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Q What are some tools used by cities to finance tourism?

A Cities use various tools to finance tourism. Some of them are:

Hotel Occupancy Tax (HOT): A city is authorized to levy a tax on a person who 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 sleep. Tex. Tax Code § 351.002(a). HOT revenue must be used to: (1) promote tourism and the convention and hotel industry; and (2) fall into one of several permissible categories of expenditures. *Id.* § 351.101.

Sports and Community Venues: A city, by resolution and with the approval of the qualified voters, is authorized to create sports and community venues and implement various taxes to fund venue projects. Tex. Loc. Gov't Code §§ 334.021 - .0242. For instance, a city may (1) levy a tax on the rental of motor vehicles for less than 30 days within the city at a rate not to exceed five percent; (2) levy tax not to exceed ten percent of the price of an admission ticket to a venue project facility event; and (3) levy a tax on each motor vehicle that parks at a venue project facility at a flat rate not to exceed three dollars. *Id.* §§ 334.102, 334.151, 334.201.

A venue project is defined as, and encompasses, a venue as well as all related infrastructure a city has planned, acquired, established, developed, constructed, or renovated. *Id.* § 334.001(5). A venue is an arena, coliseum, stadium, or other facilities that are used for sport or community events and for which a fee for admission to the events is charged or planned to be charged. *Id.* § 334.001(4). Also, the term includes convention and civic centers, civic center hotels, theaters, and museums within the vicinity of a convention center; tourism development areas; any authorized projects under the Development Corporation Act (Chapters 501-505 of the Local Government Code); municipal parks and recreation systems; and watershed protection and preservation projects.

Economic Development Corporation Recreational or Community Facilities Projects: A Type B Economic Development Corporation (EDC) may spend EDC sales tax revenue on land, buildings, equipment, facilities and improvements required or suitable for professional and amateur sports, athletic facilities; entertainment, tourist, convention facilities; and public parks and related open space improvements. *Id.* § 505.152. Voter approval is required for a Type A EDC to fund this type of project. *Id.* § 504.152.

Tourism Public Improvement District (TPID): A city may create a tourism public improvement district if it receives a petition signed by over 60 percent of the hotels within the district. *Id.* § 372.005(b-1). After receiving the petition, the city will determine an assessment for the properties within the district. *Id.* § 372.015. An assessment is the apportionment of the cost of an improvement assessed against property in the TPID made on the basis of special benefits accruing to the property because of the improvement. *Id.* § 372.015. The assessment collected from the hotels is used for only two primary purposes: (1) to undertake initiatives related to advertising and promotion directly related to hotels; and (2) to undertake sales (business recruitment) efforts directly related to hotels. *Id.* § 372.0035(e).

Art and Entertainment Districts: A city with a population of more than one million may designate a defined area in the city as an arts and entertainment district in which it may: (1)

solicit grants and donations for the development of the district; (2) solicit grants and donations for the development of the district; and (3) provide tax breaks to persons in the district to develop the district for public purposes. *Id.* § 309.001. A city creates an art and entertainment districts to develop a public and private collaboration that plays a vital role in the cultural life and development of the community in the district. The district is required to contribute to the public through interpretive, educational, and recreational uses.

These tools and others are discussed in detail in assorted TML publications, including the *Economic Development Handbook*, available at https://www.tml.org/DocumentCenter/View/1471/2020-Economic-Dev-HDBK-_Final, and the *Revenue Manual for Texas Cities*, available at <https://www.tml.org/DocumentCenter/View/1455/2019revenuemanual>.

Q May a city appropriate from its general fund monies to advertise and promote the growth and development of the city?

A A city with a population of 900,000 or fewer may spend up to one percent of its general fund budget annually “for the purpose of advertising the municipality and promoting its growth and development.” *Id.* § 371.001. Before spending the appropriated money, state law requires the creation of an advisory board consisting of five members appointed by the city council. *Id.* §§ 371.001(b), 371.002.

