By McFarland S. B. No. 888

A BILL TO BE ENTITLED

AN ACT

relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ADOPTION OF TITLE. The Tax Code is amended by adding Title 3 to read as follows:

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

Chapter 301. General Provisions

Chapter 302. Taxation Powers of Municipalities

[Chapters 303-310 reserved for expansion]

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

Chapter 311. Tax Increment Financing ~~of~~ Act

~~Municipal Development~~

Chapter 312. Property Redevelopment and Tax Abatement Act

[Chapters 313-320 reserved for expansion]

SUBTITLE C. LOCAL SALES AND USE TAXES

Chapter 321. Municipal Sales and Use Tax Act

Chapter 322. Sales and Use Taxes for Special Purpose Taxing Authorities

Chapter 323. County Sales and Use Tax Act

[Chapters 324-350 reserved for expansion]

5/19/87

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

Chapter 351. Municipal Hotel Occupancy Taxes

Chapter 352. County Hotel Occupancy Taxes

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

CHAPTER 301. GENERAL PROVISIONS

Sec. 301.001. PURPOSE OF TITLE

Sec. 301.002. CONSTRUCTION OF CODE

Sec. 301.003. INTERNAL REFERENCES

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

CHAPTER 301. GENERAL PROVISIONS

Sec. 301.001. PURPOSE OF TITLE. (a) This title is enacted as a part of the state's continuing statutory revision program, conducted by the Texas Legislative Council as directed by Section 323.007, Government Code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this title is to make the general and permanent state tax laws more accessible and understandable by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law; 2/3

(3) eliminating repealed, duplicative,

unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible. (New.)

Sec. 301.002. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this title, except as specifically provided by this title. (New.)

Sec. 301.003. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears. (New.)

CHAPTER 302. TAXATION POWERS OF MUNICIPALITIES

SUBCHAPTER A. PROPERTY TAXES

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES

Sec. 302.002. OTHER TAXES NOT CONSIDERED: CERTAIN HOME-RULE MUNICIPALITIES

[Sections 302.003-302.100 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO EXCISE TAXES

Sec. 302.101. OCCUPATION TAXES

Sec. 302.102. TAX COLLECTION POWERS

CHAPTER 302. TAXATION POWERS OF MUNICIPALITIES

SUBCHAPTER A. PROPERTY TAXES

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES. (a) A Type A general-law municipality may levy property taxes for current expenses, for the construction or purchase of public buildings, water works, sewers, and other permanent improvements in the municipality, including municipal schools and school sites, and for the construction and improvement of municipal roads, streets, and bridges in the municipality.

(b) A Type B general-law municipality may levy property taxes at an annual rate not to exceed 25 cents for each $100 of property valuation.

(c) A home-rule municipality may levy special or general property taxes for lawful purposes. (V.A.C.S. Arts. 1026 (part); 1027 (part); 1028 (part); 1146, Subdiv. 1 (part); 1175, Subdiv. (7).)

Sec. 302.002. OTHER TAXES NOT CONSIDERED: CERTAIN HOME-RULE MUNICIPALITIES. (a) In determining the power of certain home-rule municipalities to levy taxes, the taxes levied by a county, a political subdivision of a county, or a district under Article III, Section 52, of the Texas Constitution are not considered.

(b) This section prevails over a provision of a municipal charter to the extent of a conflict.

(c) This section applies only to a municipality that attempted to amend its charter before June 30, 1939, and at the time of the election to amend the charter did not own a water system, sanitary sewer system, electric light system, or natural

gas system from which it could derive revenue. (V.A.C.S. Art. 1066a, Secs. 1, 2, 3.)

[Sections 302.003-302.100 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO EXCISE TAXES

Sec. 302.101. OCCUPATION TAXES. (a) The governing body of a municipality, other than a Type C general-law municipality having 200 or fewer inhabitants, may impose and collect occupation taxes.

(b) A license required by a Type A general-law municipality may not extend to more than one establishment or apply to more than one occupation, business, or calling and may not be imposed except by a vote of two-thirds of the elected aldermen. (V.A.C.S. Art. 1015, Subdiv. 35; Arts. 1031, 1032 (part), 1033 (part), 1146 (part).)

Sec. 302.102. TAX COLLECTION POWERS. (a) The governing body of a Type A general-law municipality may adopt ordinances and make rules relating to the imposition, assessment, and collection of taxes, except ad valorem taxes, authorized by this subchapter. An ordinance may provide for the sale of real and personal property for the collection of a tax authorized by this subchapter.

(b) A home-rule municipality may collect taxes that are authorized by the charter of the municipality or by law and may impose penalties for delinquent taxes. This subsection does not apply to property taxes. (V.A.C.S. Arts. 1041, 1175, Subdiv. 9.)

[Chapters 303-310 reserved for expansion]

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 311. TAX INCREMENT FINANCING ACT ~~OF MUNICIPAL DEVELOPMENT~~

Sec. 311.001. SHORT TITLE

Sec. 311.002. DEFINITIONS

Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE

Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE

Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE

Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE

Sec. 311.007. CHANGING BOUNDARIES OF EXISTING ZONE

Sec. 311.008. POWERS OF MUNICIPALITY

Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS

Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS

Sec. 311.011. PROJECT AND FINANCING PLANS

Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT

Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS

Sec. 311.014. TAX INCREMENT FUND

Sec. 311.015. TAX INCREMENT BONDS AND NOTES

Sec. 311.016. ANNUAL REPORT

Sec. 311.017. TERMINATION OF REINVESTMENT ZONE

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 311. TAX INCREMENT FINANCING ACT ~~OF MUNICIPAL DEVELOPMENT~~

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Tax Increment Financing Act. (V.A.C.S. Art. 1066e, Sec. 1.)

Sec. 311.002. DEFINITIONS. In this chapter:

(1) "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated

to be incurred by the municipality establishing a reinvestment zone that are listed in the project plan as costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations. "Project costs" include:

(A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;

(B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;

(C) real property assembly costs;

(D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;

(E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality in connection with the implementation of a project plan;

(F) relocation costs; 7 / 8

(G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost

of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;

(H) interest before and during construction and for one year after completion of construction, whether or not capitalized;

(I) the cost of operating the reinvestment zone and project facilities;

(J) the amount of any contributions made by the municipality from general revenue for the implementation of the project plan; and

(K) payments made at the discretion of the governing body of the municipality that the municipality finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.

(2) "Project plan" means the project plan for the development or redevelopment of a reinvestment zone approved under this chapter, including all amendments of the plan approved as provided by this chapter.

(3) "Reinvestment zone financing plan" means the financing plan for a reinvestment zone described by this chapter.

(4) "Taxing unit" has the meaning assigned by Section 1.04. (V.A.C.S. Art. 1066e, Sec. 2 (part).)

Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE. (a) The governing body of a municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or

redevelopment would not occur solely through private investment in the reasonably foreseeable future.

(b) Before adopting an ordinance providing for a reinvestment zone, the governing body of the municipality must prepare a preliminary reinvestment zone financing plan. As soon as the plan is completed, a copy of the plan must be sent to the governing body of each taxing unit that levies taxes on real property in the proposed zone.

(c) Before adopting an ordinance providing for a reinvestment zone, the municipality must hold a public hearing on the creation of the zone and its benefits to the municipality and to property in the proposed zone. At the hearing an interested person may speak for or against the creation of the zone, its boundaries, or the concept of tax increment financing. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the municipality.

(d) A municipality must provide a reasonable opportunity for the owner of property to protest the inclusion of the property in a proposed reinvestment zone.

(e) Not later than the 60th day before the date of the public hearing required by Subsection (c), the governing body of the municipality must notify in writing the governing body of each taxing unit that levies real property taxes in the proposed reinvestment zone that it intends to establish the zone. The notice must contain a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of

the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The notice may be given later than the 60th day before the date of the public hearing if the governing body of each county and school district that levies real property taxes in the proposed zone agrees to waive the requirement.

(f) A taxing unit may request additional information from the governing body of the municipality. The governing body of the municipality shall provide the information requested to the extent practicable. In addition to the notice required by Subsection (e), the governing body of the municipality shall make a formal presentation to the governing body of each county or school district that levies real property taxes in the proposed reinvestment zone. The presentation must include a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The governing body of the municipality shall notify each taxing unit that levies real property taxes in the proposed zone of each presentation to be made to a county or school district under this subsection. Members of the governing body of each taxing unit that levies real property taxes in the proposed zone may attend a presentation under this subsection. If agreed to by the county or school districts involved, the governing body of the municipality may make a single presentation to more than one county or school district governing body.

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(g) Not later than the 15th day after the date on which the

notice required by Subsection (e) is given, each taxing unit that levies real property taxes in the proposed reinvestment zone shall designate a representative to meet with the governing body of the municipality to discuss the project plan and the reinvestment zone financing plan and shall notify the governing body of the municipality of its designation. At any time after the 15th day after the date on which the notice required by Subsection (e) has been given to every taxing unit, the governing body of the municipality may call a meeting of the representatives of the taxing units. The governing body of the municipality may call as many meetings as it considers necessary. Each representative shall be notified of each meeting in advance. At the meetings the governing body of the municipality and the representatives of the other taxing units may discuss the boundaries of the zone, development in the zone, the tax increment that each taxing unit will contribute to the tax increment fund, the retention by a taxing unit of a portion of its tax increment as permitted by Section 311.013, the exclusion of particular parcels of property from the zone, the board of directors for the zone, and tax collection for the zone. On the motion of the governing body of the municipality calling the meeting, any other matter relevant to the proposed reinvestment zone may be discussed. (V.A.C.S. Art. 1066e, Secs. 3(a); 4(a), (b), (c), (d), (e), (f); 9 (part).)

Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE. (a) The ordinance designating an area as a reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable

certainty the territory included in the zone;

(2) create a board of directors for the zone and specify the number of directors of the board as provided by Section 311.009;

(3) provide that the zone take effect on January 1 of the year following the year in which the ordinance is adopted;

(4) provide a date for termination of the zone;

(5) assign a name to the zone for identification, with the first zone created by a municipality designated as "Reinvestment Zone Number One, City (or Town, as applicable) of (name of municipality)" and subsequently created zones assigned names in the same form numbered consecutively in the order of their creation;

(6) establish a tax increment fund for the zone; and

(7) contain findings that:

(A) improvements in the zone will significantly enhance the value of all the taxable real property in the zone and will be of general benefit to the municipality; and

(B) the area meets the requirements of Section 311.005.

12/13 (b) For purposes of complying with Subsection (a)(7)(A), the ordinance is not required to identify the specific parcels of real property to be enhanced in value. (V.A.C.S. Art. 1066e, Sec. 4(g).)

Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of

the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title; or

(H) conditions that endanger life or property by fire or other cause;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in the municipality or in an area immediately adjacent to a federally assisted new community; or

(4) be designated as a local or state-federal enterprise zone under the Texas Enterprise Zone Act (Article

5190.7, Vernon's Texas Civil Statutes).

(b) In this section, "federally assisted new community" means a federally assisted area that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act, if a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974. (V.A.C.S. Art. 1066e, Secs. 2 (part); 3(b) (part) as amd. Acts 68th Legis., R.S., Ch. 841, 1983.)

Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE. (a) A municipality may not create a reinvestment zone if:

(1) more than 10 percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality.

(b) A municipality may not change the boundaries of an existing reinvestment zone to include property more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes or to include more than 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality.

(c) A municipality may not create a reinvestment zone or change the boundaries of an existing reinvestment zone if the

proposed zone or proposed boundaries of the zone contain more than 15 percent of the total appraised value of real property taxable by a county or school district.

(d) For purposes of this section, property is used for residential purposes if it is occupied by a house having fewer than five living units, and the appraised value is determined according to the most recent appraisal rolls of the municipality. (V.A.C.S. Art. 1066e, Secs. 5(a), (b) (part), (c), (d).)

Sec. 311.007. CHANGING BOUNDARIES OF EXISTING ZONE. Subject to the limitations provided by Section 311.006, the boundaries of an existing reinvestment zone may be reduced or enlarged by ordinance or resolution of the governing body of the municipality that created the zone. (V.A.C.S. Art. 1066e, Sec. 5(b) (part).)

Sec. 311.008. POWERS OF MUNICIPALITY. A municipality may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and 15/16 implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase, condemnation, or other means to implement project plans and sell that property on the terms and conditions it considers advisable;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other

means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed real property or other property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes; or

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, educational facilities, or parking facilities. (V.A.C.S. Art. 1066e, Sec. 9 (part).)

Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS. (a) The 1609 board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of Subsection (b).

(b) Each taxing unit other than a municipality that levies taxes on real property in the zone may appoint one member of the board. A unit may waive its right to appoint a director. The governing body of the municipality that created the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the municipality, the governing body of the municipality may appoint more than 10 members as long as the total membership of the

board does not exceed 15.

(c) Members of the board are appointed for terms of two years unless longer terms are provided under Article XI, Section 11, of the Texas Constitution. Terms of members may be staggered.

(d) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

(e) To be eligible for appointment to the board by the governing body of the municipality, an individual must:

(1) be a qualified voter of the municipality; or

(2) be at least 18 years of age and own real property in the zone, whether or not the individual resides in the municipality.

(f) Each year the governing body of the municipality shall appoint one member of the board to serve as chairman for a term of one year that begins on January 1 of the following year. The board of directors may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The board may elect other officers as it considers appropriate. (V.A.C.S. Art. 1066e, Sec. 6.)

Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS. The board of directors of a reinvestment zone shall make recommendations to the governing body of the municipality that created the zone concerning the administration of this chapter in the zone. In addition to the powers granted to the board under this chapter, the governing body of the municipality by ordinance may delegate to the board any powers and duties relating to the

implementation of the project plan for the zone that the governing body considers advisable. (V.A.C.S. Art. 1066e, Sec. 7.)

Sec. 311.011. PROJECT AND FINANCING PLANS. (a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality that created the zone. The plans must be as consistent as possible with the preliminary plans developed for the zone before the creation of the board.

(b) The project plan must include:

(1) a map showing existing uses and conditions of real property in the zone and a map showing proposed improvements to and proposed uses of that property;

(2) proposed changes of zoning ordinances, the master plan of the municipality, building codes, and other municipal ordinances;

(3) a list of estimated nonproject costs; and

(4) a statement of a method of relocating persons to be displaced as a result of implementing the plan.

(c) The reinvestment zone financing plan must include:

(1) a detailed list describing the estimated project costs of the zone, including administrative expenses;

(2) a statement listing the kind, number, and location of all proposed public works or public improvements in the zone;

(3) an economic feasibility study;

(4) the estimated amount of bonded indebtedness to be incurred;

(5) the time when related costs or monetary obligations are to be incurred;

(6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit that levies taxes on real property in the zone;

(7) the current total appraised value of taxable real property in the zone;

(8) the estimated captured appraised value of the zone during each year of its existence; and

(9) the duration of the zone.

(d) The governing body of the municipality must approve a project plan or reinvestment zone financing plan after its adoption by the board. The approval must be by ordinance that finds that the plan is feasible and conforms to the master plan, if any, of the municipality.

(e) The board of directors of the zone at any time may adopt an amendment to the project plan consistent with the requirements and limitations of this chapter. The amendment takes effect on approval by the governing body of the municipality. That approval must be by ordinance. If an amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, increases or decreases the percentage of a tax increment to be contributed by a taxing unit, increases the total estimated project costs, or designates additional property in the zone to be acquired by the municipality, the

approval must be by ordinance adopted after a public hearing that satisfies the procedural requirements of Sections 311.003(c) and (d). (V.A.C.S. Art. 1066e, Secs. 2 (part); 8.)

Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT. (a) The amount of a taxing unit's tax increment for a year is the amount of property taxes levied by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone.

(b) The captured appraised value of real property taxable by a taxing unit for a year is the total appraised value of the property for that year less the tax increment base of the unit.

(c) The tax increment base of a taxing unit is the total 20/21 appraised value of all real property taxable by the unit and located in a reinvestment zone for the year in which the zone was designated under this chapter. (V.A.C.S. Art. 1066e, Sec. 2 (part).)

Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS. (a) Each taxing unit that taxes real property located in a reinvestment zone shall provide for the collection of its taxes in the zone as for any other property taxed by the unit.

(b) Each taxing unit shall pay into the tax increment fund for the zone an amount equal to the tax increment produced by the unit, less the sum of:

(1) property taxes produced from the tax increments that are, by contract executed before the designation of the area as a reinvestment zone, required to be paid by the unit to another political subdivision; and

(2) a portion, not to exceed 15 percent, of the tax increment produced by the unit as provided by the reinvestment zone financing plan.

(c) A taxing unit shall make a payment required by Subsection (b) not later than the 90th day after the delinquency date for the unit's property taxes. A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 percent.

(d) If the reinvestment zone is created on or after August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after three years from the date the zone is created unless the following conditions exist or have been met within the three-year period:

(1) bonds have been issued for the zone under Section 311.015;

(2) the municipality has acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone.

(e) If the reinvestment zone was created before August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after September 1, 1986, unless the following conditions existed or were met before September 1, 1986:

(1) bonds were issued for the zone under Section 311.015;

(2) the municipality acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone. (V.A.C.S. Art. 1066e, Secs. 9 (part); 10.)

Sec. 311.014. TAX INCREMENT FUND. (a) In addition to the deposits required by Section 311.013, all revenues from the sale of tax increment bonds or notes, revenues from the sale of any property acquired as part of the tax increment financing plan, and other revenues to be used in the reinvestment zone shall be deposited in the tax increment fund for the zone.

(b) Money may be disbursed from the fund only to satisfy claims of holders of tax increment bonds or notes issued for the zone or to pay project costs for the zone.

(c) Subject to an agreement with the holders of tax increment bonds or notes, money in a tax increment fund may be temporarily invested in the same manner as other funds of the municipality.

(d) After all project costs and all tax increment bonds or notes issued for a reinvestment zone have been paid, and subject to any agreement with bondholders, any money remaining in the tax increment fund shall be paid to the municipality and other taxing units levying taxes on property in the zone in proportion to the municipality's and each unit's respective share of the total amount of tax increments derived from taxable real property in the zone that were deposited in the fund during the fund's existence. (V.A.C.S. Art. 1066e, Secs. 2 (part); 14.)

