Rains County Tourism Board

Enforcement Authority of a County

Counties are also given the authority to take the following actions against a hotel operator who fails to report or collect the local hotel occupancy tax:

- require the forfeiture of any revenue the county allowed the hotel operator to retain for its cost of collecting the tax;
- bring a civil suit against the hotel operator for noncompliance;
- ask the district court to enjoin operation of the hotel until the report is filed and/or the tax is paid; and
- any other remedies provided under Texas law.

The most noteworthy of these remedies is the ability of the county to request that the district court close down the hotel if the hotel occupancy taxes are not turned over. Informing the hotel operator of the possibility of such a closure generally results in compliance by the hotel.

A county may also require in its hotel occupancy tax ordinance that persons buying a hotel retain out of the purchase price an amount sufficient to cover any delinquent hotel occupancy taxes that are due to the county. If the buyer does not remit such amount or show proof that the hotel is current in remitting its hotel occupancy taxes, the buyer becomes liable for any delinquent hotel occupancy taxes due on the purchased hotel.

The purchaser of a hotel may request that the county provide a receipt showing that no hotel occupancy tax is due ("Letter of No Tax Due") on the property to be purchased. The county is required to issue the statement not later than the 60th day after the request. If the county fails to issue the statement by the deadline, the purchaser is released from the obligation to withhold the amount due from the purchase price.

Use of Tax Revenues: Authorized Counties that do not fit under the Other Special Categories

Brewster, Burleson, Burnet, Camp, Franklin, Jack, Jeff Davis, Leon, Llano, Madison, Maverick, Orange, Palo Pinto, Polk, Rains, Real, Robertson, Sabine, San Jacinto, Somervell, Starr, Stephens, Trinity, Uvalde, Wood, and Young Counties

If the above counties not fall into any of the special categories, but fit into one of the population brackets contained in Chapter 352 of the Tax Code, state law provides that such authorized counties must follow the same general rules that apply to city expenditures of the hotel occupancy tax. These rules are contained in Section 351.101 of the Tax Code. Section 351.101 provides a two-part test that every expenditure of local hotel occupancy tax by these counties must meet to be valid. (Source: Tax Code Section 352.1031)

Criteria #1: Directly Promoting Tourism & the Convention & Hotel Industry

First, every expenditure must DIRECTLY enhance and promote tourism AND the convention and hotel industry.

In other words, a funded event or facility must be likely to do two things: 1) directly promote tourism; and 2) directly promote the convention and hotel industry. With regard to the first prong of Criteria #1, tourism is defined under Texas State law as bringing visitors from outside of the county (from a different city or county) into the county or its vicinity. With regard to the second prong of Criteria #1, state law does not specifically define what constitutes a "direct" promotion of the convention and hotel industry. However, this requirement has been consistently interpreted by the Attorney General's Municipal Affairs Section and by the Texas Municipal League. They have historically indicated that to directly promote the convention and hotel industry, the event or facility must be likely to cause increased hotel or convention activity. This activity may result from hotel or convention guests that are already in town and choose to attend the hotel tax funded facility or arts or historical event. Alternatively, it may result from individuals who come from another city or county to stay in an area lodging property, at least in part, to attend the hotel tax funded event or facility.

If the funded event or facility is not reasonably likely to have such an effect, local hotel occupancy tax revenues can not legally fund it. It is important to note, however, that events and facilities that do not qualify for hotel occupancy tax funding are often still legally eligible for county funding from most of the other funding sources available to the county (general property

tax revenues, general sales tax revenues, franchise fee revenues, etc.). State law is simply stricter in terms of how the local hotel occupancy tax monies can be spent.

