

## **BILL ANALYSIS**

Senate Research Center  
79R5561 CBH-F

H.B. 352  
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Intergovernmental Relations  
5/3/2005  
Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Under current law, cities are authorized to assess and impose a hotel occupancy tax. The revenues derived from this tax are used to finance many important tourism development projects within a municipality. Hotel owners are to collect the occupancy tax, file a quarterly report with the city, and submit their payment to the city.

Occasionally, hotel owners fail to file their occupancy taxes. When this occurs, a city will make several attempts to collect. Eventually, if the hotel owner refuses to pay, the city is forced to take legal action. In 2003, the city of Fort Worth took collection action against twelve hotels for more than \$216,000 in delinquent taxes.

Unfortunately, because the hotel has failed to disclose its financial information, the city has no real admissible evidence of the amount due. The city's only tool is to conduct an audit (at its own expense) which is often lengthy, costly, and sometimes controversial. This approach greatly lengthens the amount of time spent in court and in the discovery process.

H.B. 352 authorizes a city to hold a hotel operator who has failed to pay his/her taxes liable for the cost of an audit. H.B. 352 also authorizes municipalities to use previous years' tax filings to determine the amount due and authorizes a court to consider previous years' filings as prima facie evidence of the amount due.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 351.004, Tax Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3), as follows:

(a) Provides that a person who is liable to a municipality under this chapter, in addition to the amount of any tax owed under this chapter, is liable for the costs of an audit conducted under Subsection (a-1)(1), as determined by the municipality using a reasonable rate, but only if the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted.

(a-1) Authorizes the municipal attorney or other attorney acting for the municipality, if a person required to file a tax report under this chapter does not file the report as required by the municipality, to determine the amount of the tax due under this chapter by conducting an audit of each hotel in relation to which the person did not file the report as required by the municipality or using the tax report filed for the appropriate reporting period under Section 156.151 (Report and Payment) in relation to that hotel.

(a-2) Authorizes the municipal attorney or other attorney acting for the municipality, if the person did not file a tax report under Section 156.151 for that reporting period in relation to that hotel, to estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year under this chapter or Section 156.151. Provides that an estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.

(a-3) Provides that the authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or ordinance.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.