Sec. 311.015. TAX INCREMENT BONDS AND NOTES. (a) A municipality creating a reinvestment zone may issue tax increment

bonds or notes, the proceeds of which may be used to pay project costs for the reinvestment zone on behalf of which the bonds or notes were issued or to satisfy claims of holders of the bonds or notes. The municipality may issue refunding bonds or notes for the payment or retirement of tax increment bonds or notes previously issued by it.

(b) Tax increment bonds and notes are payable, as to both principal and interest, solely from the tax increment fund established for the reinvestment zone. The governing body of the municipality may pledge irrevocably all or part of the fund for payment of tax increment bonds or notes. The part of the fund pledged in payment may be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. A holder of the bonds or notes or of coupons issued on the bonds has a lien against the fund for payment of the bonds or notes and interest on the bonds or notes and may protect or enforce the lien at law or in equity.

(c) Tax increment bonds are issued by ordinance of the municipality without any additional approval other than that of the attorney general.

(d) Tax increment bonds or notes, together with the interest on and income from those bonds or notes, are exempt from all taxes.

(e) The issuing municipality may provide in the contract with the owners or holders of tax increment bonds that it will pay into the tax increment fund all or any part of the revenue produced or received from the operation or sale of a facility acquired, improved, or constructed pursuant to a project plan, to be used to

pay principal and interest on the bonds. If the municipality agrees, the owners or holders of tax increment bonds may have a lien or mortgage on a facility acquired, improved, or constructed with the proceeds of the bonds.

(f) Tax increment bonds may be issued in one or more series. The ordinance approving a tax increment bond or note, or the trust indenture or mortgage issued in connection with the bond or note, shall provide:

(1) the date that the bond or note bears;

(2) that the bond or note is payable on demand or at a specified time;

(3) the interest rate that the bond or note bears;

(4) the denomination of the bond or note;

(5) whether the bond or note is in coupon or registered form;

(6) the conversion or registration privileges of the bond or note;

(7) the rank or priority of the bond or note;

(8) the manner of execution of the bond or note;

(9) the medium of payment in which and the place or places at which the bond or note is payable;

(10) the terms of redemption, with or without premium, to which the bond or note is subject;

(11) the manner in which the bond or note is secured; and

(12) any other characteristic of the bond or note.

(g) A bond or note issued under this chapter is fully

negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued under this chapter or the security of a bond or note issued under this chapter, if the bond or note recites in substance that it was issued by the municipality for a reinvestment zone, the bond or note is conclusively deemed to have been issued for that purpose, and the development or redevelopment of the zone is conclusively deemed to have been planned, located, and carried out as provided by this chapter.

(h) A bank, trust company, savings bank or institution, savings and loan association, investment company or other person carrying on a banking or investment business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, curator, trustee, or other fiduciary may invest any sinking funds, money, or other funds belonging to it or in its control in tax increment bonds or notes issued under this chapter. Tax increment bonds or notes are authorized security for all public deposits. A person, political subdivision, or public or private officer may use funds owned or controlled by the person, political subdivision, or officer to purchase tax increment bonds or notes. This chapter does not relieve any person of the duty to exercise reasonable care in selecting securities.

(i) A tax increment bond or note is not a general obligation of the municipality issuing the bond or note. A tax increment bond or note does not give rise to a charge against the general credit or taxing powers of the municipality and is not payable except as

provided by this chapter. A tax increment bond or note issued under this chapter must state the restrictions of this subsection on its face.

(j) A tax increment bond or note may not be included in any computation of the debt of the issuing municipality.

(k) A municipality may not issue tax increment bonds or notes in an amount that exceeds the total cost of implementing the project plan for the reinvestment zone for which the bonds or notes are issued.

(l) A tax increment bond or note must mature within 20 years of the date of issue. (V.A.C.S. Art. 1066e, Secs. 9 (part); 11.)

Sec. 311.016. ANNUAL REPORT. (a) On or before July 1 of each year, the governing body of a municipality shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality a report on the status of the zone. The report must include:

(1) the amount and source of revenue in the tax increment fund established for the zone;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on outstanding bonded indebtedness;

(4) the tax increment base and current captured appraised value retained by the zone; and

(5) the captured appraised value shared by the municipality and other taxing units, the total amount of tax

increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality.

(b) A copy of a report made under this section shall be sent to the attorney general. (V.A.C.S. Art. 1066e, Sec. 12.) 27/8

Sec. 311.017. TERMINATION OF REINVESTMENT ZONE. (a) A reinvestment zone terminates on the earlier of:

(1) the termination date designated in the ordinance creating the zone or an earlier termination date designated by an ordinance adopted subsequent to the ordinance creating the zone; or

(2) the date on which all project costs, tax increment bonds, and interest on those bonds have been paid in full.

(b) The tax increment pledged to the payment of bonds and interest on the bonds may be discharged and the reinvestment zone may be terminated if the municipality that created the zone deposits or causes to be deposited with a trustee or other escrow agent authorized by law funds in an amount that, together with the interest on the investment of the funds in direct obligations of the United States, will be sufficient to pay the principal of, premium, if any, and interest on all bonds issued on behalf of the reinvestment zone at maturity or at the date fixed for redemption of the bonds, and to pay any other amounts that may become due, including compensation due or to become due to the trustee or escrow agent. (V.A.C.S. Art. 1066e, Sec. 13.)

CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.001. SHORT TITLE

[Sections 312.002-312.200 reserved for expansion]

SUBCHAPTER B. MUNICIPAL TAX ABATEMENT

Sec. 312.201. DESIGNATION OF REINVESTMENT ZONE

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE 28/9

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT

Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT

Sec. 312.206. TAX ABATEMENT BY OTHER TAXING UNITS

Sec. 312.207. APPROVAL BY GOVERNING BODY

Sec. 312.208. MODIFICATION OR TERMINATION OF AGREEMENT

Sec. 312.209. APPLICATION OF NONSEVERABILITY PROVISION

[Sections 312.210-312.400 reserved for expansion]

SUBCHAPTER C. COUNTY TAX ABATEMENT

Sec. 312.401. DESIGNATION OF REINVESTMENT ZONE

Sec. 312.402. COUNTY TAX ABATEMENT AGREEMENT

CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.001. SHORT TITLE. This chapter may be cited as the Property Redevelopment and Tax Abatement Act. (V.A.C.S. Art. 1066f, Sec. 1.)

[Sections 312.002-312.200 reserved for expansion]

SUBCHAPTER B. MUNICIPAL TAX ABATEMENT

Sec. 312.201. DESIGNATION OF REINVESTMENT ZONE. (a) The governing body of a municipality by ordinance may designate as a

reinvestment zone an area, or real or personal property the use of which is directly related to outdoor advertising, in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the requirements of Section 312.202.

(b) The ordinance must describe the boundaries of the zone and the eligibility of the zone for residential tax abatement or commercial-industrial tax abatement or tax increment financing as provided for in Chapter 311.

(c) Area of a reinvestment zone designated for residential tax abatement or commercial-industrial tax abatement may be included in an overlapping or coincidental residential or commercial-industrial zone. In that event, the zone in which the property is considered to be located for purposes of executing an agreement under Section 312.204 is determined by the comprehensive zoning ordinance, if any, of the municipality.

(d) The governing body may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be published in a newspaper having general circulation in the municipality not later than the seventh day before the date of the hearing. (V.A.C.S.

Art. 1066f, Secs. 3(c), 4(a), 5(a), (b).)

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone under this subchapter, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalks or streets;

(C) faulty size, adequacy, accessibility, or usefulness of lots;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) any combination of these factors;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of

the municipality;

(3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality;

(4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

(5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or

(6) be designated as a local or state-federal enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

(b) For purposes of this section, a federally assisted new community is a federally assisted area:

(1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and

(2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority created by that section for grants in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title

IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.). (V.A.C.S. Art. 1066f, Secs. 3(a), (b).)

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE. The designation of a reinvestment zone for residential or commercial-industrial tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect an existing tax abatement agreement made under this subchapter. (V.A.C.S. Art. 1066f, Sec. 4(b).)

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The governing body of a municipality shall agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation all or part of the value of the property for a period not to exceed 15 years, subject to the rights of holders of outstanding bonds of the municipality, on the condition that the owner of the property make specific improvements or repairs to the property. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

(b) The agreements made with the owners of property in a reinvestment zone must contain identical terms for the portion of the value of the property that is to be exempt and the duration of the exemption.

(c) The property subject to an agreement made under this section may be located in the extraterritorial jurisdiction of the municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.

(d) Property that is in a reinvestment zone and that is owned or leased by a member of the governing body of the municipality or by a member of a zoning or planning board or commission of the municipality is excluded from property tax abatement or tax increment financing. (V.A.C.S. Art. 1066f, Secs. 2(a), 4(c), (d).)

Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT. (a) An agreement made under Section 312.204 must:

(1) list the kind, number, and location of all proposed improvements of the property;

(2) provide access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;

(3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

(4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

(b) An agreement made under Section 312.204 may include, at

the option of the governing body of the municipality, provisions for:

(1) improvements or repairs by the municipality to streets, sidewalks, and utility services or facilities associated with the property, except that the agreement may not provide for lower charges or rates than are made for other services or properties of a similar character;

(2) an economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when related costs or monetary obligations are to be incurred;

(3) a map showing existing uses and conditions of real property in the reinvestment zone;

(4) a map showing proposed improvements and uses in the reinvestment zone; and

(5) proposed changes of zoning ordinances, the master plan, the map, building codes, and city ordinances. (V.A.C.S. Art. 1066f, Secs. 2(b), (c).)

Sec. 312.206. TAX ABATEMENT BY OTHER TAXING UNITS. (a) If property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement made under Section 312.204, the governing body of any other taxing unit in which the property is located may execute a written agreement with the owner of the property. The agreement by the taxing unit must contain terms identical to those contained in the agreement with the municipality providing for the portion of the property that is to be exempt from taxation under the agreement, the duration of the

agreement, and the provisions included in the agreement under Section 312.205.

(b) If the governing body of a taxing unit does not execute an agreement as provided by Subsection (a) applicable to property subject to a municipal agreement, the taxing unit may not tax the property at a value greater than the value at which the property was taxed in the year preceding the execution of the agreement with the municipality. This limitation extends for a period equal to twice the duration of the municipal agreement.

(c) If the governing body of a municipality designates a reinvestment zone that includes property in the extraterritorial jurisdiction of the municipality, the governing body of any other taxing unit in which the property is located may execute a written agreement with the owner of the property to exempt from its property taxes all or part of the value of the property in the same manner as provided by Section 312.204 for a municipality. The taxing unit may execute an agreement even if the municipality does not execute an agreement for the property, and the terms of the agreement are not required to be identical to the terms of a municipal agreement. (V.A.C.S. Art. 1066f, Secs. 2(d), (e).)

Sec. 312.207. APPROVAL BY GOVERNING BODY. (a) To be effective, an agreement made under this subchapter must be approved by the affirmative vote of a majority of the members of the governing body of the municipality or other taxing unit at a regularly scheduled meeting of the governing body.

(b) On approval by the governing body, an agreement may be executed in the same manner as other contracts made by the

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municipality or other taxing unit. (V.A.C.S. Art. 1066f, Sec. 5(c).)

Sec. 312.208. MODIFICATION OR TERMINATION OF AGREEMENT. (a) At any time before the expiration of an agreement made under this subchapter, the agreement may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 15 years from the date of the original agreement.

(b) An agreement made under this subchapter may be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed. (V.A.C.S. Art. 1066f, Sec. 6.)

Sec. 312.209. APPLICATION OF NONSEVERABILITY PROVISION. Section 2, Article 5, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985, applies to the provisions of this subchapter that are derived from amendments to the Property Redevelopment and Tax Abatement Act made by Chapter 221, Acts of the 69th Legislature, Regular Session, 1985. (New.)

[Sections 312.210-312.400 reserved for expansion]

SUBCHAPTER C. COUNTY TAX ABATEMENT

Sec. 312.401. DESIGNATION OF REINVESTMENT ZONE. (a) The commissioners court of a county by order may designate as a 37/8 reinvestment zone an area of the county that does not include area in the taxing jurisdiction of a municipality.

(b) The commissioners court may not designate an area as a reinvestment zone until it holds a public hearing on the designation and finds that the designation would be a benefit to the property to be included in the zone and would contribute to the economic development of the county. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be given in the same manner as provided for notice of a hearing to be held by a municipality under Section 312.201.

(c) The designation of a reinvestment zone under this section expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect existing agreements made under this subchapter.

(d) Property may be located both in a reinvestment zone designated by a county under this subchapter and in a reinvestment zone designated by a municipality under Subchapter B. (V.A.C.S. Art. 1066f, Secs. 7A(a), (d), (f).)

Sec. 312.402. COUNTY TAX ABATEMENT AGREEMENT. (a) The commissioners court may execute a tax abatement agreement with the owner of taxable real property located in a reinvestment zone designated under this subchapter. The execution, duration, and other terms of an agreement made under this section are governed by the provisions of Sections 312.204 and 312.205 applicable to a municipality.

(b) A tax abatement agreement made under this section has the same effect on the other taxing units in which the property

subject to the agreement is located as is provided by Section 312.206 for an agreement made by a municipality under Section 312.204 to abate taxes on property located in the taxing jurisdiction of the municipality.

(c) If property subject to an agreement with a county under this section is annexed by a municipality during the existence of the agreement, the governing body of the municipality must enter into an agreement in the same manner as any other taxing unit until the termination of the county agreement, or the municipality is limited to taxing the property subject to the agreement at the taxable value of the property in the year preceding the year the county agreement was executed until the termination of the county agreement plus a period of additional years immediately following the termination of the county agreement equal to the number of years in which the county agreement was in effect.

(d) Property that is located in a reinvestment zone designated by a county under this subchapter and that is owned or leased by a member of the commissioners court may not be subject to a tax abatement agreement made under this section.

(e) An agreement made under this section by a county or other taxing unit may be modified or terminated in the same manner and subject to the same limitations as provided by Section 312.208 for an agreement made under Subchapter B. (V.A.C.S. Art. 1066f, Secs. 7A(c), (e), (g).)

[Chapters 313-320 reserved for expansion]

SUBTITLE C. LOCAL SALES AND USE TAXES

CHAPTER 321. MUNICIPAL SALES AND USE TAX ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 321.001. SHORT TITLE

Sec. 321.002. DEFINITIONS

Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE

Sec. 321.004. REFERENCES TO SALES OR USE TAX

[Sections 321.005-321.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY MUNICIPALITIES

Sec. 321.101. TAX AUTHORIZED

Sec. 321.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE

Sec. 321.103. SALES TAX

Sec. 321.104. USE TAX

Sec. 321.105. RESIDENTIAL USE OF GAS AND ELECTRICITY

[Sections 321.106-321.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 321.201. COMPUTATION OF SALES TAXES

Sec. 321.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT

Sec. 321.203. CONSUMMATION OF SALE

Sec. 321.204. COMPUTATION OF USE TAX

Sec. 321.205. USE TAX: MUNICIPALITY IN WHICH USE OCCURS

Sec. 321.206. INCIDENCE OF ADDITIONAL MUNICIPAL SALES AND USE TAX

1 Sec. 321.207. LOCAL TAX INAPPLICABLE WHEN NO STATE TAX;
2 EXCEPTIONS
3 Sec. 321.208. STATE EXEMPTIONS APPLICABLE
4 Sec. 321.209. TRANSITION EXEMPTION
5 Sec. 321.210. TELECOMMUNICATIONS EXEMPTION
6 [Sections 321.211-321.300 reserved for expansion]
7 SUBCHAPTER D. ADMINISTRATION OF TAXES
8 Sec. 321.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES
9 Sec. 321.302. COMPTROLLER'S REPORTING DUTIES
10 Sec. 321.303. SALES TAX PERMITS AND EXEMPTION AND RESALE
11 CERTIFICATES
12 Sec. 321.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION
13 Sec. 321.305. PENALTIES
14 Sec. 321.306. COMPTROLLER'S RULES
15 Sec. 321.307. DELINQUENT TAXES: LIMITATIONS
16 Sec. 321.308. SEIZURE AND SALE OF PROPERTY
17 Sec. 321.309. SUIT FOR TAX COLLECTION
18 Sec. 321.310. DISAPPROVAL OF MUNICIPAL SUIT
19 Sec. 321.311. JUDGMENTS IN MUNICIPAL SUIT
20 [Sections 321.312-321.400 reserved for expansion]
21 SUBCHAPTER E. TAX ELECTION PROCEDURES
22 Sec. 321.401. CALLING OF ELECTION
23 Sec. 321.402. DEADLINES AFTER PETITION
24 Sec. 321.403. TIME OF ELECTION
25 Sec. 321.404. BALLOT WORDING
26 Sec. 321.405. OFFICIAL RESULTS OF ELECTION
27 Sec. 321.406. FREQUENCY OF ELECTION

Sec. 321.407. ELECTION CONTEST: NOTICE

Sec. 321.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE

[Sections 321.409-321.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 321.501. TRUST ACCOUNT

Sec. 321.502. DISTRIBUTION OF TRUST FUNDS

Sec. 321.503. STATE'S SHARE

Sec. 321.504. AMOUNTS RETAINED IN TRUST ACCOUNT

Sec. 321.505. INTEREST ON TRUST ACCOUNT

Sec. 321.506. USE OF TAX REVENUE BY MUNICIPALITY

Sec. 321.507. USE OF ADDITIONAL MUNICIPAL SALES AND USE TAX

Sec. 321.508. ENTERPRISE ZONE REFUNDS

Sec. 321.509. TAX POWERS OF MUNICIPALITY NOT LIMITED

SUBTITLE C. LOCAL SALES AND USE TAXES

CHAPTER 321. MUNICIPAL SALES AND USE TAX ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 321.001. SHORT TITLE. This chapter may be cited as the Municipal Sales and Use Tax Act. (V.A.C.S. Art. 1066c, Sec. 1 (part).)

Sec. 321.002. DEFINITIONS. (a) In this chapter:

(1) "Additional municipal sales and use tax" means only the additional tax authorized by Section 321.101(b).

(2) "Municipality" includes any incorporated city, town, or village.

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or

the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant.

(b) Words used in this chapter and defined by Chapter 151 have the meanings assigned by Chapter 151. (V.A.C.S. Art. 1066c, Sec. 1 (part); Sec. 6, Subsec. B(1) (part); New.)

Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B and Chapter 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes, unless modified by this chapter. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 4, Subsec. C (part); Sec. 6, Subsec. A.)