There is no set formula for determining whether an event will directly promote tourism and hotel and convention activity. Of course, the first time an event is held it can only be hypothesized as to whether it is likely to be frequented by tourists and hotel guests. An applying entity should be asked to indicate in its county funding application how it would market the event to attract tourists and hotel guests. If an entity does not market its events outside of the county or in some other way provide notice of the events to guests of hotels, it is difficult to argue that the events or facility will promote tourism and hotel activity. It is also worth considering whether a funded event will be held in a venue that will likely attract tourists and hotel guests. For example, if an event is held in a local school or community center, it may be less likely to attract tourists than if it is held at a local performing arts venue, museum or civic center. Each community will need to assess whether the facility that is hosting the function is likely to attract tourists and hotel guests. Similarly, if an event is labeled and implemented to be a community picnic, local parade, educational class, or other similar type of event, it is often not likely to attract tourists and hotel guests and would not likely be eligible for hotel occupancy tax funding. Finally, it is good to use a hotel tax application form that asks questions of funding applicants such as "Do you have a hotel room block for your event, and what do you expect to be the number of room nights sold for this event?" TH&LA has a sample hotel occupancy tax application form and a "post event" form that are already in use by county governments throughout Texas. For a copy of these two forms, simply call TH&LA at (512) 474-2996.

After an event has been offered for several years, funded entities will likely have a reasonable idea as to whether the facility or event's attendance includes a number of tourists and hotel guests. Some entities keep a guest register at funded events to quantify the number of out-of-towners in attendance. Some entities have added a box on such registers to check if the attendee is staying at a local hotel. Again, a good question to ask on a funding application for the local hotel occupancy tax is whether the entity is reserving a hotel block or special hotel price for attendees of their funded event. If the entity does not find the need to reserve a hotel block or negotiate a special hotel rate, it is not likely that they anticipate the event will have any reasonable impact on hotel activity. Funded entities can also visit with area hoteliers who in many cases can provide feedback on whether any of their hotel guests had expressed an interest in attending such events in the past. Hotel front desk and management staff usually know what local events were of interest to their guests by notes in their reservation systems, requests for directions, information and transportation to such events by

hotel patrons. Some entities measure potential out-of-town attendance from their ticket sales records or other gathered information.

It is important to note that state law also provides that the hotel occupancy tax may not in any circumstance be used for purposes that the county usually expends its general revenues. It also may not be used to pay for governmental expenses that are not directly related to increasing tourism and hotel and convention activity. For example, consider a request to use the hotel occupancy tax to pay for construction of additional lighting, bathrooms, roads, or landscaping in a downtown area. These are expenditures for which the county would traditionally use its general revenues. It is difficult to argue that such improvements would "directly" promote tourism and hotel activity. At best, one could argue the improvements would "indirectly" enhance tourism and hotel activity—which is not sufficient under the Tax Code to qualify for funding from the hotel occupancy tax.

Criteria #2: Five Categories of Hotel Occupancy Tax Expenditures

Unless otherwise provided by a special statutory provision, every expenditure of the hotel occupancy tax must clearly fit into one of five statutorily provided categories. The five categories for expenditure of the county hotel occupancy tax are as follows:

1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center

This category allows expenditures of the hotel tax for the creation, improvement, or upkeep of a convention center or a visitor information center. State law specifies that for a facility to be funded as a convention center it must be one that is primarily used to host conventions and meetings. "Primarily used" in this context would arguably mean that at least 51 percent of the bookings for the facility are to host conventions or meetings that directly promote tourism and the hotel and convention industry. In other words, holding local resident meetings in a facility would not count toward qualifying the facility as a convention center, but meetings of individuals from out-of-town who in part stay at hotels would qualify.

The term "convention center" is defined to include civic centers, auditoriums, exhibition halls, and coliseums that are owned by the county or another governmental entity or that are managed in whole or in part by the county. It also includes parking areas in the immediate vicinity of other convention center facilities, and certain hotels that are owned by the county or another governmental entity, or that are managed in whole or in part by the county. It does not include facilities that are not of the same general characteristics

as the structures listed above.

Simply naming a facility a convention center or visitor information center does not bring it under this section. The authority to use the hotel occupancy tax for facilities is limited. For example, the Attorney General has specifically ruled against the expenditure of local hotel occupancy taxes for a county recreational facility such as a golf course or a tennis court. Similarly, general civic buildings such as the County Building, local senior citizen centers or activity centers would not qualify as convention centers that could be funded by hotel tax.

2) Paying the administrative costs for facilitating convention registration

This provision allows expenditures for administrative costs that are actually incurred for assisting in the registration of convention delegates or attendees. It may include covering the personnel costs and costs of materials for the registration of convention delegates or attendees.