Additionally, a general-law city, with voter approval, may spend not more than five cents per \$100 valuation for the purpose of “advertising the municipality and promoting its growth and development.” *Id.* § 371.021.

Q What legal issues may accompany developing and maintaining a tourist industry in a city?

A The legal issues that may arise from developing and maintaining a tourist industry are dependent on the characteristics of the tourist activity, and are as varied as the type of business that makes up the industry (e.g. agricultural tourism, cultural/heritage/arts tourism, environmental tourism, sports/recreation tourism, and musical tourism).

The legal issues that typically arise are generally linked to the resulting pressures on: (1) public services, such as law enforcement, solid waste disposal, and code enforcement; and (2) other community resources, such as private lodging and transportation providers.

For example, the City of Austin prepared an evaluation of the South by Southwest Conference and Festival (“SXSW”), a large-scale conference, musical and film event: https://www.austintexas.gov/sites/default/files/files/CityStage/SXSW_2014_post_event_evaluation_report.pdf.

Q What is the extraterritorial jurisdiction (ETJ) of a city, and does a city have any authority over a tourist-related business that is located in the ETJ?

A The ETJ of a city is an area of land surrounding the city. Depending on the number of inhabitants of the city, the ETJ may range from one-half mile to five miles outside the city’s full-purpose, corporate limits. *Id.* § 42.021.

A city's authority in the ETJ must come directly from a state statute. Tex. Att'y Gen. Op. No. JM-811(1987) ("It is axiomatic that all powers granted to a city may be exercise only with the corporate limits of the city unless expressly extended by statute to apply outside the corporate limits.") State law authorizes cities to do at least three things specifically aimed at tourist-related businesses in the ETJ. First, a city under 35,000 may extend the hotel occupancy tax to the ETJ. Tex. Tax Code § 351.0025. Second, a city may create a tourist public improvement district that includes the ETJ. Tex. Loc. Gov't Code §§ 372.003, 372.0035. Third, a city may designate part of its ETJ as an "industrial district" and enter into agreements with landowners in that district. *Id.* § 42.044. The term "industrial district" is not specifically defined in the statute, but the statute provides it "includes any area in which tourist-related businesses and facilities are located." *Id.* § 42.044(a). An industrial district agreement may include the following provisions: (1) agreement not to annex for up to 15 years; (2) "other lawful terms and considerations that the parties agree to be reasonable, appropriate and not unduly restrictive of business activities;" and (3) renewal for successive periods not to exceed 15 years each. *Id.* § 42.044(c), (d).

Q What is a convention and visitors bureau?

A A convention and visitors bureau (CVB) is an entity responsible for promoting a community as an attractive travel destination and enhancing its public image as a dynamic place to live and work. Generally, CVBs:

- Encourage groups to hold meetings, conventions, events and tradeshow in a city;
- Encourage tourists to visit and enjoy the historic, cultural. and recreational opportunities in a city; and
- Help market and promote the city's assets to visitors.

In most cases, a CVB is an independent non-profit entity. For example, the City of Dallas's CVB is called Visit Dallas: <https://www.visitdallas.com>. In some medium-sized cities, a city department or board is responsible for providing CVB-type services. The City of Georgetown created a Convention and Visitor's Board (<https://visit.georgetown.org>) to be responsible for these duties in November 2014. *See* Georgetown, Tex., Code of Ordinances, ch. 2.68 (2014) https://library.municode.com/TX/Georgetown/codes/code_of_ordinances?nodeId=COOR_TIT2AD_CH2.68COVIBUADBO.

A CVB, depending on how it is structured and the services it offers, can be supported by a hotel occupancy tax, budget allocations, private membership, or a combination of these and other sources. *See* Tex. Tax Code § 351.101(c) (authorizing a city to contract with a private organization for the management or supervision of its convention and visitors' programs and activities).

Q Does the State of Texas help encourage and facilitate the growth of tourism?