Sec. 321.004. REFERENCES TO SALES OR USE TAX. A reference to a sales tax or a use tax imposed or authorized by this chapter is a reference to both the taxes imposed under Sections 321.101(a) and ~~or~~ (b) unless otherwise provided. (New.)

[Sections 321.005-321.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY MUNICIPALITIES

Sec. 321.101. TAX AUTHORIZED. (a) A municipality may adopt or repeal a sales and use tax authorized by this chapter, other than the additional municipal sales and use tax, at an election in which a majority of the qualified voters of the municipality

approve the adoption or repeal of the tax.

(b) A municipality that is not disqualified may, by a majority vote of the qualified voters of the municipality voting at an election held for that purpose, adopt an additional sales and use tax for the benefit of the municipality in accordance with this chapter. A municipality is disqualified from adopting the additional sales and use tax if the municipality:

(1) is included within the boundaries of a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes);

(2) is included within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), by a principal city having a population of less than 800,000;

(3) is wholly or partly located in a county that contains territory within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), by a principal city having a population in excess of 800,000, unless the city is a contiguous city; or

(4) imposes a tax authorized by Article 1118z, Revised Statutes.

(c) For the purposes of Subsection (b), "principal city" and "contiguous city" have the meanings assigned by Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y,

Vernon's Texas Civil Statutes).

(d) In any municipality in which an additional sales and use tax has been imposed, in the same manner and by the same procedure the municipality by majority vote of the qualified voters of the municipality voting at an election held for that purpose may abolish the additional sales and use tax. The governing body of a municipality that has adopted the additional sales and use tax shall call an election on the question of the abolition of the additional tax not later than 10 years after the date of the last preceding election on the adoption or abolition of the additional tax.

(e) An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts, if, within the boundaries of the authority there is a municipality that has adopted the additional sales and use tax provided for in this section. (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. A, H (part); Sec. 2A, Subsecs. A, G (part).)

Sec. 321.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE. (a) A tax imposed under this chapter or the repeal of a tax abolished under this chapter takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 321.405(b). This subsection does not apply

to the additional municipal sales and use tax.

(b) The additional municipal sales and use tax takes effect or is repealed in the municipality on the first day of the first calendar year occurring after the expiration of the first complete calendar quarter after the date on which the comptroller receives notice from the municipality of the adoption or repeal of the additional municipal sales and use tax.

(c) If a municipality in which the tax imposed under this chapter is in effect changes its boundaries, the municipal secretary shall send by United States registered or certified mail to the comptroller a certified copy of the ordinance that adds or detaches municipal territory and that shows the effective date of the boundary change. The ordinance must be accompanied by a map clearly showing the added or detached territory. Except as provided by Subsection (d), the tax takes effect in the added territory or is inapplicable to the detached territory on the first day of the first calendar quarter after the comptroller receives the ordinance and map.

(d) If, within 10 days after the receipt of an ordinance and map sent under Subsection (c), the comptroller notifies the secretary of the municipality that more time is required, the effective date of the application of the tax in the added or detached area is the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives the ordinance and map. (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. G (part), H (part), J; Sec. 2A, Subsecs. F (part), G (part), K.)

Sec. 321.103. SALES TAX. (a) In a municipality that has adopted the tax authorized by Section 321.101(a), there is imposed a tax on the receipts from the sale at retail of taxable items within the municipality at the rate of one percent and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use.

(b) In a municipality that has adopted the additional municipal sales and use tax, the tax is imposed at the rate of one-half of one percent on the receipts from the sale at retail of all taxable items within the municipality and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use unless the residential use of gas and electricity is exempted from the tax imposed under Section 321.101(a), in which case the residential use of gas and electricity is exempted under this subsection also. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 2A, Subsec. B.)

Sec. 321.104. USE TAX. (a) In a municipality that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the muncipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the tangible personal property.

(b) In a municipality that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption of gas or electricity for residential purposes

and purchased from any retailer during the period that the tax is effective within the municipality. The tax is imposed at the same rate as the tax provided by Subsection (a). (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. A (part), D (part).)

Sec. 321.105. RESIDENTIAL USE OF GAS AND ELECTRICITY. (a) There are exempted from the taxes imposed by a municipality under this chapter the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption within the municipality of gas and electricity for residential use in any municipality that:

(1) adopted the tax on or after October 1, 1979; or

(2) adopted the tax before that time but:

(A) failed to exempt the residential use of gas and electricity before May 1, 1979; and

(B) has not reimposed the tax as provided by Subsection (c). J8/9

(b) A governing body of a municipality that adopted the taxes under this chapter before October 1, 1979, may, by ordinance adopted by a vote of a majority of the membership of the governing body and recorded in the municipal minutes, exempt from the taxes authorized by this chapter the receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption of gas and electricity for residential use.

(c) A governing body of a municipality that has adopted the taxes authorized by this chapter before May 1, 1979, and in which residential use of gas and electricity is exempted within the municipality, may reimpose the taxes on gas and electricity for

residential use by ordinance adopted by a vote of the majority of the membership of the governing body and entered in the municipal minutes.

(d) The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of an ordinance exempting or imposing the taxes on residential use of gas and electricity.

(e) The exemption or reimposition of taxes on residential use of gas and electricity takes effect within the municipality as provided by Section 321.104(a) after receipt of a copy of the ordinance. (V.A.C.S. Art. 1066c, Sec. 4A.)

[Sections 321.106-321.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 321.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a municipality that has adopted a tax authorized by this chapter shall add each sales tax imposed by the municipality under this chapter and by Chapter 151 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price. If the municipality imposes the tax on gas and electricity for residential use, only the municipal tax is added to the sales price of sales of gas and electricity for residential use.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates, or the rate of the municipal tax only for sales of gas and electricity for residential use in a municipality that imposes the tax on gas and electricity for

residential use, by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The comptroller may publish schedules and brackets of amounts of taxes based on the formula provided by Subsection (b) for use in municipalities that have adopted the taxes authorized by this chapter. (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. K (part), L; Sec. 2A, Subsecs. I (part), J.)

Sec. 321.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined state and local taxes. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. K (part); Sec. 2A, Subsec. I (part).)

Sec. 321.203. CONSUMMATION OF SALE. (a) A sale of a taxable item occurs within the municipality in which the sale is consummated. A sale is consummated as provided by this section regardless of the place where transfer of title or possession or segregation in contemplation of a transfer of title or possession occurs.

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in

1 this state, a sale of an item of tangible personal property by the
2 retailer is consummated at the retailer's place of business:
3 (1) from which the retailer ships or delivers the
4 item, if the retailer ships or delivers the item to a point
5 designated by the purchaser or lessee; or
6 (2) where the purchaser or lessee takes possession of
7 and removes the item, if the purchaser or lessee takes possession
8 of and removes the item from a place of business of the retailer.
9 (d) If neither the possession of tangible personal property
10 is taken at nor shipment or delivery of the property is made from
11 the retailer's place of business in this state, the sale is
12 consummated at:
13 (1) the retailer's place of business in this state
14 where the order is received; or
15 (2) if the order is not received at a place of
16 business of the retailer, the place of business from which the
17 retailer's salesman who took the order operates.
18 (e) A sale is consummated at the location in this state to
19 which tangible personal property is shipped or delivered or at
20 which possession is taken by the customer if transfer of possession
21 of tangible personal property occurs at, or shipment or delivery of
22 the property originates from, a location in this state other than a
23 place of business of the retailer and if:
24 (1) the retailer is an itinerant vendor who has no
25 place of business;
26 (2) the retailer's place of business where the
27 purchase order is initially received or from which the retailer's

salesman who took the order operates is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other transmission originates, unless the point of origin cannot be determined, in which case the sale is at the address to which the call is billed.

(h) The sale of an amusement service is consummated in the municipality in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any use of tangible personal property that subjects the property to the sales tax under the provisions of Section 151.154, the use or other consumption of the property that subjected the property to the tax is consummated at the place where the property is stored or kept at the time of or just before the use or consumption. (V.A.C.S. Art. 1066c, Sec. 6, Subsecs. B(1) (part), (2).)

Sec. 321.204. COMPUTATION OF USE TAX. (a) In each municipality that has adopted the taxes authorized by this chapter, the taxes imposed by Section 321.104(a) and the tax imposed by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except:

(1) in a municipality that imposes the tax on gas and

electricity for residential use only the rate of the municipal tax is used to determine the amount of tax on the use, storage, or other consumption of gas and electricity for residential use; and

(2) only the rate of the municipal tax is used in a situation described by Section 321.205(b).

(b) The formula prescribed by Section 321.201(b) applies to the computation of the amount of use taxes under this chapter. (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. B (part), D (part).)

Sec. 321.205. USE TAX: MUNICIPALITY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter the name of the municipality adopting the tax is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of tangible personal property does not apply if the property is first used, stored, or consumed in a municipality or area that has not adopted the taxes authorized by this chapter. 53/4

(b) If a sale of tangible personal property is consummated in this state but not within a municipality that has adopted the taxes authorized by this chapter and the property is shipped directly, or brought by the purchaser or lessee directly, into a municipality that has adopted the taxes authorized by this chapter, the property is subject to the municipality's use tax. The use is considered to be consummated at the location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state and the use of the property is consummated within a municipality that has adopted the tax authorized by this chapter, the property is subject to the municipality's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established. 54/5

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the municipality in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation ~~for~~ or further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a municipality that has adopted the tax under this chapter shall be subject to the municipal use tax. (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. A (part), C (part), E, F; Sec. 6, Subsec. B(3).)

Sec. 321.206. INCIDENCE OF ADDITIONAL MUNICIPAL SALES AND

USE TAX. For the purpose of determining the proper sales tax under this chapter and the proper excise tax on the use, storage, or other consumption of taxable items under Section 321.101(b):

(1) if a taxable item is used, stored, or otherwise consumed in a municipality that has adopted the additional municipal sales and use tax, Sections 321.203(b), (c), (d), and (e) apply; and

(2) if the sales tax applies in a municipality that has not adopted the municipal sales and use tax, the excise tax on the use, storage, or other consumption of the taxable item does not apply. (V.A.C.S. Art. 1066c, Sec. 4, Subsec. A (part).)

Sec. 321.207. LOCAL TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 321.205(b). (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 4, Subsec. A (part).)

Sec. 321.208. STATE EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Section 151.317(b). (V.A.C.S. Art. 1066c, Sec. 6, Subsec. C(1).)

Sec. 321.209. TRANSITION EXEMPTION. (a) For a period of three years only after the effective date of the tax authorized by Section 321.101(a) in a municipality, the receipts from the sale of, and the use, storage, and consumption of, taxable items are exempt from the tax imposed by the municipality under Section 321.101(a) if the notice required by Subsection (b) is given and if:

(1) the items are used for the performance of a written contract entered into before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the contract may not be modified because of the tax; or

(2) the items are used under the obligation of a bid submitted before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the bid may not be withdrawn or modified because of the tax.

(b) The taxpayer must give the comptroller notice of the contract or bid on which an exemption is to be claimed within 60 days after the effective date of the tax imposed under Section 321.101(a) in the municipality. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. C(2).)

Sec. 321.210. TELECOMMUNICATIONS EXEMPTION. (a) There are

exempted from the taxes imposed under this chapter the sale within the municipality of telecommunications services unless the application of the exemption is repealed under this section.

(b) The governing body of a municipality by ordinance adopted by a majority vote of the governing body in the manner required for the adoption of other ordinances may repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the municipality.

(c) A municipality that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the governing body of a municipality repealing the application of or reinstating the exemption must be entered in the minutes of the municipality. The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of each ordinance adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the municipality as provided by Section 321.102(a) after receipt of a copy of the ordinance. (V.A.C.S. Art. 1066c, Secs. 4B(a), (b).)

[Sections 321.211-321.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 321.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax imposed by a municipality under this chapter. The taxes imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed. (V.A.C.S. Art. 1066c, Sec. 4, Subsec. B (part); Sec. 5(a) (part).)

Sec. 321.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a municipality that has adopted the taxes authorized by this chapter if the municipality requests the reports. A report must include the name, address, and account number of each person in the municipality that has remitted to the comptroller a tax payment during the quarter covered by the report.

(b) If a municipality requests an additional report, the comptroller shall make an additional quarterly report to the municipality including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the municipality who has failed to pay the tax under this chapter to the municipality or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a municipality determines that a person doing business in the municipality is not included in a comptroller's report, the municipality shall report to the comptroller the name and address of the person. Within 90 days after receiving the report from a municipality, the comptroller shall send to the municipality:

(1) an explanation as to why the person is not

obligated for the municipal tax;

(2) a statement that the person is obligated for the municipal tax and the tax is delinquent; or

(3) a certification that the person is obligated for the municipal tax and that the full amount of the tax due has been credited to the municipality's account. 59/60

(d) The comptroller shall send by United States certified or registered mail to the municipal tax collector a notice of each person who is delinquent in the payment to the municipality of the taxes authorized by this chapter and shall send a copy of the notice to the attorney general. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 1066c, Secs. 5(b), (c), (d); Sec. 12, Subsec. A (part).)

Sec. 321.303. SALES TAX PERMITS AND EXEMPTION AND RESALE CERTIFICATES. (a) Each place of business of a retailer must have a permit issued by the comptroller under Subchapter F, Chapter 151.

(b) The same sales tax permit, exemption certificate, and resale certificate required by Chapter 151 for the administration and collection of the taxes imposed by that chapter satisfy the requirements of this chapter. No additional permit or exemption or resale certificate may be required except that the comptroller may prescribe a separate exemption certificate form for the transition exemption for prior contracts and bids under Section 321.209. (V.A.C.S. Art. 1066c, Sec. 6, Subsecs. B(1) (part), D.)

Sec. 321.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION.

All discounts allowed a retailer under Chapter 151 for the collection and prepayment of the taxes under that chapter are allowed and applicable to the taxes collected under this chapter. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. E.)

Sec. 321.305. PENALTIES. The penalties provided by Chapter 151 for violations of that chapter apply to violations of this chapter. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. F.)

Sec. 321.306. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, reporting, and enforcement of this chapter. (V.A.C.S. Art. 1066c, Sec. 5(a) (part); Sec. 11; Sec. 12, Subsec. C(5) (part).)

Sec. 321.307. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a tax imposed or a penalty due under this chapter after the tax and penalty are delinquent or after a determination against the taxpayer are the same as limitations provided by Chapter 151. (V.A.C.S. Art. 1066c, Sec. 12, Subsec. A (part).)

Sec. 321.308. SEIZURE AND SALE OF PROPERTY. If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties of both taxes. The proceeds of a sale of seized property shall first be applied to the payment of amounts due the state and the remainder, if any, to the amounts due to the municipality to which the taxes are due. (V.A.C.S. Art. 1066c, Sec. 12, Subsec. B.)

Sec. 321.309. SUIT FOR TAX COLLECTION. (a) A municipality acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the municipality under this chapter.

(b) A municipality may bring suit for the collection of taxes owed to the municipality under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 321.302(d);

(2) a written notice of the tax delinquency and the municipality's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. A (part), C(1).)

Sec. 321.310. DISAPPROVAL OF MUNICIPAL SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a municipality under Section 321.309(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the municipality seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a municipality must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a municipal collection suit, the municipality may again proceed as provided by Section 321.309(b) even though the liability of the taxpayer includes taxes for which the municipality has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. C(2), (3).)

Sec. 321.311. JUDGMENTS IN MUNICIPAL SUIT. (a) A judgment in a suit under Section 321.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another municipality or the state unless the state is party to the suit.

(b) A municipality shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A municipality shall by execution collect the taxes awarded to it in each judgment received by the municipality and is responsible for the renewal of the judgment before its expiration.

(d) The municipality shall notify the comptroller by

1 certified mail of the amount of any taxes collected on the 63/4
2 judgment. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. C(4), (5)
3 (part).)
4 [Sections 321.312-321.400 reserved for expansion]
5 SUBCHAPTER E. TAX ELECTION PROCEDURES
6 Sec. 321.401. CALLING OF ELECTION. (a) An election under
7 this chapter is called by the adoption of an ordinance by the
8 governing body of a municipality.
9 (b) The governing body may call the election by a vote of a
10 majority of its members.
11 (c) The governing body shall call the election if a number
12 of qualified voters of the municipality equal to at least 20
13 percent of the number of votes cast in the most recent regular
14 municipal election petitions the governing body for a vote on the
15 question.
16 (d) The governing body of any municipality that has not
17 adopted the additional sales and use tax shall, on petition of
18 qualified voters of the municipality equal in number to at least
19 five percent of the number of voters registered in the
20 municipality, provide by ordinance for the calling and holding of
21 an election on the question of adopting the additional sales and
22 use tax. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. C; Sec. 2A, Subsec.
23 C.)
24 Sec. 321.402. DEADLINES AFTER PETITION. (a) After the
25 receipt of a petition for an election under this chapter, the
26 governing body of a municipality shall determine the sufficiency of
27 the petition within 30 days. 64/

(b) If the petition is sufficient, the governing body shall pass the ordinance calling the election within 60 days after receiving the petition. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. D.)

Sec. 321.403. TIME OF ELECTION. (a) An election under this chapter to adopt the tax authorized under Section 321.101(a) must be held on the first succeeding uniform election date for which sufficient time elapses for the holding of an election.

(b) An election on the approval of the additional sales and use tax must be held on the next succeeding uniform election date not less than 30 days after the passage of the ordinance calling the election. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. E; Sec. 2A, Subsec. D.)

Sec. 321.404. BALLOT WORDING. (a) In an election to adopt the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "A one percent sales and use tax is adopted within the city" or "The adoption of an additional one-half of one percent sales and use tax within the city to be used to reduce the property tax rate."

(b) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "The local sales and use tax within the city is abolished" or "The abolition of the additional sales and use tax within the city." (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. G (part), H (part); Sec. 2A, Subsecs. F (part), G (part).)

Sec. 321.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters approve of the adoption or abolition of a tax authorized by this chapter, the governing

body of the municipality shall by resolution or ordinance entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the municipal secretary shall send to the comptroller by United States certified or registered mail a certified copy of the resolution or the ordinance along with a map of the municipality clearly showing its boundaries.

(c) Not later than the 30th day after the date the comptroller receives a certified copy of an ordinance or resolution showing the adoption of the additional municipal sales and use tax, the comptroller shall notify the municipal secretary that he is prepared for the administration of the tax. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. I; Sec. 2A, Subsec. H.)