3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the county or its vicinity

This provision allows expenditures for solicitations or promotional programs/advertising that is directly related to attracting tourists and convention delegates to the city or its vicinity. Such expenditures are traditionally in the form of newspaper, mail, television, or radio ads or solicitations to promote an event or facility. The advertising or promotion must have the impact of directly promoting the hotel and convention industry. For example, the Attorney General has ruled that the local hotel occupancy tax may not be used for advertising or other economic development initiatives or improvements to attract new businesses or permanent residents to a city.

In certain cases, a county may be able to use the advertising and promotion category to justify covering the costs of advertising an event that will attract tourists and hotel guests, even though the administrative or facility costs for the underlying event would not qualify for hotel tax funding.

4) Expenditures that Promote the Arts

This section authorizes the expenditure of local hotel occupancy tax for a variety of art-related programs that also would promote tourism and local hotel and convention activity. Specifically, it allows funding the encouragement, promotion, improvement, and application of the arts

including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution and exhibition of these major art forms. **However, it is not enough that a facility or event promotes the arts; state law requires that the arts related expenditure also must be likely to directly promote tourism and the hotel and convention industry.** The Tax code specifically states that the "hotel occupancy tax may be used only to promote tourism and the convention and hotel industry." There are many success stories of communities that have partnered with the arts entities to turn one day/evening arts events into multi-day events that can substantially increase tourism and hotel activity. Such partnerships and long term planning can help both foster the arts and the hotel tax proceeds that can be made available to the arts.

5) Funding Historical Restoration or Preservation Programs

This section anticipates that a county may spend a portion of its hotel occupancy tax revenues to enhance historical restoration and preservation projects within the county or its vicinity **that are likely to attract tourists and hotel guests**. This funding can include the costs for rehabilitation or preservation of existing historic structures. State law does not limit such funding to structures that are owned by a public or nonprofit entity, but the county may choose to impose such a limitation. This category could also include the costs of advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit such preserved historic structures or museums. **However, it is not enough that a facility or event promotes historical restoration and preservation; state law requires that the historical related expenditure also must be likely to directly promote tourism and the hotel and convention industry.** Chapter 352 of the Tax code specifically states that the "hotel occupancy tax may be used only to promote tourism and the convention and hotel industry." Similar to the arts, there are many success stories of communities that have partnered with the historic preservation advocates to turn one day/evening events into multi-day events that can substantially increase tourism and hotel activity.

Summary of the Five Uses for the Local Hotel Occupancy Tax

In summary, unless the county fits into one of the seven noted special geographic categories, local hotel occupancy tax revenues only may be

spent for one of five statutory purposes. These purposes include: to establish or enhance a convention center or visitor information center, cover the administrative expenses for registering convention delegates, pay for tourism-related advertising and promotions, fund arts programs or facilities that will directly promote tourism and hotel and convention activity, or fund historic restoration or preservation projects that will enhance tourism and hotel and convention activity. If the county cannot fit an expenditure within one of these five categories or under another applicable statute, hotel occupancy tax revenues cannot be used for that purpose.

With regard to the use of local hotel occupancy taxes, there is no time limit for a county to expend all of its hotel occupancy tax funds. However, the county must expend the minimum amount required for advertising and promoting the area. Unless otherwise provided by statute, most counties must expend about 15 percent (seven percent rate requires 1/7th of all funds be spent on advertising; six percent rate requires 1/6 be spent on advertising, and so on).

Duty of Funded Entities to Provide a List of Activities It Will Offer that Promote Tourism and Hotel and Convention Activity

Since 2001, all entities (including the county itself) that are directly or indirectly funded by the local hotel occupancy tax are required each year to provide a list of the scheduled activities, programs, or events that they will offer that will directly enhance and promote tourism and the convention and hotel industry. This list is to be provided annually to the county prior to the expenditure of the hotel occupancy tax funding by the funded entity. An entity may add items to this list at any time. Each county decides the format that it would like to have this information provided. This documentation requirement does not apply if the entity already provides written information to the county that indicates which scheduled activities, programs, or events that it will offer that will directly enhance and promote tourism and the convention and hotel industry.

This requirement would arguably be satisfied if once a year, a funded entity took its calendar of events for the year and circled the items that are reasonably expected to directly promote tourism and the hotel and convention industry. The entity would circle events that it has in some way marketed to and anticipates attendance by tourists and hotel guests. If an entity does not have any such events or programs, it is not eligible for local hotel occupancy tax funding. If only a portion of an entity's programs fit this criterion, then only a proportionate portion of that entity's costs should be covered by the local hotel occupancy tax.

