions for present and future generations of Texans.
- DIGEST:** HB 1632 would establish the Texas Music Incubator Rebate Program, create a dedicated account for the program in the state general revenue fund, and establish eligibility requirements for participation.

**Program administration and purpose.** The bill would require the

Music, Film, Television, and Multimedia Office to establish the program by September 1, 2022, administer the program, and adopt necessary rules.

The program would provide eligible music venues and eligible music festival promoters a full or partial rebate of the mixed beverage gross receipts taxes and sales tax receipts from the sale of beer and wine remitted to the comptroller annually by those venues and promoters. The money would be appropriated from a dedicated account created for the program called the Texas music incubator account. The account would be funded by mixed beverage gross receipts and sales tax receipts. Rebates would be used to assist eligible music venues and music festival promoters to support and continue to bring to local communities in the state live musical performances, including the recruitment of musical performance artists.

Under the program, the office could not provide a rebate to a music venue or music festival promoter in an amount that exceeded the lesser of \$100,000 or the amount of mixed beverage gross receipts taxes and sales taxes from the sale of beer and wine remitted in the preceding year to the comptroller by the music venue or music festival promoter as a permittee or permit holder.

**Eligibility for rebate.** To qualify for a rebate, a music venue or music festival promoter, for at least the two years preceding the date on which the music venue or promoter submitted a rebate application, must have:

- been a permittee subject to the mixed beverage gross receipts tax or a permit holder subject to the sales tax on the sale of beer or wine;
- been a retail establishment with a dedicated audience capacity of not more than 3,000 persons if the applicant was a music venue;
- held a music festival in a county with a population of less than 100,000 if the applicant was a music festival promoter;
- entered into a written contract with a musical performance artist to conduct a live performance at the venue or festival, as applicable, under which the artist received as compensation a specified percentage of ticket sales for or other sales during the performance,

- or a guaranteed amount in advance of the performance; and
- met certain criteria specified in the bill, including the marketing of live music performances through listings in printed and electronic publications and providing live music performances five or more nights per week.

The office could, at its discretion, provide a rebate under the program to a music venue or music festival promotor that failed to meet the eligibility requirements defined by the bill solely because the venue was located, or the music festival held, as applicable, in a county located wholly or partially in an area that at any time during the preceding two-year period was declared to be a disaster area by the governor or by the president of the United States.

**Applications.** The office would be required to prescribe the application form for obtaining a rebate under the program and establish an online portal on the office's public website for a music venue or music festival promotor to submit the application. The application would have to:

- state the amount of mixed beverage gross receipts tax and sales tax receipts attributable to the sale of beer and wine the venue or festival had remitted to the comptroller in the preceding fiscal year;
- include sufficient evidence for the office to determine that the music venue or promotor qualified for the rebate; and
- include any other information the office determined necessary to administer the rebate program.

Rebate applications would have to be accepted by the office beginning September 1 of each year and the office could provide rebates until the money in the Texas music incubator account was exhausted. Applications submitted by music venues or festivals located or held in a county that in the preceding two-year period had been declared a disaster area could be given expedited review by the office.

**Rebates.** After reviewing applications for the program, the office would be required to grant rebates to eligible music venues and festival

promoters the office determined provided the most economic benefit to their communities, and to the Texas music industry, including live music performers. The comptroller, as directed by the office, would be required to issue a warrant for a rebate drawn on the Texas music incubator account.

**Account and source of funds.** The Texas music incubator account would be a dedicated account in the general revenue fund. The account would be composed of:

- money deposited to the credit of the account from the state sales and use tax and mixed beverage tax;
- gifts, grants, and other money received by the office for the program; and
- other amounts deposited to the credit of the account.

Money in the account could be used by the office only to pay rebates to music venues and certain festival promoters participating in the program. Interest and other earnings from money in the account would have to be credited to the account. Any money that remained unobligated or unspent on the last day of each state fiscal biennium would have to be transferred by the comptroller to the general revenue fund to be used in accordance with legislative appropriation.

Among other provisions, the bill would amend the Tax Code to require the comptroller to deposit to the credit of the Texas music incubator account each fiscal year \$100,000 of the revenue received from the state sales and use tax and \$10 million of the revenue received from the mixed beverage gross receipts tax.

The Music, Film, Television, and Multimedia Office would be required to begin accepting rebate applications beginning September 1, 2022.

The bill would take effect September 1, 2021.

NOTES: According to the Legislative Budget Board, the bill would have an

estimated negative impact of \$20.2 million to general revenue through fiscal 2023. A contingency rider for \$20 million for the Texas Music Incubator Program was included for consideration in Art. 11 of SB 1 by Nelson (Bonnen), the general appropriations act for fiscal 2022-23.