Sec. 321.406. FREQUENCY OF ELECTION. An election under this chapter in a municipality may not be held earlier than one year after the date of any previous election under this chapter in the municipality. (V.A.C.S. Art. 1066c, Sec. 3.)

Sec. 321.407. ELECTION CONTEST: NOTICE. (a) If an

election held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending.

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section. (V.A.C.S. Art. 1066c, Sec. 13, Subsec. A.)

Sec. 321.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the municipal secretary shall notify the comptroller by United States certified or registered mail and enclose a certified copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the municipality under this chapter, the tax or the abolition of the tax takes effect as provided by Section 321.102 except that the notice of the final judgment is substituted for the notice of election results prescribed by Section 321.405. (V.A.C.S. Art. 1066c, Sec. 13, Subsec. B.) 67/8

[Sections 321.409-321.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 321.501. TRUST ACCOUNT. (a) The comptroller shall

deposit the taxes collected by the comptroller under this chapter with the state treasurer. The treasurer shall keep the deposits in trust in the separate suspense account of the municipality from which the taxes were collected.

(b) The comptroller and each employee of the comptroller who has any duty or responsibility in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of the funds that are acquired by the comptroller under this chapter shall enter into one or more surety bonds in the amount of $100,000 payable to any and all municipalities from which the funds are collected. The comptroller may enter into a blanket bond or bonds covering the comptroller and the comptroller's employees.

(c) The premiums for the bonds required by this section shall be paid when due from the state's share of money collected and held by the comptroller under this chapter before its deposit in the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 7.)

Sec. 321.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as feasible, the comptroller shall send to the municipal treasurer or to the person who performs the office of the municipal treasurer payable to the municipality the municipality's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art. 1066c, Sec. 8(a) (part).)

Sec. 321.503. STATE'S SHARE. Before sending any money to a municipality under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the

municipality during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to premiums payments under Section 321.501(c), credit the money deducted to the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 8(a) (part).)

Sec. 321.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a municipality a portion of the municipality's share of the tax collected for the municipality under this chapter, not to exceed five percent of the amount remitted to the municipality. If the municipality has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the municipality at the time of the termination of the collection of the tax.

(b) From the amounts retained in a municipality's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a municipality's tax under this chapter the comptroller shall send to the municipality the remainder of the money in the municipality's account and shall close the account. (V.A.C.S. Art. 1066c, Sec. 8(a) (part).) 69/70

Sec. 321.505. INTEREST ON TRUST ACCOUNT. Interest earned on all deposits made with the state treasurer under Section 321.501, including interest earned from retained suspense accounts, shall be credited to the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 8, Subsec. (a) (part).)

Sec. 321.506. USE OF TAX REVENUE BY MUNICIPALITY. Except as provided by Section 321.507, the money received by a municipality under this chapter is for the use and benefit of the municipality and may be used for any purpose for which the general funds of the municipality may be used, except that a municipality may not pledge the revenue received under this chapter to the payment of bonds or other indebtedness. (V.A.C.S. Art. 1066c, Secs. 8(a) (part), 9(a).)

Sec. 321.507. USE OF ADDITIONAL MUNICIPAL SALES AND USE TAX. In each year in which a municipality imposes an additional municipal sales and use tax, if the revenue from the collection of the additional tax exceeds the amount of taxes computed for the municipality under Section 26.04(c), the excess shall be deposited in an account to be called the municipal sales tax debt service fund. Revenue deposited in the municipal sales tax debt service fund may be spent only for the reduction of lawful debts of the municipality, except that deposits that exceed the amount of revenue needed to pay the debt service needs of the municipality in the current year may be used for any municipal purpose consistent with the municipal budget. (V.A.C.S. Art. 1066c, Sec. 9(b).)

Sec. 321.508. ENTERPRISE ZONE REFUNDS. (a) A municipality may establish a program to refund to a qualified business under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) the amount of tax paid under this chapter by the business and remitted to the comptroller.

(b) The refund must be conditioned on the qualified business having purchased or leased equipment or machinery for use in the

1 local enterprise zone or having purchased material for use in
2 remodeling, rehabilitating, or constructing a structure in the
3 zone. (V.A.C.S. Art. 1066c, Sec. 8(b).)
4 Sec. 321.509. TAX POWERS OF MUNICIPALITY NOT LIMITED. This
5 chapter does not abolish or limit the tax powers of a municipality.
6 (V.A.C.S. Art. 1066c, Sec. 10.)
7 CHAPTER 322. SALES AND USE TAXES FOR SPECIAL PURPOSE
8 TAXING AUTHORITIES
9 SUBCHAPTER A. GENERAL PROVISIONS
10 Sec. 322.001. APPLICATION OF CHAPTER
11 Sec. 322.002. DEFINITIONS
12 [Sections 322.003-322.100 reserved for expansion]
13 SUBCHAPTER B. ASSESSMENT AND COMPUTATION OF TAXES
14 Sec. 322.101. SALES TAX
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18 Sec. 322.105. USE TAX: WHERE USE OCCURS 71/72
19 Sec. 322.106. TAX INAPPLICABLE WHEN NO STATE TAX;
20 EXCEPTIONS
21 Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING
22 ENTITY
23 Sec. 322.108. CERTAIN PROVISIONS OF MUNICIPAL SALES AND USE
24 TAX APPLICABLE
25 Sec. 322.109. TELECOMMUNICATIONS EXEMPTION
26 [Sections 322.110-322.200 reserved for expansion]

1 SUBCHAPTER C. ADMINISTRATION OF TAXES

2 Sec. 322.201. COMPTROLLER TO COLLECT AND ADMINISTER

3 TAXES

4 Sec. 322.202. COMPTROLLER'S REPORTING DUTIES

5 Sec. 322.203. COMPTROLLER'S RULES

6 Sec. 322.204. DELINQUENT TAXES: LIMITATIONS

7 Sec. 322.205. SEIZURE AND SALE OF PROPERTY

8 Sec. 322.206. SUITS FOR TAX COLLECTION

9 Sec. 322.207. DISAPPROVAL OF SUIT

10 Sec. 322.208. JUDGMENTS IN SUIT

11 [Sections 322.209-322.300 reserved for expansion]

12 SUBCHAPTER D. REVENUE DEPOSIT, DISTRIBUTION, AND USE

13 Sec. 322.301. COLLECTIONS HELD BY COMPTROLLER

14 Sec. 322.302. DISTRIBUTION OF TRUST FUNDS

15 Sec. 322.303. STATE'S SHARE

16 Sec. 322.304. AMOUNTS RETAINED IN TRUST ACCOUNT

17 Sec. 322.305. INTEREST ON TRUST ACCOUNTS 72/73

18 CHAPTER 322. SALES AND USE TAXES FOR SPECIAL PURPOSE TAXING

19 AUTHORITIES

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 322.001. APPLICATION OF CHAPTER. (a) This chapter

22 applies to the imposition, assessment, collection, administration,

23 and enforcement of a sales and use tax imposed under the authority

24 of Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973

25 (Article 1118x, Vernon's Texas Civil Statutes), Chapter 683, Acts

26 of the 66th Legislature, Regular Session, 1979 (Article 1118y,

27 Vernon's Texas Civil Statutes), or Article 1118z, Revised Statutes.

(b) The effective dates and rates of the taxes imposed by a taxing entity are determined under the laws authorizing the adoption of the taxes. (New.)

Sec. 322.002. DEFINITIONS. In this chapter:

(1) "Taxing entity" means a rapid transit authority, a regional transit authority, including a subregional transportation authority, or a municipal mass transit department created under Article 1118z, Revised Statutes, that has adopted a sales and use tax under the law authorizing the creation of the entity.

(2) "Entity area" means the geographical limits of a taxing entity.

(3) "Municipal sales and use tax" means a sales and use tax imposed by a municipality under the Municipal Sales and Use Tax Act (Chapter 321) within an entity area. (V.A.C.S. Art. 1118x, Sec. 11B(B)(a); Art. 1118y, Sec. 16(b); New.)

[Sections 322.003-322.100 reserved for expansion] 73/74

SUBCHAPTER B. ASSESSMENT AND COMPUTATION OF TAXES

Sec. 322.101. SALES TAX. There is imposed in a taxing entity a sales tax at the rate authorized and set as provided by the law authorizing the creation of the taxing entity and applied to the receipts from the sale within the entity area of all taxable items that are subject to the sales tax under Chapter 151. (V.A.C.S. Art. 1118x, Sec. 11B(A) (part); Art. 1118y, Sec. 16(a) (part); Art. 1118z, Sec. 8(a) (part).)

Sec. 322.102. USE TAX. In a taxing entity, there is imposed an excise tax on the use, storage, and other consumption within the entity area of taxable items purchased, leased, or rented from a

retailer during the period that the sales tax is effective within the entity area. The rate of the excise tax is the same rate as the rate of the sales tax imposed by the taxing entity and is applied to the sales price of the taxable item. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(1) (part); Art. 1118y, Sec. 16(f)(2)(A) (part); Art. 1118z, Sec. 8(c) (part).)

Sec. 322.103. COMPUTATION OF SALES TAXES. (a) Each retailer in an entity area shall add the sales tax imposed under this chapter, the sales taxes imposed under Chapter 151, and, if applicable, any sales taxes imposed under Chapter 321 or 323 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined applicable tax rates. (V.A.C.S. Art. 1118x, Sec. 11B(B)(b); Art. 1118y, Sec. 16(f)(1); Art. 1118z, Sec. 8(b).)

Sec. 322.104. COMPUTATION OF USE TAX. (a) In each taxing entity the tax imposed by Subchapter D, Chapter 151, the tax

imposed under Section 321.104(a), if applicable, and the tax imposed under Section 322.102 are added together to form a single combined tax rate, except in a situation described by Section 322.105(b).

(b) The formula prescribed by Section 322.103(b) applies to the computation of the amount of the tax under this section. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(2) (part); Art. 1118y, Sec. 16(f)(2)(B) (part); Art. 1118z, Sec. 8(d) (part).)

Sec. 322.105. USE TAX: WHERE USE OCCURS. (a) In determining the incidence of the use tax of a taxing entity, the name of the taxing entity is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax of a taxing entity on the use, storage, or other consumption of tangible personal property does not apply if the property is first used, stored, or consumed in an area other than an entity area.

(b) If a sale of tangible personal property is consummated within this state but not within an entity area and the property is shipped directly or brought by the purchaser or lessee directly into an entity area, the property is subject to the entity's use tax. The use is considered to be consummated at the location where the item is first used, stored, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state, the property is subject to the use tax of the taxing entity and not its sales tax. A use is considered to be consummated at the first point in this state

where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) If tangible personal property that is exempt under Section 322.107 is shipped or delivered directly to a purchaser in an entity, the property is subject to the use tax of the entity in which the purchaser takes delivery or shipment. (V.A.C.S. Art. 1118x, Secs. 11B(B)(c)(1) (part), (3), (4), (5), (6) (part); Art. 1118y, Secs. 16(f)(2)(A) (part), (C), (D), (E), (F) (part); Art. 1118z, Secs. 8(c) (part), (e), (f), (g)(1), (g)(3).)

Sec. 322.106. TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax of a taxing entity does not apply to the sale of a taxable item unless the sales tax imposed under Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax of a taxing entity on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption of the item.

(c) Subsection (b) does not apply to the application of the tax in a situation described by Section 322.105(b). (V.A.C.S. Art. 1118x, Secs. 11B(A) (part), (B)(c)(1) (part), (d)(1) (part); Art. 1118y, Secs. 16(a) (part), (f)(2)(A) (part), (3)(A) (part); Art. 1118z, Secs. 8(a) (part), (c) (part), (h) (part).)

Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING ENTITY.

There are exempted from the sales tax of a taxing entity the receipts of the sale of tangible personal property that, under a sales contract, is shipped to a point outside the entity by means of:

(1) facilities operated by the retailer;

(2) delivery by the retailer to a carrier for shipment to a consignee at that point; or

(3) delivery by the retailer to a customs broker or a forwarding agent for shipment outside the entity. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(6) (part); Art. 1118y, Sec. 16(f)(2)(F) (part); Art. 1118z, Sec. 8(g)(2).)

Sec. 322.108. CERTAIN PROVISIONS OF MUNICIPAL SALES AND USE TAX APPLICABLE. The following apply to the taxes imposed by this chapter in the same manner as applicable to a municipality under Chapter 321: /78

(1) Section 321.002(a)(3);

(2) Section 321.003;

(3) Section 321.203;

(4) Section 321.205(d);

(5) Section 321.208;

(6) Section 321.209;

(7) Section 321.303;

(8) Section 321.304; and

(9) Section 321.305. (V.A.C.S. Art. 1118x, Sec. 11B(B)(e) (part); Art. 1118y, Sec. 16(f)(4) (part); Art. 1118z, Sec. 8(j) (part).)

Sec. 322.109. TELECOMMUNICATIONS EXEMPTION. (a) There are

exempted from the taxes imposed by a taxing entity under this chapter the sales within the entity area of telecommunications services unless the application of the exemption is repealed under this section.

(b) The board of a taxing entity may, by a majority vote of the board in the manner required for the adoption of other orders, repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the city.

(c) A taxing entity board that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of a taxing entity board repealing the application of or reinstating the exemption must be entered in the minutes of the entity. The entity board chairman or secretary shall send to the comptroller by United States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the entity on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives a copy of the order. (V.A.C.S. Art. 1118x, Secs. 11B(B)(b-1)(1), (2); Art. 1118y, Secs. 16(f)(1-A)(A), (B); Art. 1118z, Secs. 8(b-1)(1), (2).)

[Sections 322.110-322.200 reserved for expansion]

SUBCHAPTER C. ADMINISTRATION OF TAXES

Sec. 322.201. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. (a) The comptroller shall administer, collect, and enforce the sales and use tax of a taxing entity.

(b) The sales and use taxes imposed under this chapter, the taxes imposed under Chapters 321 and 323, and the taxes imposed under Chapter 151 shall be collected together to the extent that each is imposed in an entity area. (V.A.C.S. Art. 1118x, Secs. 11B(B)(c)(2) (part), (d)(1) (part); Art. 1118y, Secs. 16(f)(2)(B) (part), (3)(A) (part); Art. 1118z, Secs. 8(d) (part), (h) (part).)

Sec. 322.202. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall report to a taxing entity on the entity's sales and use taxes by making substantially the same reports that are required to be made by the comptroller to a municipality under Sections 321.302(a), (b), and (c).

(b) The comptroller shall send to a taxing entity by United States certified or registered mail a notice of each person who is delinquent in the payment of the entity's sales and use taxes and shall send to the attorney general a copy of the notice. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 1118x, Secs. 11B(B)(d)(2), (h)(1) (part); Art. 1118y, Secs. 16(f)(3)(B), (7)(A) (part); Art. 1118z, Secs. (i), (n) (part).)

Sec. 322.203. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, and enforcement of this chapter and for the reporting of the taxes imposed under this chapter. (V.A.C.S. Art. 1118x, Secs. 11B(B)(d)(1) (part), (g), (h)(7) (part); Art. 1118y, Secs. 16(f)(3)(A) (part), (6), (7)(G) (part); Art. 1118z, Secs. 8(h) (part), (m), (t) (part).)

Sec. 322.204. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a sales and use tax imposed by a taxing entity or a penalty due on the tax after the tax and penalty are delinquent or after a determination against a taxpayer are the same as the limitations provided by Chapter 151. (V.A.C.S. Art. 1118x, Sec. 11B(B)(h)(1) (part); Art. 1118y, Sec. 16(f)(7)(A) (part); Art. 1118z, Sec. 8(n) (part).)

Sec. 322.205. SEIZURE AND SALE OF PROPERTY. (a) If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties under this chapter, Chapter 151, and Chapter 321.

(b) The proceeds of the sale of seized property shall first be applied to the payment of amounts due the state, then to the payments of amounts due a municipality under Chapter 321, and the remainder, if any, to the payment of amounts due to the taxing entity to which the taxes are due. (V.A.C.S. Art. 1118x, Sec. 11B(B)(h)(2); Art. 1118y, Sec. 16(f)(7)(B); Art. 1118z, Sec. 8(o).)

Sec. 322.206. SUITS FOR TAX COLLECTION. (a) A taxing entity acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the taxing entity under this chapter.

(b) A taxing entity may bring suit for the collection of taxes owed to the taxing entity under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 322.202(b);

(2) a written notice of the tax delinquency and the entity's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(1) (part), (3) (part); Art. 1118y, Secs. 16(f)(7)(A) (part), (C) (part); Art. 1118z, Secs. 8(n) (part), (p) (part).)

Sec. 322.207. DISAPPROVAL OF SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a taxing entity under Section 322.206(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the taxing entity seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a taxing entity must be in

writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a taxing entity collection suit, the taxing entity may again proceed as provided by Section 322.206(b) even though the liability of the taxpayer includes taxes for which the entity has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(3) (part), (4), (5); Art. 1118y, Secs. 16(f)(7)(C) (part), (D), (E); Art. 1118z, Secs. 8(p) (part), (q), (r).)

Sec. 322.208. JUDGMENTS IN SUIT. (a) A judgment in a suit under Section 322.206(b) for or against a taxpayer does not affect a claim against the taxpayer by a municipality or the state unless the state is party to the suit.

(b) A taxing entity shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A taxing entity shall by execution collect the taxes awarded to it in each judgment received by it and is responsible for the renewal of the judgment before its expiration.

(d) The taxing entity shall notify the comptroller by certified mail of the amount of any taxes collected on the judgment. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(6), (7) (part); Art. 1118y, Secs. 16(f)(7)(F), (G) (part); Art. 1118z, Secs. 8(s),

(t) (part).)

[Sections 322.209-322.300 reserved for expansion]

SUBCHAPTER D. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 322.301. COLLECTIONS HELD BY COMPTROLLER. The comptroller shall deposit, hold, account for, and transmit sales and use taxes collected under this chapter for each taxing entity in the same manner as required under Section 321.501 for each municipality. (V.A.C.S. Art. 1118x, Sec. 11B(B)(e) (part); Art. 1118y, Sec. 16(f)(4) (part); Art. 1118z, Sec. 8(k) (part).)