Use of Hotel Occupancy Tax to Cover Administrative Expenses

State law allows the hotel occupancy tax to be used to cover the portion of administrative costs attributable to implementing tourism-related activities that may be funded by the tax. For example, entities that manage activities funded by the hotel occupancy tax may spend some of the tax for certain day-to-day operational expenses. These expenses may include supplies, salaries, office rental, travel expenses, and other administrative costs. These costs can be reimbursed only if they are incurred in the promotion and servicing of expenditures authorized under the hotel occupancy tax laws. The portion of the administrative costs that are covered should not exceed the percentage of the cost that is attributable to the activity funded by the hotel occupancy tax. In other words, administrators who spend 33 percent of their time overseeing hotel occupancy tax funded programs should seek funding for no more than 33 percent of their salary or 33 percent of other related overhead costs. Second, local hotel occupancy tax revenues may be spent on travel that is directly related to the performance of the person's job in an efficient and professional manner. This travel should facilitate the acquisition of skills and knowledge that will promote tourism and the convention and hotel industry.

Delegating the Management of Funded Activities

The governing body of a county may, by written contract, delegate the oversight of programs funded by the hotel occupancy tax. This delegation may be made to a person, another governmental entity, or to a private organization. This delegation is often made to a local arts council, a chamber of commerce, or to the convention and visitor bureau.

An entity that is delegated authority to manage hotel tax funded programs undertakes a fiduciary duty with respect to the use of the tax revenue. Such entities are also required to maintain the county hotel occupancy tax revenue in a separate bank account that may not be commingled with any other account. The prohibition against commingling the funds does not appear to apply to individual organizations such as an arts or historical group that receives funding for their individual program but does not oversee the distribution of the funding to other entities.

If a county or funded entity has additional questions about the administration or use of the hotel occupancy tax, it is welcome to contact Scott Joslove at the Texas Hotel & Lodging Association for assistance. Scott can be reached by phone at (512) 474-2996. Texas county officials can also make such inquiries to the staff of the Texas Association of Counties at

Lori Northcutt

From: Lori Northcutt
Sent: Wednesday, August 19, 2026 4:14 PM
To: corinorthcutt@gmail.com
Subject: Fw: Tourism Board

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From: Scott Sandifeer <scott.sandifeer@raintreeranchinc.com>
Sent: Wednesday, August 19, 2026 4:11 PM
To: Lori Northcutt <lori.northcutt@rainscounty.gov>
Subject: Tourism Board

To whom it may concern.

At the beginning of 2026 I verbally informed someone in the Rains County Judge's office that I was resigning my position as Chairman of the Rains County Tourism Board. This will serve as my official Resignation. Due to personal family reasons I can no longer serve on this Board.
Please make sure that my name is removed from the County Website.

Thank you
Scott Sandifeer

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Scott Sandifeer
Managing Partner
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RESOLUTION #IV.B.13082726

A RESOLUTION APPROVING A FUNDING REQUEST APPLICATION FROM THE RAINS COUNTY TOURISM BOARD IN THE AMOUNT OF $1,500.00 FOR CLASSICS AROUND THE SQUARE.

WHEREAS, the Rains County Tourism Board has submitted a funding request application for support of *Classics Around the Square*; and

WHEREAS, the Rains County Commissioners Court finds that this event promotes tourism, community engagement, and economic activity within Rains County;

NOW, THEREFORE, BE IT RESOLVED that the Rains County Commissioners Court hereby approves the funding request application submitted by the Rains County Tourism Board and awards funding in the amount of **One Thousand Five Hundred Dollars ($1,500.00)** to *Classics Around the Square*, subject to applicable county policies, procedures, and budget availability.

WHEREAS, the Commissioners Court authorizes the County Judge to act in all matters regarding this matter.

PASSED AND APPROVED by the Rains County Commissioners Court this day 27th of August, 2026.

Brent D. Hilliard, Rains County Judge

Jeremy Cook, Commissioner Precinct 1

Jim Jones, Commissioner Precinct 2

Korey Young, Commissioner Precinct 3

Lori Northcutt, Commissioner Precinct 4