



RQ-854

Texas House of Representatives  
COMMITTEE ON GENERAL INVESTIGATING

Pete P. Gallego  
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October 19, 1995

The Honorable Dan Morales  
Attorney General of Texas  
Supreme Court Building  
P.O. Box 12548  
Austin, Texas 78711-2548

Dear General Morales:

The 1993 Legislature passed House Bill 2282 which amended various statutes relating to hotel facilities. H.B. 2282 provides for the construction of a hotel near a municipality's convention center in certain specified situations. Hotels constructed pursuant to H.B. 2282 are designated as "qualified hotel projects" and are eligible to receive certain tax rebates and other incentives as further set forth in H.B. 2282. Specifically, Section 6 of H.B. 2282 amended subsection (a) of Section 3 of Article 5190.7, the Texas Enterprise Zone Act, by adding two new paragraphs defining "qualified hotel project" (in relevant part) and "eligible taxable proceeds" as meaning:

"Qualified hotel project" means a hotel proposed to be constructed by a municipality or a non-profit municipally sponsored local government corporation created pursuant to the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes) that is within 1,000 feet of a convention center owned by a municipality having a population of 1,500,000 or more, including all facilities ancillary thereto such as shops and parking facilities...

"Eligible taxable proceeds" means taxable proceeds generated, paid, or collected by a qualified hotel project or a business at a qualified hotel project, including hotel occupancy taxes, ad valorem taxes, sales and use taxes, and mixed beverage taxes.

H.B 2282 also amended Section 13(b) of Article 5190.7 to provide as follows:

A municipality, county political subdivision, or other governmental body may enter into an agreement to rebate, refund, or pay eligible taxable proceeds to the owner of the

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qualified hotel project at which such eligible taxable proceeds were generated or collected for a period not to exceed 10 years. A municipality with a population of 1,500,000 or more may enter into an agreement to guarantee from hotel occupancy taxes the bonds or other obligations of a municipally sponsored local government corporation created pursuant to the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes that were issued or incurred to pay the cost of constructing, remodeling rehabilitating a qualified hotel project..

Additionally, H.B. 2282 amended Section 151.429 of the Texas Tax Code to provide as follows:

Notwithstanding the other provisions of this section, the owner of a qualified hotel project shall receive a rebate, refund, or payment of 100 percent of the sales and use taxes paid or collected by the qualified hotel project or business located in the qualified hotel project pursuant to this chapter and 100 percent of the hotel occupancy taxes paid by persons for the use or possession of or for the right to use or possession of a room or space at the qualified hotel project pursuant to the provisions of Chapter 156 during the first seven years after such qualified hotel projects is open for initial occupancy.

Subsequently, S.B. 1629 (1995 Legislative Session) amended the seven year period to ten years.

The City of Houston has advertised for and taken proposals to construct a hotel facility adjacent to its George R. Brown Convention Center. In conjunction with the City's review of the proposals, the following question have arisen concerning the provisions of H.B. 2282.

1. Whether dual ownership (a private entity own the hotel tower and a non-profit corporation created by a municipality can own the public space and parking garage) of the hotel facility is sufficient under H.B. 2282 to meet the definition of a "qualified hotel project" to allow the hotel project to receive the rebates and other incentives offered under H.B. 2282.
2. Whether a municipality can choose through its Request for Proposal ("RFP") process a private entity to construct and own the hotel and designate the private entity as a "qualified hotel project" under Section 3(a) of Article 5190.7 as amended by H.B. 2282 and whether such designation will allow the hotel project to receive the rebates and other incentives offered under H.B. 2282.

Under H.B. 2282, only a "qualified hotel project" is eligible for the rebates and guarantees offered pursuant to H.B. 2282, as amended by S.B. 1629. The definition requires that a qualified hotel project include a hotel constructed by a municipality or a non-profit municipally sponsored local government corporation, although ancillary facilities may also be a part of the project. It has been suggested both that the ancillary facilities (the public space and parking facilities) may constitute the entire hotel project and that a municipality, pursuant to its RFP process, may fulfill

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the "constructed by a municipality or a non-profit municipally sponsored local government corporation" by designating a private hotel owner so that the private owner receives the rebates and other incentives.

Since there are differing opinions as to how H.B. 2282 may be interpreted, I respectfully request your opinion on these issues.

Sincerely,

A handwritten signature in black ink that reads "Pete P Gallego". The signature is written in a cursive style with a long horizontal stroke at the end.

Representative Pete P. Gallego  
Chairman, House Committee on General Investigating