Sec. 322.302. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and as often as feasible, the comptroller shall send to the person at each taxing entity who performs the function of entity treasurer, payable to the taxing entity, the entity's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.303. STATE'S SHARE. Before sending any money to a taxing entity under this subchapter, the comptroller shall deduct two percent of the amount of the taxes collected within the entity area during the period for which a distribution is made as the state's charge for its services under this chapter and shall credit the money deducted to the general revenue fund. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.304. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a taxing entity a

portion of the entity's share of the tax collected for the entity under this chapter, not to exceed five percent of the amount remitted to the entity. If the entity has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the entity at the time of the termination of the collection of the tax.

(b) From the amounts retained in an entity's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of an entity's tax under this chapter other than a department under Article 1118z, Revised Statutes, the comptroller shall send to the entity the remainder of the money in the entity's account and shall close the account. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.305. INTEREST ON TRUST ACCOUNTS. Interest earned on all deposits made with the state treasurer under this chapter, including interest earned on retained accounts, shall be credited to the general revenue fund. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part).)

CHAPTER 323. COUNTY SALES AND USE TAX ACT

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Sec. 323.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT

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Sec. 323.205. USE TAX: COUNTY IN WHICH USE OCCURS

Sec. 323.206. COUNTY TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS

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Sec. 323.208. TELECOMMUNICATIONS EXEMPTION

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Sec. 323.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES

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Sec. 323.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION

Sec. 323.305. PENALTIES

1 Sec. 323.306. COMPTROLLER'S RULES

2 Sec. 323.307. DELINQUENT TAXES: LIMITATIONS

3 Sec. 323.308. SEIZURE AND SALE OF PROPERTY

4 Sec. 323.309. SUIT FOR TAX COLLECTION

5 Sec. 323.310. DISAPPROVAL OF COUNTY SUIT

6 Sec. 323.311. JUDGMENTS IN COUNTY SUIT

7 [Sections 323.312-323.400 reserved for expansion]

8 SUBCHAPTER E. TAX ELECTION PROCEDURES

9 Sec. 323.401. CALLING OF ELECTION

10 Sec. 323.402. DEADLINES AFTER PETITION

11 Sec. 323.403. TIME OF ELECTION

12 Sec. 323.404. BALLOT WORDING

13 Sec. 323.405. OFFICIAL RESULTS OF ELECTION

14 Sec. 323.406. FREQUENCY OF ELECTION

15 Sec. 323.407. ELECTION CONTEST: NOTICE

16 Sec. 323.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE

17 [Sections 323.409-323.500 reserved for expansion]

18 SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

19 Sec. 323.501. TRUST ACCOUNT

20 Sec. 323.502. DISTRIBUTION OF TRUST FUNDS

21 Sec. 323.503. STATE'S SHARE

22 Sec. 323.504. AMOUNTS RETAINED IN TRUST ACCOUNT

23 Sec. 323.505. USE OF TAX REVENUE

24 CHAPTER 323. COUNTY SALES AND USE TAX ACT

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 323.001. SHORT TITLE. This chapter may be cited as the

27 County Sales and Use Tax Act. (V.A.C.S. Art. 2353e, Sec. 20

(part).) /88

Sec. 323.002. DEFINITIONS. The words used in this chapter and defined by Chapters 151 and 321 have the meanings assigned by Chapters 151 and 321. (V.A.C.S. Art. 2353e, Sec. 20 (part).)

Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B and Chapter 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes unless modified by this chapter. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part); Sec. 23, Subsec. (C) (part); Sec. 26, Subsec. (A).)

[Sections 323.004-323.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY COUNTIES

Sec. 323.101. TAX AUTHORIZED. (a) A qualified county may adopt or repeal the county sales and use tax authorized by this chapter at an election in which a majority of the qualified voters of the county approve the adoption or repeal of the tax, as applicable.

(b) A county is qualified to adopt the tax only if no part of the county is located in a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

(c) An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature, /89

Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts in a county in which the county sales and use tax provided for in this section is in effect or is scheduled to take effect. For the purposes of this ~~sub~~section, an authority is not considered to be located in any county in which fewer than 250 persons are both residents of the authority and the county. (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (A), (H) (part).)

Sec. 323.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE. (a) A tax imposed under this chapter takes effect on the first day of the first calendar year occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

(b) The repeal of a tax abolished under this chapter takes effect on the first day of the first calendar year that begins on or after the first day of the first county fiscal year that begins at least 30 days after the date on which the comptroller receives a notice of the action as required by Section 323.405(b). (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (G) (part), (H) (part).)

Sec. 323.103. SALES TAX. In a county that has adopted the tax authorized by this chapter, there is imposed a tax on the receipts from the sale at retail of taxable items within the county at the rate of one-half of one percent, or in a county that includes no territory within the limits of a municipality, one percent. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part).)

Sec. 323.104. USE TAX. In a county that has adopted the tax

authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the county of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the county. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the tangible personal property. (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (A) (part).)

[Sections 323.105-323.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 323.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a county that has adopted the tax authorized by this chapter shall add the sales tax imposed by this chapter and by Chapter 151, plus any other applicable sales tax, to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (J) (part).)

Sec. 323.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose

1 receipts from the sales of taxable items comes from individual
2 transactions in which the sales price is an amount on which no tax
3 is produced from the combined state and local taxes. (V.A.C.S.
4 Art. 2353e, Sec. 21, Subsec. (J) (part).)
5 Sec. 323.203. CONSUMMATION OF SALE. (a) A sale of a
6 taxable item occurs within the county in which the sale is
7 consummated. A sale is consummated as provided by this section,
8 regardless of the place where transfer of title or possession
9 occurs.
10 (b) If a retailer has only one place of business in this
11 state, all of the retailer's retail sales are consummated at that
12 place of business except as provided by Subsection (e).
13 (c) If a retailer has more than one place of business in
14 this state, a sale of an item of tangible personal property by the
15 retailer is consummated at the retailer's place of business:
16 (1) from which the retailer ships or delivers the
17 item, if the retailer ships or delivers the item to a point
18 designated by the purchaser or lessee; or
19 (2) where the purchaser or lessee takes possession of
20 and removes the item, if the purchaser or lessee takes possession
21 of and removes the item from a place of business of the retailer.
22 (d) If neither the possession of tangible personal property
23 is taken at nor shipment or delivery of the property is made from
24 the retailer's place of business in this state, the sale is
25 consummated at:
26 (1) the retailer's place of business in this state
27 where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale is consummated at the location in this state to which tangible personal property is shipped or delivered or at which possession is taken by the customer if transfer of possession of tangible personal property occurs at, or shipment or delivery of the property originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order operates is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other transmission originates, unless the point of origin cannot be determined, in which case the sale is at the address to which the call is billed.

(h) The sale of an amusement service is consummated in the county in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any use of tangible personal property that subjects the property to the sales tax under the provisions of Section 151.154, the use or other consumption of the property that subjected the property to the tax is consummated at the place where the property is stored or kept at the time of or just before the use or consumption. (V.A.C.S. Art. 2353e, Sec. 26, Subsecs. (B)(1) (part), (2).)

Sec. 323.204. COMPUTATION OF USE TAX. In each county that has adopted the taxes authorized by this chapter, the tax imposed by Section 323.104, by other applicable local taxes, and by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except only the rate of the county tax is used in a situation described by Section 323.205(b). (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (B) (part).)

Sec. 323.205. USE TAX: COUNTY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter, the name of the county adopting the tax is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of tangible personal property does not apply if the property is first used, stored, or consumed in a county that has not adopted the taxes authorized by this chapter.

(b) If a sale of tangible personal property is consummated in this state but not within a county that has adopted the taxes authorized by this chapter and the property is shipped directly, or brought by the purchaser or lessee directly, into a county that has

adopted the tax under this chapter shall be subject to the county use tax. (V.A.C.S. Art. 2353e, Sec. 23, Subsecs. (A) (part), (C) (part), (D), (E); Sec. 26, Subsec. (B)(3).)

Sec. 323.206. COUNTY TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 323.205(b). (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part); Sec. 23, Subsec. (A) (part).)

Sec. 323.207. STATE EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Section 151.317(b). (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (C).)

Sec. 323.208. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed under this chapter the sale within the county of telecommunications services unless the application of the exemption is repealed under this section.

adopted the taxes authorized by this chapter, the property is subject to the county's use tax. The use is considered to be consummated at the location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state and the use of the property is consummated within a county that has adopted the tax authorized by this chapter, the property is subject to a county's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the county in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation ~~for~~ or further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a county that has

(b) The commissioners court of a county by a majority vote may repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the county.

(c) A county that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the commissioners court repealing the application of or reinstating the exemption must be entered in the minutes of the court. The county judge shall send to the comptroller by United States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the county on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives notification of the order. (V.A.C.S. Art. 2353e, Secs. 24(A), (B).)

[Sections 323.209-323.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 323.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax imposed by a county under this chapter. The tax imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed. (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (B) (part); Sec. 25(A) (part).)

Sec. 323.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a county that has adopted the taxes authorized by this chapter if the county requests the reports. A report must include the name, address, and account

number of each person in the county that has remitted to the comptroller a tax payment during the quarter covered by the report.

(b) If a county requests an additional report, the comptroller shall make an additional quarterly report to the county including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the county who has failed to pay the tax under this chapter to the county or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a county determines that a person doing business in the county is not included in a comptroller's report, the county shall report to the comptroller the name and address of the person. Within 90 days after receiving the report from a county, the comptroller shall send to the county:

(1) an explanation as to why the person is not obligated for the county tax;

(2) a statement that the person is obligated for the county tax and the tax is delinquent; or

(3) a certification that the person is obligated for the county tax and that the full amount of the tax due has been credited to the county's account.

H.A. #1(1)

(d) The comptroller shall send by United States certified or registered mail to the county ~~tax collector~~ attorney a notice of each person who is delinquent in the payment to the county of the taxes authorized by this chapter and shall send a copy of the notice to the attorney general. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 2353e, Secs. 25(B), (C), (D); Sec. 31, Subsec. (A) (part).)

Sec. 323.303. SALES TAX PERMITS AND EXEMPTION AND RESALE CERTIFICATES. (a) Each place of business of a retailer must have a permit issued by the comptroller under Subchapter F, Chapter 151.

(b) The same sales tax permit, exemption certificate, and resale certificate required by Chapter 151 for the administration and collection of the taxes imposed by that chapter satisfy the requirements of this chapter. No additional permit or exemption or resale certificate may be required. ~~(V.A.C.S. Art. 2353e, Sec. 26, Subsecs. (B) (part), (D).)~~ omit H.A. #1(2)

Sec. 323.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION. All discounts allowed a retailer under Chapter 151 for the collection and prepayment of the taxes under that chapter are allowed and applicable to the taxes collected under this chapter. (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (E).)

Sec. 323.305. PENALTIES. The penalties provided by Chapter 151 for violations of that chapter apply to violations of this chapter. (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (F).)

Sec. 323.306. COMPTROLLER'S RULES. The comptroller may

adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, reporting, and enforcement of this chapter. (V.A.C.S. Art. 2353e, Sec. 25(A) (part); Sec. 30.)

Sec. 323.307. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a tax imposed or a penalty due under this chapter after the tax and penalty are delinquent or after a determination against the taxpayer are the same as limitations provided by Chapter 151. (V.A.C.S. Art. 2353e, Sec. 31, Subsec. (A) (part).)

Sec. 323.308. SEIZURE AND SALE OF PROPERTY. If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties of both taxes. The proceeds of a sale of seized property shall first be applied to the payment of amounts due the state, any remainder to the amounts due to a municipality to which the taxes are due under Chapter 321, and any remainder to the amounts due to a county to which taxes are due. (V.A.C.S. Art. 2353e, Sec. 31, Subsec. (B).)

Sec. 323.309. SUIT FOR TAX COLLECTION. (a) A county acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the county under this chapter.

(b) A county may bring suit for the collection of taxes owed to the county under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 323.302(d);

(2) a written notice of the tax delinquency and the county's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (A) (part), (C)(1).)

Sec. 323.310. DISAPPROVAL OF COUNTY SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a county under Section 323.309(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the county seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a county must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a county collection suit, the county may again proceed as provided by Section 323.309(b) even though the liability of the taxpayer includes taxes for which the county has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (C)(2), (3).)

Sec. 323.311. JUDGMENTS IN COUNTY SUIT. (a) A judgment in a suit under Section 323.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another county, a municipality, or the state unless the state is party to the suit.

(b) A county shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A county shall by execution collect the taxes awarded to it in each judgment received by the county and is responsible for the renewal of the judgment before its expiration.

(d) The county shall send to the comptroller for deposit in the county's suspense account the amount of any taxes collected on the judgment. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (C)(4), (5).)

[Sections 323.312-323.400 reserved for expansion]

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 323.401. CALLING OF ELECTION. (a) An election under this chapter is called by the adoption of an order by the

commissioners court of a county.

(b) The commissioners court may call the election by a vote of a majority of its members.

(c) The commissioners court shall call the election if a number of qualified voters of the county equal to at least five percent of the number of registered voters in the county petitions for a vote on the question. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (C).)

Sec. 323.402. DEADLINES AFTER PETITION. (a) After the receipt of a petition for an election under this chapter, the commissioners court shall determine the sufficiency of the petition within 30 days.

(b) If the petition is sufficient, the commissioners court shall pass the ordinance calling the election within 60 days after receiving the petition. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (D).)

Sec. 323.403. TIME OF ELECTION. An election under this chapter must be held on the next uniform election day not less than 30 days after the day on which the order calling the election was passed. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (E).)

Sec. 323.404. BALLOT WORDING. (a) Except as provided by Subsection (b), in an election to adopt the tax, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one-half percent county sales and use tax within the county to be used to reduce the county property tax rate."

(b) In an election in a county that includes no territory

within the limits of a municipality, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one percent county sales and use tax within the county to be used to reduce the county property tax rate."

(c) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the proposition: "Abolition of the county sales and use tax within the county." (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (G) (part), (H) (part).)

Sec. 323.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters of a county approve of the adoption or abolition of the tax authorized by this chapter, the commissioners court of the county shall, by resolution entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the county judge shall send to the comptroller by United States certified or registered mail a certified copy of the resolution. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (I).)

Sec. 323.406. FREQUENCY OF ELECTION. An election under this chapter in a county may not be held earlier than one year after the date of any previous election under this chapter in the county. (V.A.C.S. Art. 2353e, Sec. 22.)

Sec. 323.407. ELECTION CONTEST: NOTICE. (a) If an election held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending. 105

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section. (V.A.C.S. Art. 2353e, Sec. 32, Subsec. (A).)

Sec. 323.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the county judge shall notify the comptroller by United States certified or registered mail and enclose a certified copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the county under this chapter, the tax or the abolition of the tax takes effect as provided by Section 323.102 except that the notice of the final judgment is substituted

for the notice of election results prescribed by Section 323.405. (V.A.C.S. Art. 2353e, Sec. 32, Subsec. (B).)

[Sections 323.409-323.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 323.501. TRUST ACCOUNT. (a) The comptroller shall deposit the taxes collected by the comptroller under this chapter with the state treasurer. The treasurer shall keep the deposits in trust in the separate suspense account of the county from which the taxes were collected.

(b) The comptroller and each employee of the comptroller who has any duty or responsibility in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of the funds that are acquired by the comptroller under this chapter shall enter into one or more surety bonds in the amount of $100,000 payable to any and all counties from which the funds are collected. The comptroller may enter into a blanket bond or bonds covering the comptroller and the comptroller's employees.

(c) The premiums for the bonds required by this section shall be paid when due from the state's share of money collected and held by the comptroller under this chapter before its deposit in the general revenue fund.

(d) If municipalities and counties are protected under a single bond, separate bonds are not required for compliance with this section and Section 321.501. (V.A.C.S. Art. 2353e, Sec. 27.)

Sec. 323.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as

feasible, the comptroller shall send to the county treasurer payable to the county the county's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.503. STATE'S SHARE. Before sending any money to a county under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the county during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to premiums payments under Section 323.501(c), credit the money deducted to the general revenue fund. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a county a portion of the county's share of the tax collected for the county under this chapter, not to exceed five percent of the amount remitted to the county. If the county has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the county at the time of the termination of the collection of the tax.

(b) From the amounts retained in a county's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a county's tax under this chapter the comptroller shall send to the county the remainder of the money in

the county's account and shall close the account. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.505. USE OF TAX REVENUE. The money received by a county under this chapter is for the use and benefit of the county and shall be used for the replacement of property tax revenue lost as a result of the adoption of the taxes authorized by this chapter. The revenue in excess of the revenue used to replace those property taxes shall be used for the reduction of indebtedness of the county. After all indebtedness is paid, the excess may be used for any purpose for which county general revenue may be used. A county may not pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness for a period longer than one year. (V.A.C.S. Art. 2353e, Sec. 29.)

[Chapters 324-350 reserved for expansion]

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

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SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 351.001. DEFINITIONS. In this chapter:

(1) "Municipality" includes any incorporated city, town, or village.

(2) "Convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and other municipal buildings that are suitable for use as convention and exposition facilities. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the immediate vicinity of other convention center facilities.

(3) "Eligible municipality" means a municipality that has a population of at least 1,200,000 and that has adopted by ordinance a capital improvement plan for convention and exposition facilities for the municipality.

(4) "Eligible coastal municipality" means a home-rule municipality that borders on the Gulf of Mexico and has a population of less than 80,000.

(5) "Hotel" has the meaning assigned by Section

156.001(1). (V.A.C.S. Art. 1269j-4.1, Sec. 3c(a)(1) (part); Sec. 3d(a); Secs. 3e(a)(1), (2); Sec. 3f(a); Sec. 3g(a)(2), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.002. TAX AUTHORIZED. (a) A municipality by ordinance may impose a tax on a person who, under a lease, /110 concession, permit, right of access, license, contract, or agreement, 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 sleeping.

(b) The price of a room in a hotel 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.

(c) The tax does not apply to a person who has the right to use or possess a room in a hotel for 30 or more days. (V.A.C.S. Art. 1269j-4.1, Sec. 3a(a) (part); Secs. 3d(b), (c), (d); Sec. 3e(b)(1) (part); Sec. 3f(b) (part); Sec. 3g(b) (part), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.003. TAX RATES. (a) Except as provided by this section, the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The rate in an eligible municipality may not exceed six percent of the price paid for a room in a hotel.

(c) The rate in a municipality having a population of 900,000 or more and a council-manager form of government may not exceed five percent of the price paid for a room in a hotel.