A The State of Texas provides funding to state agencies to support and facilitate the growth of the state's tourism industry. Five primary state agencies perform tourism related activities: Texas Commission on the Arts, Office of the Governor Economic Development and Tourism, Texas Historical Commission, Texas Department of Transportation, and Texas Parks and Wildlife. These state agencies conduct a variety of tourism related activities that fall into the following four functions: marketing, product development, program development, and customer services. These functions are considered essential for achieving an effective statewide tourism effort.

These agencies work under a formalized Memorandum of Understanding to improve coordination of statewide tourism marketing effort which results in a joint strategic tourism plan produced every year. *See* Travel Texas FY20 Marketing Plan (https://gov.texas.gov/uploads/files/travel-texas/Marketing-Plan_2020.pdf).

Q Are there any state programs that foster tourism in or promote a city?

A Various state programs foster tourism in or help promote a city. Some of them include:

Cultural Districts Program: The Texas Commission on the Arts can designate cultural districts in cities. Cultural district are special zones that harness the power of cultural resources to stimulate economic development and community revitalization. These districts can become focal points for generating business, attracting tourists, stimulating cultural development and fostering civic pride. Details about the program are available at <https://www.arts.texas.gov/initiatives/cultural-districts>.

Event Trust Funds Program: The Event Trust Fund program is comprised of three separate funds: the Events Trust Fund, Major Events Reimbursement Program, and Motor Sports Racing Trust Fund; which is targeted at attracting various types of events to the State of Texas.

The program, administered by the Office of the Governor's Economic Development Division, can assist Texas communities with paying cost related to preparing for or conducting an eligible event. Projected gains from various local and state taxes generated from the event are deposited in a dedicated event-specific trust fund to cover allowable expenses. Details about this program are available at <https://gov.texas.gov/business/page/event-trust-funds-program>.

Travel Texas Research Program: This program, administered by the Office of the Governor, directs a comprehensive research effort to provide primary data on travel industry research topics including domestic and international travel, economic impacts of travel and tourism, and hotel performance, among many others. Details about this program are available at <https://gov.texas.gov/travel-texas/page/travel-research>.

Heritage Tourism Program: The Texas Historical Commission is charged with assisting local governments and others “in the preservation, enhancement, and promotion of heritage and cultural attractions in this state.” Program staff, in collaboration with cities, develop digital and printed travel-related products to strengthen a visitor’s experience. Details about this program are available at <https://www.thc.texas.gov/preserve/projects-and-programs/heritage-tourism>.

City Pride Sign Program: The Texas Department of Transportation (TxDOT) developed this program to give cities the opportunity to display the names and logos of the city’s civic organizations along state highways without interfering with official highway signs. Details about this program are available at <https://www.txdot.gov/business/signs/city-pride.html>.

Logo and Directional Signs Program: Also administered by TxDOT, this program provides information to motorists about traveler services on Texas highways. Eligible businesses, major shopping areas, and attractions can lease space on these signs for tourist attractions and services, such as gas, food, lodging, camping, and 24-hour pharmacies. Details about this program are available at <https://www.txdot.gov/business/signs/logo-directional.html>.

GO TEXAN Program: This program administered by Texas Department of Agriculture, promotes the products, culture, and communities that call Texas home. The program represents Texas agri-business on state, national, and international levels by building recognition for the GO TEXAN mark, and helping consumers and tourists find Texas products, communities, restaurants, services, and events. Details about this program are available at <http://www.gotexan.org/Home.aspx> and https://issuu.com/gotexan/docs/joingotexan_eversion-2.

Nature Tourism Program: Administered by the Texas Park and Wildlife Department, this program promotes habitat conservation, sustainable economic development, and it builds broad-based public support for wildlife conservation programs. The program assigns a nature tourism manager who is available for site visits and assessments to communities interested in developing a nature tourism program. Site visits and technical guidance for communities involves a tour of potential or existing nature tourism destinations in an area, meeting with chamber of commerce leaders or city officials, and developing some practical goals for the community in order to provide another tourism draw to their area, thus increasing the reasons for travelers to visit. Details about this program are available at <https://tpwd.texas.gov/landwater/land/programs/tourism>.