

SUBJECT: Revising the calculation and collection of hotel occupancy tax

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 11 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Rodriguez, Sanford, Shine

0 nays

WITNESSES: For — Justin Bragiel, Texas Hotel & Lodging Association; (*Registered, but did not testify*: Clifford Sparks, City of Dallas; Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Amanda Schar, Harris County Houston Sports Authority)

Against — Amber Knott, Expedia Group; James Hines, Internet Association; Stephen Shur, Travel Technology Association; (*Registered, but did not testify*: Anne ORyan, AAA Texas; Joshua Sanders, American Society of Travel Advisors; Jay Brown, Expedia Group, Inc.)

On — Karey Barton, Comptroller of Public Accounts; (*Registered, but did not testify*: Tom Currah, Comptroller of Public Accounts)

BACKGROUND: Tax Code sec. 156.051 imposes a hotel occupancy tax on a person who pays for the use or possession of a room or space in a hotel costing \$15 or more each day. The price of a 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 for use or possession.

Under sec. 156.053, a person owning, operating, managing, or controlling a hotel must collect and remit to the state the hotel occupancy tax.

Some have suggested clarifying the rights and duties of individuals who are or who engage with a third party that is not a hotel to reserve a room or space in a hotel with regard to hotel occupancy tax calculation, collection, and remittance.

DIGEST: CSHB 2889 would revise the calculation of the state hotel occupancy tax and require certain persons who collected payment for a hotel room or space, but who were not the hotel, to collect and remit the tax.

The bill would specify that the price subject to the hotel occupancy tax would be the price of a room or space, including all charges related to the use or possession of the room or space. This would include charges for cleaning and readying the room or space, furniture rental charges, and charges for reserving or booking the room or space. The bill would specify that the price of the room or space would not include charges for food or personal or telecommunications services if those charges were separately itemized.

If the person who owned, operated, managed, or controlled the hotel was not the person who collected payments for a room or space in the hotel, the person who collected the payments would have to:

- collect the state hotel occupancy tax; and
- certify to the person who owned, operated, managed, or controlled the hotel that the tax had been collected and would be paid to the comptroller.

A person who owned, operated, managed, or controlled the hotel and who accepted in good faith the certification could exclude the amount of taxes certified as collected from their tax report.

The person who collected the payment for a hotel room or space on behalf of the person who owned, operated, managed, or controlled the hotel could request a waiver of the requirement to collect the hotel occupancy tax by submitting a written request to the comptroller explaining the reasoning for the request. The comptroller could grant, conditionally grant, or deny such a request, and the decision of the comptroller would be final and not appealable.

The bill would allow the comptroller by rule to provide that a person who

secured a room or space in a hotel for another person and who collected payment was not required to collect the tax if the annual gross receipts the person and any affiliated group of which the person was a member received for securing the rooms and spaces was \$250,000 or less.

The bill would take effect October 1, 2021, and would not affect tax liability accruing before that date.

NOTES: According to the fiscal note, the bill would have a positive impact of \$67 million in general revenue in fiscal 2022-23.