(V.A.C.S. Art. 1269j-4.1, Secs. 3a(a) (part), 3e(b)(1) (part), 3f(b) (part), 3g(b) (part), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.004. TAX COLLECTION. (a) The municipal attorney or other attorney acting for the municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality and who has failed to file a tax report or pay the tax when due to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order.

(b) The remedy provided by this section is in addition to other available remedies. (V.A.C.S. Art. 1269j-4.1, Sec. 3g, as added by Ch. 1009, Acts 68th Leg., R.S., 1983.)

Sec. 351.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) A municipality may permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

(b) The municipality may provide that the reimbursement provided by this section be forfeited because of a failure to pay the tax or to file a report as required by the municipality. (V.A.C.S. Art. 1269j-4.1, Secs. 3a(b), 3e(f).)

[Sections 351.006-351.100 reserved for expansion]

SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

Sec. 351.101. USE OF TAX REVENUE. (a) Revenue from the

municipal hotel occupancy tax may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising for general promotional and tourist advertising of the municipality and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the municipality or through contracts with persons or organizations selected by the municipality;

(4) 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; and

(5) historical restoration and preservation projects or activities:

(A) at or in the immediate vicinity of convention center facilities; or

(B) that would be frequented by tourists and visitors to the municipality.

(b) It is the intent of the legislature that revenues derived from the tax authorized by this chapter are to be expended

in a manner directly enhancing and promoting tourism and the convention and hotel industry. (V.A.C.S. Art. 1269j-4.1, Secs. 3c(a) (part), (c).)

Sec. 351.102. PLEDGE FOR BONDS. (a) Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), for one or more of the purposes provided by Section 351.101.

(b) Before an eligible municipality may issue bonds secured in whole or part by the revenue received from the tax imposed under this chapter, the municipality must certify that the average annual debt service on outstanding bonds and bonds in the process of issuance that are secured in whole or part by the tax authorized by this chapter and that were issued for purposes other than convention and exposition facilities does not exceed the maximum annual revenues that the municipality could receive from the tax imposed under this section in the absence of special provisions under this chapter that apply solely to eligible municipalities, plus any other revenue pledged to the payment of the bonds. (V.A.C.S. Art. 1269j-4.1, Secs. 3c(b) (part), 3e(c).)

Sec. 351.103. ALLOCATION OF REVENUE: GENERAL RULE. (a) The following amount of municipal hotel occupancy tax revenue must be allocated for the use provided by Section 351.101(a)(3):

(1) if the tax rate in a municipality is not more than three percent of the cost paid for a room, not less than the amount

of revenue received by the municipality from the tax at a rate of one-half of one percent of the cost of the room; or

(2) if the tax rate in a municipality exceeds three percent of the cost of a room, not less than the amount of revenue received by the municipality from the tax at a rate of one percent of the cost of a room.

(b) No more municipal hotel occupancy revenue than the amount of tax received by the municipality at the rate of one percent of the cost of a room may be used for the purpose provided by Section 351.101(a)(4).

(c) All municipal hotel occupancy tax revenue that is derived from the application of the tax at a rate in excess of four percent of the cost of a room may only be used for the purposes provided by Sections 351.101(a)(1), (2), and (3). (V.A.C.S. Art. 1269j-4.1, Secs. 3a(a) (part), 3c(b) (part).)

Sec. 351.104. ALLOCATION OF REVENUE: ELIGIBLE MUNICIPALITIES. (a) Subject to the limitation provided by Subsection (b) and Section 351.102, an eligible municipality may pledge to the payment of revenue bonds and revenue refunding bonds issued under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, all or any portion of the revenue derived from the municipality hotel occupancy tax and all or any portion of any other revenue of the municipality as the governing body may determine in the ordinance authorizing the issuance of the bonds.

(b) Consistent with the provisions of Section 351.103(a), an eligible municipality shall reserve that portion of the municipal hotel occupancy tax revenue derived from the application of the tax

at a rate in excess of four percent of the cost of a room solely for the purposes provided by Section 351.101(a)(1) and for the purpose of securing refunding bonds in connection therewith.

(c) Revenue received by an eligible municipality from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101. (V.A.C.S. Art. 1269j-4.1, Secs. 3e(b) (part), (d), (g).)

Sec. 351.105. ALLOCATION OF REVENUE: ELIGIBLE COASTAL MUNICIPALITIES. (a) An eligible coastal municipality that levies and collects an occupancy tax authorized by this chapter at a rate of seven percent or more shall pledge a portion of the revenue equal to at least one percent of the cost of a room to either or both of the following purposes:

(1) the payment of the bonds that the municipality or a park board of trustees may issue under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), or under Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6081g-1, Vernon's Texas Civil Statutes), in order to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair of public improvements, including parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of

attracting visitors and tourists to the municipality; or

(2) the maintenance, improvement, or operation of the parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality.

(b) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of four or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of three percent of the cost of a room shall be used for the purpose provided by Section 351.101(a)(3).

(c) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of five or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent shall be used for beach patrol, lifeguard services, marine water safety, and park law enforcement.

(d) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of six or more percent, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent of the cost of a room shall be used as matching funds for state funds available to clean and maintain public beaches and for other public

beach-cleaning funds. (V.A.C.S. Art. 1269j-4.1, Secs. 3f(c) (part), (d), (e), (f).)

Sec. 351.106. ALLOCATION OF REVENUE: MUNICIPALITIES WITH POPULATION OF 900,000 AND COUNCIL-MANAGER GOVERNMENT. (a) A municipality that has a population of 900,000 or more and that has adopted council-manager form of government shall use the amount of revenue from the tax that is derived from the application of the tax at a rate of more than four percent of the cost of a room as follows:

(1) no more than 65 percent to:

(A) constructing, improving, enlarging, equipping, and repairing the municipality's convention center complex; or

(B) pledging payment of revenue bonds and revenue refunding bonds issued under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), for the municipality's convention center complex; and

(2) at least 35 percent for the purposes provided by Section 351.101(a)(3).

(b) Revenue received by a municipality described by Subsection (a) from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101. (V.A.C.S. Art. 1269j-4.1, Secs. 3g(a)(1), (c), (d), as added by Ch. 879, Acts 68th Leg., R.S., 1983.) 118

CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES

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CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 352.001. DEFINITION. In this chapter, "hotel" has the meaning assigned by Section 156.001(1). (V.A.C.S. Art. 2352i, Sec. 1(1); Art. 2372d-8, Sec. 7(1).)

Sec. 352.002. TAX AUTHORIZED. (a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, 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 sleeping: /119

(1) a county that has a population of two million or more;

(2) a county that has a population of 90,000 or more, borders on the Republic of Mexico, and does not have three or more cities that each have a population of more than 17,500; and

(3) a county in which there is no municipality.

(b) The price of a room in a hotel 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.

(c) The tax does not apply to a person who has the right to use or possess a room in a hotel for 30 or more days. (V.A.C.S. Art. 2352i, Secs. 1(2), (3), (4); Sec. 2 (part); Art. 2372d-8, Sec. 1; Sec. 4(a) (part); Secs. 7(2), (3), (4).)

Sec. 352.003. TAX RATES. (a) Except as provided by this section the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The county tax rate in a municipality that has a population of 1,200,000 or more may not exceed one percent of the price paid for a room in a hotel.

(c) The rate in a county that does not have a municipality may not exceed four percent of the price paid for a room in a hotel. (V.A.C.S. Art. 2352i, Sec. 2 (part); Art. 2372d-8, Secs. 4(a) (part), (b).) /120

Sec. 352.004. TAX COLLECTION; PENALTY. (a) The owner or operator of a hotel shall report and send the taxes collected under

this chapter to the county as provided by the resolution or order imposing the tax.

(b) If the owner fails to report when required or pay the tax when due, the owner shall pay a penalty of five percent of the amount of the tax due. If the owner fails to file the report or pay the tax before the 31st day after the date that the report or tax payment was due, he shall pay an additional penalty of five percent of the amount of the tax due.

(c) Delinquent taxes and accrued penalties draw interest at the rate of 10 percent a year beginning 60 days after the date on which the tax was due. (V.A.C.S. Art. 2352i, Sec. 2A; Art. 2372d-8, Sec. 4A.)

Sec. 352.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) A county may permit a person who is required to collect and pay over to the county the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

(b) This section does not apply to a county that has no municipality. (V.A.C.S. Art. 2372d-8, Sec. 15.)

[Sections 352.006-352.100 reserved for expansion]

SUBCHAPTER B. USE OF REVENUE

Sec. 352.101. USE OF REVENUE: COUNTIES OF TWO MILLION PERSONS OR MORE. The revenue from a tax imposed under this chapter by a /121/ county having a population of two million or more may be used only for:

(1) the acquisition of sites for and the construction,

improvement, enlarging, equipping, repairing, operation, and maintenance of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities that serve the purpose of attracting visitors and tourists to the county, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities; and

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants. (V.A.C.S. Art. 2372d-8, Sec. 6(a) (part).)

Sec. 352.102. USE OF REVENUE: COUNTIES BORDERING MEXICO. The revenue from a tax imposed under this chapter by a county that borders the Republic of Mexico and that is further described by Section 352.002(a)(2) may only be used for the purposes listed in Section 352.101 and for advertising for general promotion and tourist advertising of the county and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the county. (V.A.C.S. Art. 2372d-8, Sec. 6(a).)

Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY. The revenue from a tax imposed under this chapter by a county that has no municipality may be used only for: 122

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities including civic center

convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising for general promotional and tourist advertising of the county and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the commissioners court;

(4) the encouragement, promotion, improvement, and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms; and

(5) historical preservation and restoration. (V.A.C.S. Art. 2352i, Sec. 3.)

Sec. 352.104. PLEDGE FOR BONDS. A county may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued by the county under Section 3, Article I, Chapter 796, Acts of the 67th Legislature, Regular Session, 1981 (Article 2372d-8, Vernon's Texas Civil Statutes), for one or more of the purposes provided by Section 352.101. (V.A.C.S.

Art. 2372d-8, Sec. 6(b).)

SECTION 2. CONFORMING AMENDMENT. Section 11.28, Tax Code, is amended to read as follows:

Sec. 11.28. PROPERTY EXEMPTED FROM CITY TAXATION BY AGREEMENT. The owner of property to which an agreement made under the Property Redevelopment and Tax Abatement Act (Chapter 312 of this code) applies is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

SECTION 3. CONFORMING AMENDMENT. Section 11.86(a), Education Code, is amended to read as follows:

(a) The board shall conduct an annual study using comparable sales and other generally accepted techniques to determine the total value of all taxable property in each school district. The study shall determine the taxable value of all property and of each class of property within the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. In conducting the studies, the board shall use appropriate standard valuation, statistical compilation, and analysis techniques. For the purposes of this section, "taxable value" means market value less:

(1) the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study;

(2) the total dollar amount of any exemptions granted

within a reinvestment zone under agreements authorized by the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]);

(3) the total dollar amount of any captured appraised value of property that is located in a reinvestment zone and that is eligible for tax increment financing under the [~~Texas~~] Tax Increment Financing Act [~~of 1981~~] (Chapter 311, Tax Code [~~Article 1066e, Vernon's Texas Civil Statutes~~]);

(4) the difference between the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value may not exceed the fair market value of the land;

(5) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(6) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the Texas Constitution that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property; and /125

(7) the market value of all automobiles owned by a family or individual and not held or used for the production of

income.

SECTION 4. CONFORMING AMENDMENT. Section 5(b), Article 1, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015o, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The municipality, acting pursuant to the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]), may abate municipal property taxes that otherwise would be owed by the owner of a sign that is required to be relocated or reconstructed. The abated taxes may be on any real or personal property owned by the owner of the sign except residential property. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right to abatement with respect to taxes on any nonresidential property in the same taxing jurisdiction. In any municipality where tax abatement is utilized in order to pay compensable costs, such costs shall include reasonable interest and such abatement period shall not exceed five years.

SECTION 5. CONFORMING AMENDMENT. Section 12, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. REINVESTMENT ZONE. A local or state-federal enterprise zone may be designated a reinvestment zone for tax increment financing or tax abatement purposes as provided by the [~~Texas~~] Tax Increment Financing Act [~~of 1981~~] (Chapter 311, Tax Code [~~Article 1066e, Vernon's Texas Civil Statutes~~]) or the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code

[~~Article 1066f, Vernon's Texas Civil Statutes~~]).

SECTION 6. CONFORMING AMENDMENT. Section 5(b), Chapter 658, Acts of the 69th Legislature, Regular Session, 1985 (Article 6674v-4, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The governing body of a toll road authority, with the approval of the commissioners court and in accordance with the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]), may abate county property taxes that otherwise would be owed by the owner of a sign to be removed. The governing body may declare an area to be a reinvestment zone for purposes of abating property taxes under this subsection if the area encompasses signs designated by the governing body for removal. The abated taxes may be on any real or personal property in the county, other than residential property, owned by the owner of the sign. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right of abatement with respect to taxes on any nonresidential/127 property in the same county. In a county in which tax abatement is used in order to pay compensation, the compensation shall include reasonable interest and the abatement period may not exceed five years.

SECTION 7. CONFORMING AMENDMENT. Subsection (A), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(A) Subject [~~subject~~] to approval at a tax election in

accordance with this Act, the board of an authority shall be authorized to levy, collect and impose a local sales and use tax for the benefit of the authority[~~,-the-sales-tax-portion-of-which shall-not-exceed-one-percent-on--receipts--from--the--sale--of--all taxable--items--within--the--authority--area--which--are-subject-to taxation-under-the-provisions-of-the-Limited-Sales,-Excise-and--Use Tax--Act,--as-enacted-and-as-heretofore-or-hereafter-amended~~]. The provisions of Chapter 322, Tax Code, [~~this--section~~] shall be applicable to the levy, imposition and collection of such tax. The permissible rates for a local sales and use tax levied under this Act are:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; and

(4) one percent.

SECTION 8. CONFORMING AMENDMENT. Subsection (a), Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Subject to approval at a confirmation election in accordance with this Act, the executive committee is authorized to levy, collect, and impose a local sales and use tax for the benefit of the authority[~~,-the-sales-tax-portion-of-which-shall-not-exceed one-percent-of-receipts-from-the-sale--at--retail--of--all--taxable items-within-the-authority-area-which-are-subject-to-taxation-under the--provisions--of--the--Limited-Sales,-Excise-and-Use-Tax-Act,-as enacted-and-as-heretofore-or-hereafter-amended~~]. The tax rate may

be levied or collected only as a quarter of one percent, a half of one percent, three-quarters of one percent, or one percent. The provisions of Chapter 322, Tax Code, [~~this--section~~] shall be applicable to the levy, imposition, and collection of the tax.

SECTION 9. CONFORMING AMENDMENT. Section 8, Article 1118z, Revised Statutes, is amended to read as follows:

Sec. 8. LOCAL SALES AND USE TAX. (a) Subject to approval at a tax election in accordance with this article, the board may levy and collect a local sales and use tax for financing of the system, the sales tax portion of which applies to receipts from the sale of all taxable items within the city or town that are subject to taxation under the Limited Sales, Excise, and Use Tax Act, Chapter 151, Tax Code. The effective date of a local sales and use tax is the first day of the second calendar quarter that begins after the date the comptroller receives, under Subsection (f) of Section 5 of this article, notice of an order except as provided by Subsection (e) [~~(w)~~] of this section. The permissible rates for a local sales and use tax levied under this article are:

(1) one-quarter of one percent; and

(2) one-half of one percent.

(b) Chapter 322, Tax Code, applies to the application and collection of the tax imposed under this article. [~~Every--retailer within--the--city--or-town-shall-add-the-tax-imposed-by-the-Limited Sales,-Excise,-and-Use-Tax-Act,-any-applicable-local-sales-and--use tax,--and-the-tax-imposed-under-this-section-to-the-retailer's-sale price,-and-when-added,-the-combined-tax-is-a-part-of-the-price,--is a--debt--of--the--purchaser--to--the--retailer--until--paid,-and-is~~

~~recoverable at law in the same manner as the purchase price. The combined taxes on the transaction are determined by multiplying the amount of the sale by the total of the combined applicable tax rates. Any fraction of one cent less than one half of one cent of tax may not be collected. Any fraction of one cent of tax equal to one half of one cent or more shall be collected by the retailer as a whole cent of tax. After receiving written approval from the comptroller, a retailer who can establish to the satisfaction of the comptroller that 50 percent or more of the retailer's receipts from the sale of taxable items arise from individual transactions in which the total sales price when multiplied by the combined rates of the taxes imposed under the Limited Sales, Excise, and Use Tax Act, any applicable local sales and use tax, and the tax imposed under this section equals an amount that is less than one half of one cent may exclude the receipts from sales when reporting and paying the taxes imposed under this section and the Limited Sales, Excise, and Use Tax Act and any applicable local sales and use tax. Any attempt on the part of any retailer to exercise this provision without prior written approval of the comptroller is a refusal to pay the taxes imposed by this section and the Limited Sales, Excise, and Use Tax Act and any applicable local sales and use tax, and the retailer is subject to assessment for taxes, penalties, and interest as provided by this section and the Limited Sales, Excise, and Use Tax Act and under any applicable law providing for a local sales and use tax.~~

~~[(b-1)(1) There are exempted from the taxes imposed under the authority of this article the receipts from the sale within the~~

~~city---of---telecommunications---services--except--as--provided--by~~
~~Subdivision-(2)-of-this-subsection.~~

~~[(2)--The-board-that-has-adopted-the-tax-authorized--by--this~~
~~article--may-adopt-an-order-by-a-majority-vote-of-the-board,-in-the~~
~~manner-otherwise-required-for-the--adoption--by--the--board--of--an~~
~~order,--repealing-the-application-of-the-exemption-provided-by-this~~
~~section-for-telecommunications-services-sold-within--the--city.---A~~
~~department--that--has-repealed-the-application-of-the-exemption-may~~
~~in-the-same-manner-exempt-from-the-tax-the-receipts-from--the--sale~~
~~within--the-city-or-town-of-telecommunications-services.--A-vote-of~~
~~the-board-repealing-the-application-of-the-exemption--or--exempting~~
~~the--receipts--from-the-sale-of-telecommunications-services-must-be~~
~~entered-in-the-minutes-of-the-board.--If--an--order--repealing--the~~
~~application--of--the--exemption--or-exempting-the-receipts-from-the~~ 130/131
~~sale-of-telecommunications-services-is-adopted,-the-board--chairman~~
~~or--secretary--to--the--board--shall--forward-to-the-comptroller-by~~
~~United-States-registered-mail-or--certified--mail--a--copy--of--the~~
~~order.---On--receipt--of--the--notification-by-the-comptroller,-one~~
~~whole-calendar-quarter--shall--elapse--before--the--repeal--of--the~~
~~application--of--the--exemption-or-the-exemption-becomes-effective.~~
~~The-imposition-of-the-tax-or-the-exemption-then-takes-effect-on-the~~
~~first-day-of-the--calendar--quarter--next--succeeding--the--elapsed~~
~~quarter.~~

~~[(3)--Notwithstanding--Subdivision-(2)-of-this-subsection,-no~~
~~order-repealing--the--application--of--the--exemption--provided--by~~
~~Subdivision--(1)-of-this-subsection-may-take-effect-or-be-effective~~
~~before-October-1,-1987.]~~

(c) [~~In every city or town in which a local sales and use tax has been adopted under this section, there is imposed by this section an excise tax on the storage, use, or other consumption within the city or town of taxable items purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the sales and use tax for storage, use, or other consumption in the city or town at the same rate as the sales tax levied under this section on the sales price of the taxable item or, in the case of leases or rentals, on the lease or rental price. Except as provided by Subsection (f) of this section, the use tax imposed by this section is not owed to and may not be collected by, for, or on behalf of a department if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the state under the Limited Sales, Excise, and Use Tax Act, or if the tangible personal property is first stored, used, or consumed within a city or town that does not have a department for which the sales and use tax authorized by this section has been adopted.~~ 13 1/132

[~~(d) In each city or town in which the tax authorized by this section has been imposed, the excise tax imposed under the Limited Sales, Excise, and Use Tax Act, any applicable excise tax under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) on the storage, use, or other consumption of taxable items, and the excise tax imposed by this section shall be added together to form a combined rate of excise tax equal to the sum of the applicable taxes. The tax imposed by Subsection (c) of this section shall be collected by the comptroller on behalf of and~~

~~for-the-benefit-of--the--department.---The--formula--prescribed--by~~
~~Subsection--(b)--of-this-section-is-applicable-to-the-collection-of~~
~~the-excise-tax-imposed-under-Subsection-(e)-of-this-section.~~

~~[(e)--The--Limited--Sales,--Excise,--and--Use--Tax---Act---is~~
~~applicable--to--the-collection-of-the-tax-imposed-by-Subsection-(e)~~
~~of-this-section,-except-that-in--Subchapter--D,--Chapter--151,--Tax~~
~~Code,--the--name--of-the-department-for-which-the-sales-and-use-tax~~
~~authorized-by-this-section-has-been-adopted--shall--be--substituted~~
~~for--that--of--the--state--where-the-words-"this-state"-are-used-to~~
~~designate-the-taxing-authority-or-to-delimit-the-tax-imposed.~~

~~[(f)--If-a-sale-of-tangible-personal-property-is--consummated~~ 132/133
~~within--the-state-but-not-within-a-city-or-town-having-a-department~~
~~for-which-the-taxes-imposed-by-this-section-have--been--adopted--or~~
~~within--a--city-that-has-adopted-the-tax-authorized-by-Section-11B,~~
~~Chapter-141,-Acts-of-the-63rd-Legislature,--Regular--Session,--1973~~
~~(Article--1118x,--Vernon's--Texas--Civil--Statutes),-or-Section-16,~~
~~Chapter-683,-Acts-of-the-66th-Legislature,--Regular--Session,--1979~~
~~(Article--1118y,--Vernon's--Texas-Civil-Statutes),-and-the-tangible~~
~~personal-property-is--shipped--directly--into--or--brought--by--the~~
~~purchaser--or--lessee--directly--into--a--city--or--town--having--a~~
~~department-for-which-the-taxes-imposed-by-this--section--have--been~~
~~adopted,--the--tangible-personal-property-is-subject-to-the-use-tax~~
~~imposed--under--Subsection--(e)--of--this--section.---The--use---is~~
~~considered--consummated--at--the--location--where-the-item-is-first~~
~~stored,-used,-or-otherwise-consumed-after--the--intrastate--transit~~
~~has-ceased.~~

~~[(g)(1)--If--the--tangible--personal-property-is-shipped-from~~

~~outside-this-state-to-a-customer-within-this--state,--the--tangible personal--property--is-subject-to-the-use-tax-imposed-by-Subsection (e)-of-this-section-and-not-the-sales-tax-imposed-under--Subsection (a)--of-this-section.--The-use-is-consummated-at-the-first-point-in this-state--where--the--property--is--stored,--used,--or--otherwise consumed--after--interstate--transit-has-ceased.--Tangible-personal property-delivered-to-a-point-in-this-state-is-presumed-to--be--for storage,-use,-or-other-consumption-at-that-point-until-the-contrary is-established.~~

~~[(2)--There-are-exempted-from-the-sales-taxes-imposed-by-this section-receipts-from-any-sale-of-tangible-personal-property-which,~~ 133/134 ~~pursuant-to-the-contract-of-sale,-is-shipped-to-a-point-outside-the city-or-town-by-the-retailer-by-means-of:~~

~~[(A)--facilities-operated-by-the-retailer;~~

~~[(B)--delivery-by-the-retailer-to-a-carrier-for-shipment-to-a consignee-at-such-point,-or~~

~~[(C)--delivery--by--the--retailer--to--a--customs--broker--or forwarding-agent-for-shipment-outside-the-city-or-town.~~

~~[(3)--If--the--tangible--personal--property--exempted---under Subdivision--(2)--of--this--section--or--under--Paragraph-(e)(6)-of Subsection--(B),--Section--11B,--Chapter--141,--Acts--of--the--63rd Legislature,--Regular--Session,-1973-(Article-1118x,-Vernon's-Texas Civil-Statutes),-or-Paragraph-(F)-of-Section--16(f)(2)--of--Chapter 683,--Acts--of-the-66th-Legislature,-Regular-Session,-1979-(Article 1118y,-Vernon's-Texas-Civil--Statutes),--is--shipped--or--delivered directly--to--a--purchaser-in-another-city,-town,-or-authority-that has-adopted-the-taxes-imposed-under-any-of-these-laws,-the-tangible~~

personal-property-is-subject-to-the-use-tax-imposed--by--Subsection (a)-of-this-section.

[(4)--For--the--purpose-of-determining-the-proper-local-sales and-use-tax,-the-sale-of-telecommunications-services-is-consummated at-the-location-of-the-telephone-or-other-telecommunications-device from-which-the-call-or-other-transmission-originates.--If-the-point of-origin-cannot-be-determined,-the--sale--is--consummated--at--the address-to-which-the-call-is-billed.

[(5)--Tax--due--on--the--sale--of--an--amusement--service--is allocated-to-the-city-or-town-in-which--the--performance--or--other delivery-of-the-service-takes-place. 134/135

[(h)--On--and--after--the--effective--date-of-any-tax-imposed under-this-section,-the-comptroller--shall--perform--all--functions incident---to--the--administration,--collection,--enforcement,--and operation-of--the--tax,--and--the--comptroller--shall--collect,--in addition-to-the-taxes-imposed-by-the-Limited-Sales,-Excise,-and-Use Tax-Act,-an-additional-tax-under-the-authority-of-this-section-at-a permissible--rate--specified-by-the-department-on-the-receipts-from the-sale-at-retail-or-on-the-sale-price-or-lease-or-rental-price-on the-storage,-use,-or-other-consumption-of-all-taxable-items--within the--city--or--town,--which-items-are-subject-to-the-Limited-Sales, Excise,-and-Use-Tax-Act.--The-tax-imposed-under--this--section--and the--tax--imposed--under-the-Limited-Sales,-Excise,-and-Use-Tax-Act and-any-applicable-local-sales--and--use--tax--shall--be--collected together--and--reported-on-such-forms-and-under-such-administrative rules-as-may-be-prescribed-by-the-comptroller.

[(i)--The---comptroller---shall---make---to---a----department

substantially--the-same-reports-as-to-taxes-within-the-city-or-town collected--for--the--department--as--are--made--to---cities---under Subsections--(b),--(c),-and-(d)-of-Section-5-of-the-Local-Sales-and Use-Tax-Act.

[(j)--The-following-provisions-govern-the-collection--by--the comptroller-of-the-tax-imposed-under-this-section.

[(1)--all--applicable--provisions--contained--in-Title-2,-Tax Code,

[(2)--Section-6,-Local-Sales-and-Use-Tax-Act,-and 135/136

[(3)--the-penalties--provided--in--Title--2,--Tax--Code,--for violations-of-that-title.

[(k)--The--sales--and--use--tax--collected-by-the-comptroller under-this-section-shall-be-deposited,--held,--accounted--for,--and transmitted--for--the--department--as--if--it--were-an-authority-as provided--by--Subdivision--(4),--Subsection--(B)(c),--Section--11B, Chapter--141,--Acts--of-the-63rd-Legislature,-Regular-Session,-1973 (Article-1118x,-Vernon's-Texas-Civil-Statutes).

[(l)--Each-department's-share-of--all--sales--and--use--taxes collected---under---this---section--by--the--comptroller--shall--be transmitted-periodically-and-as-promptly-as-feasible--to--the--city treasurer--by--the--comptroller.---Transmittals-required-under-this section-shall-be-made-at-least-twice-in--each--state--fiscal--year. Before-transmitting-funds,-the-comptroller-shall-deduct-two-percent of--the-sum-collected-from-each-city-or-town-during-the-period-as-a charge-by-the-state-for-its-services-specified-in-this-section,-and the-amounts-so-deducted-shall-be-deposited-by--the--comptroller--in the--state-treasury-to-the-credit-of-the-general-revenue-fund.--The

1 comptroller may retain in the suspense account of any department a
2 portion of the department's share of the taxes collected under this
3 section. The balance so retained in the suspense account may not
4 exceed five percent of the amount remitted to the department. The
5 comptroller is authorized to make refunds from the suspense account
6 of any department for overpayments made to the department's
7 accounts and to redeem dishonored checks and drafts deposited to
8 the credit of the suspense account of the department. 136/137
9 [(m) The comptroller may adopt rules not inconsistent with
10 this article to implement the enforcement, administration, and
11 collection of the taxes authorized by this section.
12 [(n) In any city or town in which the sales and use tax
13 authorized by this section has been imposed, if any person is
14 delinquent in the payment of the amount required to be paid under
15 this section or if a determination has been made against him for
16 taxes and a penalty under this section, the limitation for bringing
17 suit for the collection of the delinquent tax and penalty is the
18 same as that provided by the Limited Sales, Excise, and Use Tax
19 Act. If any person is delinquent in payment of taxes under this
20 section, the comptroller shall notify the department to which
21 delinquent taxes are due by United States certified mail and shall
22 send a copy of the notice to the attorney general. The department,
23 acting through the city attorney, may join in any suit brought by
24 the attorney general as a party plaintiff to seek a judgment for
25 the delinquent taxes and penalty due the department. The notice
26 sent by the comptroller to the department showing the delinquency
27 of a taxpayer constitutes a certification of the amount owed and is

1 prima-facie-evidence-of-the-determination-of-the--tax--and--of--the
2 delinquency--of-the-amounts-of-sales-and-use-taxes-set-forth-in-the
3 notice.
4 [(o)--If-property-is-seized-by-the-comptroller-under-any--law
5 authorizing-seizure-of-the-property-of-a-taxpayer-who-is-delinquent
6 in-payment-of-the-tax-imposed-by-the-Limited-Sales,-Excise,-and-Use
7 Tax--Act--and--if-the-taxpayer-is-also-delinquent-in-payment-of-any 137/138
8 tax--imposed--under--this--section,--the--comptroller--shall---sell
9 sufficient-property-to-pay-the-delinquent-taxes-and-penalty-due-any
10 department--under--this-section-in-addition-to-that-required-to-pay
11 any-amount-due-the-state-under-the-Limited-Sales,-Excise,--and--Use
12 Tax--Act--and--due--any-city-under-the-Local-Sales-and-Use-Tax-Act.
13 The-proceeds-from-the-sale-shall-first-be-applied-to-all--sums--due
14 the-state,-then-all-sums-due-any-city-under-the-Local-Sales-and-Use
15 Tax--Act,--and--the-remainder,-if-any,-shall-be-applied-to-all-sums
16 due-the-department.
17 [(p)--A-city-or-town-having-a-department-for--which--the--tax
18 authorized--by-this-section-has-been-adopted-may-bring-suit-for-the
19 collection-of-sales,--excise,--or--use--taxes--imposed--under--this
20 section--that--have-been-certified-as-provided-by-Subsection-(n)-of
21 this-section-and-are-owed-to-the-department-under-this-section--if,
22 at--least--60--days--before--the-day-of-filing-of-the-suit,-written
23 notice-by--certified--mail--of--the--tax--delinquency--and--of--the
24 intention--to--file-suit-is-given-to-the-taxpayer,-the-comptroller,
25 and-the-attorney-general,-and-if-neither-the--comptroller--nor--the
26 attorney--general--disapproves--the--suit--by-written-notice-to-the
27 department.

[(q)--The-comptroller-or-attorney-general-may-disapprove--the institution-of-tax-suit-under-this-section-by-a-city-or-town-if:

[(1)--negotiations--between--the--state--and-the-taxpayer-are being-conducted-for-the-purpose-of--the--collection--of--delinquent taxes--owed--to-the-state-and-the-department-seeking-to-bring-suit;

[(2)--the-taxpayer-owes-substantial-taxes-to--the--state--and there--is--a-reasonable-possibility-that-the-taxpayer-may-be-unable to-pay-the-total-amount-owed-in-full;

[(3)--the-state-will-bring-suit-against-the-taxpayer-for--the collection--of--all--sales,--excise,--and--use--taxes-due-under-the Limited-Sales,-Excise,-and-Use-Tax-Act-and-this-section;-or

[(4)--the-suit-involves-a-critical-legal-question-relating-to the-interpretation-of--state--law--or--a--provision--of--the--Texas Constitution--or--United-States-Constitution-in-which-the-state-has an-overriding-interest.

[(r)--A-notice-of-disapproval-to-a-city-or-town-must-give-the reason--for--the--determination--of--the--comptroller--or--attorney general.--A-disapproval-is-final-and-not-subject-to-review.--A-city or---town,---after--the--first--anniversary--of--the--date--of--the disapproval,-may-proceed-again-as-provided--in--Subsection--(p)--of this--section--even--though--the-liability-of-the-taxpayer-includes taxes-for-which-the-city-or-town-has-previously--given--notice--and the--comptroller-or-attorney-general-has-previously-disapproved-the suit.

[(s)--In-any-suit-under-Subsection-(n)-of--this--section--for the--collection--of--the--tax--for--a-department,-a-judgment-for-or against-the-taxpayer-does-not-affect-any-claim-against-the-taxpayer

~~by-the-state,-or-a-claim-arising-under-the-Local-Sales-and-Use--Tax Act-by-a-city,-unless-the-state-is-a-party-to-the-action.~~

[~~(t)~~--~~A-copy-of-the-final-judgment-in-favor-of-a-city-or-town acting--under--this--section--in-a-case-in-which-the-state-is-not-a party-shall-be-abstracted-by-the-city-or-town-and--a--copy--of--the judgment--together-with-a-copy-of-the-abstract-shall-be-sent-to-the comptroller.--The-city-or-town-shall-collect-taxes-awarded--to--the city--or--town-for-the-department-under-the-judgment-as-provided-by Subsection-(e),-Section-151.608,-Tax-Code,-and-is--responsible--for the--renewal--of--the-judgment-before-the-expiration-of-the-10-year period.--If-a-collection-is-made-by-a-city-or-town--on--a--judgment regarding--a-claim-arising-under-this-section,-the-department-shall send-notice-of-the--amount--collected--by--certified--mail--to--the comptroller.---The--comptroller-may-prescribe-a-form-for-the-notice to-be-used-by-departments.~~

[~~(u)~~] The board by order may decrease the local sales and use tax rate or may call an election to increase or decrease the local sales and use tax rate.

(d) [~~(v)~~] At the election, the ballots shall be prepared to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate of (name of department) to (percentage)." The increase or decrease in the tax rate is effective if it is approved by a majority of the votes cast. A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation and the comptroller and filed in the deed records of the county in the same

manner as provided for a tax election by Section 5 of this article.

(e) [~~(w)~~] An increase or decrease in the rate of a local sales and use tax already levied takes effect on the first day of the next calendar quarter after actual notification to the comptroller, except that if the comptroller notifies the presiding officer of the board in writing before the 11th day after the day of receipt of the notification that he requires more time to implement collection and reporting procedures, the comptroller may delay implementation for one whole calendar quarter. Thereafter, the new tax rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

(f) [~~(x)~~] The board shall deposit taxes remitted to the department under this section as provided by Subsection (c) of Section 4 of this article in an account separate from an account for funds as provided by Subsection (e) of Section 4 of this article. Taxes collected under this section may be used only for mass transit purposes.

SECTION 10. CONTINGENT ~~CONFORMING~~ AMENDMENT. Section 3f, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended, if the Local Government Code is not adopted by the 70th Legislature, Regular Session, 1987, to read as follows:

Sec. 3f. (a) In this section, "eligible coastal city" means a home-rule city that borders on the Gulf of Mexico and that has a population of less than 80,000, according to the most recent federal census. [~~The definitions contained in Section 3d of this Act apply to this section.~~]

(b) [In--lieu--of-the-taxes-authorized-by-Section-3a-of-this Act,-an-eligible-coastal-city-may-levy-by-ordinance-on-the-cost--of occupancy-of-any-sleeping-room-furnished-by-any-hotel,-in-which-the cost--of--occupancy--is-$2-or-more-a-day,-a-tax-not-to-exceed-seven percent-of-the-consideration-paid-by-the-occupant-of--the--sleeping room-to-the-hotel.

[(c)--A--city--that--levies--and--collects--an--occupancy-tax authorized-by-this-section-at-a-rate-of-seven-percent-or-more--must pledge--a--portion--of-the-revenue-equal-to-at-least-one-percent-of the-cost-of-the-occupancy-of-hotel-rooms-to-either-or-both--of--the following-purposes:

[(1)--the--payment-of-the-bonds-that-the-city-or-a-Park-Board of-Trustees-may-issue-under-Section-3-of-this-Act-or-under--Chapter 33,-Acts-of-the-57th-Legislature,-3rd-Called-Session,-1962-(Article 6081g-1,-Vernon's-Texas-Civil-Statutes),-in-order-to-provide-all-or part--of--the--funds--for-the-establishment,-acquisition,-purchase, construction,-improvement,-enlargement,-equipment,-or-repair-of-any or-all-public-improvements,-including-but--not--limited--to--parks, civic--centers,--civic--center--buildings,--auditoriums,-exhibition halls,-coliseums,-marinas,-cruise-ship-terminal-facilities,-hotels, motels,--parking--facilities,--golf--courses,--trolley--or--trolley transportation--systems,--and-other-facilities-as-may-be-considered advisable-in--connection--with--these--facilities--that--serve--the purpose-of-attracting-visitors-and-tourists-to-the-city,-or

[(2)--the--maintenance,--improvement,--or--operation--of--the parks,--civic--centers,--civic---center---buildings,---auditoriums, exhibition---halls,---coliseums,---marinas,--cruise--ship--terminal

~~facilities,--hotels,--motels,--parking--facilities,--golf--courses, trolley--or-trolley-transportation-systems,-and-other-facilities-as may-be-considered-advisable-in--connection--with--these--facilities that--serve--the-purpose-of-attracting-visitors-and-tourists-to-the city.~~]

An eligible coastal [~~The~~] city and/or Park Board of Trustees is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the city and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease under this subsection shall be on the terms and conditions the city and/or Park Board of Trustees deems appropriate.

[~~(d)--If--the-tax-authorized-by-this-section-is-levied-by-the city-at-a-rate-of-four-percent-or-more,-an-amount-of-revenue--equal to--at--least--three--percent-of-the-cost-of-the-occupancy-of-hotel rooms--shall--be--reserved--for--the--purpose--of--advertising--and~~

~~conducting--solicitation--programs-to-acquaint-potential-users-with public-meeting-and--convention--facilities--and--for--promotion--of tourism--and-advertising-of-the-city-and-its-vicinity-either-by-the city-or-through-contract-with-persons-or-organizations-selected--by the-city.~~ /144

[~~(e)--If--the-tax-authorized-by-this-section-is-levied-by-the city-at-a-rate-of-five-percent-or-more,-an-amount-of-revenue--equal to-at-least-one-percent-of-the-cost-of-the-occupancy-of-hotel-rooms shall--be--reserved--for--beach--patrol,-lifeguard-services,-marine water-safety,-and-park-law-enforcement.~~

[~~(f)--If-the-tax-authorized-by-this-section-is-levied-by--the city--at--a-rate-of-six-percent-or-more,-an-amount-of-revenue-equal to-at-least-one-percent-of-the-cost-of--occupancy--of--hotel--rooms shall-be-reserved-for-public-beach-cleaning-funds-including-but-not limited-to-use-as-matching-funds~~ for ~~state-funds-available-to-clean-and maintain-public-beaches.~~

[~~(g)--This--section--does--not--permit--the-impairment-of-any bonds-issued-under-the-provisions--of--this--Act--and--all--revenue previously--pledged-to-the-payment-of-these-bonds-shall-continue-to be-reserved-for-the-payment-of-the-principal-and-interest-on--these bonds.~~]

SECTION 11. CONTINGENT AMENDMENT. (a) If the Local Government Code is not enacted by the 70th Legislature, Regular Session, 1987, or does not become law, Sections 302.001, 302.101, and 302.102, Tax Code, as added by Section 1 of this Act, read as follows and not as provided by Section 1 of this Act:

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES. (a) A /145

city or town operating under Chapters 1-10, Title 28, Revised Statutes, may levy property taxes for current expenses, for the construction or purchase of public buildings, water works, sewers, and other permanent improvements in the municipality, including municipal schools and school sites, and for the construction and improvement of municipal roads, streets, and bridges in the municipality.

(b) A town or village operating under Chapter 11, Title 28, Revised Statutes, may levy property taxes at an annual rate not to exceed 25 cents for each $100 of property valuation.

(c) A home-rule municipality may levy special or general property taxes for lawful purposes. (V.A.C.S. Arts. 1026 (part); 1027 (part); 1028 (part); 1146, Subdiv. 1 (part); 1175, Subdiv. (7).)

Sec. 302.101. OCCUPATION TAXES. (a) The governing body of a municipality, other than a city, town, or village operating under Chapter 12, Title 28, Revised Statutes, and having 200 or fewer inhabitants, may impose and collect occupation taxes.

(b) A license required by a city or town operating under Chapters 1-10, Title 28, Revised Statutes, may not extend to more than one establishment or apply to more than one occupation, business, or calling and may not be imposed except by a vote of two-thirds of the elected aldermen. (V.A.C.S. Art. 1015, Subdiv. 35; Arts. 1031, 1032 (part), 1033 (part), 1146 (part).)

Sec. 302.102. TAX COLLECTION POWERS. (a) The governing body of a city or town operating under Chapters 1-10, Title 28, Revised Statutes, may adopt ordinances and make rules relating to

the imposition, assessment, and collection of taxes, except ad valorem taxes, authorized by this subchapter. An ordinance may provide for the sale of real and personal property for the collection of a tax authorized by this subchapter.

(b) A home-rule municipality may collect taxes that are authorized by the charter of the municipality or by law and may impose penalties for delinquent taxes. This subsection does not apply to property taxes. (V.A.C.S. Arts. 1041, 1175, Subdiv. 9.)

(b) If the Local Government Code is enacted by the 70th Legislature and becomes law, this section has no effect.

SECTION 12. REPEALER. The following statutes as compiled in Vernon's Texas Civil Statutes are repealed:

Article 1015, Subdivisions (34) and (35); Article 1026; Article 1027; Article 1028; Article 1029; Article 1031; Article 1032; Article 1033; Article 1034; Article 1039; Article 1040; Article 1041; Article 1066a; Article 1066c; Article 1066e; Article 1066f; Article 1118x, Section 11B, Subsection (B); Article 1118y, Section 16, Subsections (b) and (f); Article 1146, Subdivision (1); Article 1175, Subdivisions (7), (8), and (9); Article 1182f; Article 1269j-4.1, Sections 3a, 3b, 3c, 3d, 3e, and 3g as added by Chapters 879 and 1009, Acts of the 68th Legislature, Regular Session, 1983; Article 2352; Article 2352i; Article 2353; Article 2353e; Article 2372d-8, Sections 4, 4A, 6, 7 and 15; and Article 7057h.

SECTION 13. LEGISLATIVE INTENT. This Act is enacted pursuant to Article III, Section 43, of the Texas Constitution. This Act is intended as a recodification only, and no substantive

1 change in the law is intended by this Act.

2 SECTION 14. EFFECTIVE DATE. This Act takes effect September
3 1, 1987.

4 SECTION 15. EMERGENCY. The importance of this legislation
5 and the crowded condition of the calendars in both houses create an
6 emergency and an imperative public necessity that the
7 constitutional rule requiring bills to be read on three several
8 days in each house be suspended, and this rule is hereby suspended.

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

3/17/87
(date)/(time)

Sir:

We, your Committee on STATE AFFAIRS to which was referred SB 888 (measure) by McFarland (sponsor) have on 3/16 (hearing date), 1987, had the same

under consideration and I am instructed to report it back with the recommendation (s) that it

( ) do pass and be printed

(✓) do pass and be ordered not printed

( ) and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested.	(✓) yes	( ) no
A revised fiscal note was requested.	( ) yes	(✓) no
An actuarial analysis was requested.	( ) yes	(✓) no
Considered by subcommittee.	( ) yes	(✓) no

Senate Sponsor of House Measure _____

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Farabee, Chairman	✓			
Blake, Vice Chairman	✓			
Barrientos	✓			
Caperton	✓			
Edwards	✓			
Harris	✓			
Henderson				✓
Leedom	✓			
Lyon	✓			
McFarland	✓			
Parmer	✓			
Sarpalius				✓
Washington				✓
TOTAL VOTES	10			3

Shanna Ogo
COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this form to the original bill and retain one copy for your file.

Mar. 18 1987 Engrossed

Patsy Spaw
Engrossing Clerk

I certify that the attached is a true and correct copy of SB 888, which was received from the Senate on MAR 19 1987 and referred to the Committee on State Affairs

Betty Murphy
Chief Clerk of the House

By: McFarland
(Saunders)

S.B. No. 888

A BILL TO BE ENTITLED

AN ACT

relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ADOPTION OF TITLE. The Tax Code is amended by adding Title 3 to read as follows:

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

Chapter 301. General Provisions

Chapter 302. Taxation Powers of Municipalities

[Chapters 303-310 reserved for expansion]

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

Chapter 311. Tax Increment Financing of Municipal Development

Chapter 312. Property Redevelopment and Tax Abatement

[Chapters 313-320 reserved for expansion]

SUBTITLE C. LOCAL SALES AND USE TAXES

Chapter 321. Municipal Sales and Use Tax Act

Chapter 322. Sales and Use Taxes for Special Purpose Taxing Authorities

Chapter 323. County Sales and Use Tax Act

[Chapters 324-350 reserved for expansion]

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TITLE 3. LOCAL TAXATION

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SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

CHAPTER 301. GENERAL PROVISIONS

Sec. 301.001. PURPOSE OF TITLE. (a) This title is enacted as a part of the state's continuing statutory revision program, conducted by the Texas Legislative Council as directed by Section 323.007, Government Code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this title is to make the general and permanent state tax laws more accessible and understandable by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible. (New.)

Sec. 301.002. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this title, except as specifically provided by this title. (New.)

Sec. 301.003. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears. (New.)

CHAPTER 302. TAXATION POWERS OF MUNICIPALITIES

SUBCHAPTER A. PROPERTY TAXES

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES

Sec. 302.002. OTHER TAXES NOT CONSIDERED: CERTAIN HOME-RULE MUNICIPALITIES

[Sections 302.003-302.100 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO EXCISE TAXES

Sec. 302.101. OCCUPATION TAXES

Sec. 302.102. TAX COLLECTION POWERS

CHAPTER 302. TAXATION POWERS OF MUNICIPALITIES

SUBCHAPTER A. PROPERTY TAXES

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES. (a) A Type A general-law municipality may levy property taxes for current expenses, for the construction or purchase of public buildings, water works, sewers, and other permanent improvements in the municipality, including municipal schools and school sites, and for the construction and improvement of municipal roads, streets, and bridges in the municipality.

(b) A Type B general-law municipality may levy property taxes at an annual rate not to exceed 25 cents for each $100 of property valuation.

(c) A home-rule municipality may levy special or general property taxes for lawful purposes. (V.A.C.S. Arts. 1026 (part); 1027 (part); 1028 (part); 1146, Subdiv. 1 (part); 1175, Subdiv. (7).)

Sec. 302.002. OTHER TAXES NOT CONSIDERED: CERTAIN HOME-RULE MUNICIPALITIES. (a) In determining the power of certain home-rule municipalities to levy taxes, the taxes levied by a county, a political subdivision of a county, or a district under Article III, Section 52, of the Texas Constitution are not considered.

(b) This section prevails over a provision of a municipal charter to the extent of a conflict.

(c) This section applies only to a municipality that attempted to amend its charter before June 30, 1939, and at the time of the election to amend the charter did not own a water

system, sanitary sewer system, electric light system, or natural gas system from which it could derive revenue. (V.A.C.S. Art. 1066a, Secs. 1, 2, 3.)

[Sections 302.003-302.100 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO EXCISE TAXES

Sec. 302.101. OCCUPATION TAXES. (a) The governing body of a municipality, other than a Type C general-law municipality having 200 or fewer inhabitants, may impose and collect occupation taxes.

(b) A license required by a Type A general-law municipality may not extend to more than one establishment or apply to more than one occupation, business, or calling and may not be imposed except by a vote of two-thirds of the elected aldermen. (V.A.C.S. Art. 1015, Subdiv. 35; Arts. 1031, 1032 (part), 1033 (part), 1146 (part).)

Sec. 302.102. TAX COLLECTION POWERS. (a) The governing body of a Type A general-law municipality may adopt ordinances and make rules relating to the imposition, assessment, and collection of taxes, except ad valorem taxes, authorized by this subchapter. An ordinance may provide for the sale of real and personal property for the collection of a tax authorized by this subchapter.

(b) A home-rule municipality may collect taxes that are authorized by the charter of the municipality or by law and may impose penalties for delinquent taxes. This subsection does not apply to property taxes. (V.A.C.S. Arts. 1041, 1175, Subdiv. 9.)

[Chapters 303-310 reserved for expansion]

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 311. TAX INCREMENT FINANCING OF MUNICIPAL DEVELOPMENT

Sec. 311.001. SHORT TITLE
Sec. 311.002. DEFINITIONS
Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE
Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE
Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE
Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE
Sec. 311.007. CHANGING BOUNDARIES OF EXISTING ZONE
Sec. 311.008. POWERS OF MUNICIPALITY
Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS
Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS
Sec. 311.011. PROJECT AND FINANCING PLANS
Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT
Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS
Sec. 311.014. TAX INCREMENT FUND
Sec. 311.015. TAX INCREMENT BONDS AND NOTES
Sec. 311.016. ANNUAL REPORT
Sec. 311.017. TERMINATION OF REINVESTMENT ZONE

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 311. TAX INCREMENT FINANCING OF MUNICIPAL DEVELOPMENT

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Tax Increment Financing Act. (V.A.C.S. Art. 1066e, Sec. 1.)

Sec. 311.002. DEFINITIONS. In this chapter:

(1) "Project costs" means the expenditures made or

estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality establishing a reinvestment zone that are listed in the project plan as costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations. "Project costs" include:

(A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;

(B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;

(C) real property assembly costs;

(D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;

(E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality in connection with the implementation of a project plan;

(F) relocation costs;

(G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;

(H) interest before and during construction and for one year after completion of construction, whether or not capitalized;

(I) the cost of operating the reinvestment zone and project facilities;

(J) the amount of any contributions made by the municipality from general revenue for the implementation of the project plan; and

(K) payments made at the discretion of the governing body of the municipality that the municipality finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.

(2) "Project plan" means the project plan for the development or redevelopment of a reinvestment zone approved under this chapter, including all amendments of the plan approved as provided by this chapter.

(3) "Reinvestment zone financing plan" means the financing plan for a reinvestment zone described by this chapter.

(4) "Taxing unit" has the meaning assigned by Section 1.04. (V.A.C.S. Art. 1066e, Sec. 2 (part).)

Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE. (a) The governing body of a municipality by ordinance may designate a

contiguous geographic area in the jurisdiction of the municipality to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.

(b) Before adopting an ordinance providing for a reinvestment zone, the governing body of the municipality must prepare a preliminary reinvestment zone financing plan. As soon as the plan is completed, a copy of the plan must be sent to the governing body of each taxing unit that levies taxes on real property in the proposed zone.

(c) Before adopting an ordinance providing for a reinvestment zone, the municipality must hold a public hearing on the creation of the zone and its benefits to the municipality and to property in the proposed zone. At the hearing an interested person may speak for or against the creation of the zone, its boundaries, or the concept of tax increment financing. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the municipality.

(d) A municipality must provide a reasonable opportunity for the owner of property to protest the inclusion of the property in a proposed reinvestment zone.

(e) Not later than the 60th day before the date of the public hearing required by Subsection (c), the governing body of the municipality must notify in writing the governing body of each

taxing unit that levies real property taxes in the proposed reinvestment zone that it intends to establish the zone. The notice must contain a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The notice may be given later than the 60th day before the date of the public hearing if the governing body of each county and school district that levies real property taxes in the proposed zone agrees to waive the requirement.

(f) A taxing unit may request additional information from the governing body of the municipality. The governing body of the municipality shall provide the information requested to the extent practicable. In addition to the notice required by Subsection (e), the governing body of the municipality shall make a formal presentation to the governing body of each county or school district that levies real property taxes in the proposed reinvestment zone. The presentation must include a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The governing body of the municipality shall notify each taxing unit that levies real property taxes in the proposed zone of each presentation to be made to a county or school district under this subsection. Members of the governing body of each taxing unit that levies real property taxes in the proposed zone may attend a

presentation under this subsection. If agreed to by the county or school districts involved, the governing body of the municipality may make a single presentation to more than one county or school district governing body.

(g) Not later than the 15th day after the date on which the notice required by Subsection (e) is given, each taxing unit that levies real property taxes in the proposed reinvestment zone shall designate a representative to meet with the governing body of the municipality to discuss the project plan and the reinvestment zone financing plan and shall notify the governing body of the municipality of its designation. At any time after the 15th day after the date on which the notice required by Subsection (e) has been given to every taxing unit, the governing body of the municipality may call a meeting of the representatives of the taxing units. The governing body of the municipality may call as many meetings as it considers necessary. Each representative shall be notified of each meeting in advance. At the meetings the governing body of the municipality and the representatives of the other taxing units may discuss the boundaries of the zone, development in the zone, the tax increment that each taxing unit will contribute to the tax increment fund, the retention by a taxing unit of a portion of its tax increment as permitted by Section 311.013, the exclusion of particular parcels of property from the zone, the board of directors for the zone, and tax collection for the zone. On the motion of the governing body of the municipality calling the meeting, any other matter relevant to

the proposed reinvestment zone may be discussed. (V.A.C.S. Art. 1066e, Secs. 3(a); 4(a), (b), (c), (d), (e), (f); 9 (part).)

Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE. (a) The ordinance designating an area as a reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) create a board of directors for the zone and specify the number of directors of the board as provided by Section 311.009;

(3) provide that the zone take effect on January 1 of the year following the year in which the ordinance is adopted;

(4) provide a date for termination of the zone;

(5) assign a name to the zone for identification, with the first zone created by a municipality designated as "Reinvestment Zone Number One, City (or Town, as applicable) of (name of municipality)" and subsequently created zones assigned names in the same form numbered consecutively in the order of their creation;

(6) establish a tax increment fund for the zone; and

(7) contain findings that:

(A) improvements in the zone will significantly enhance the value of all the taxable real property in the zone and will be of general benefit to the municipality; and

(B) the area meets the requirements of Section 311.005.

(b) For purposes of complying with Subsection (a)(7)(A), the ordinance is not required to identify the specific parcels of real property to be enhanced in value. (V.A.C.S. Art. 1066e, Sec. 4(g).)

Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title; or

(H) conditions that endanger life or property by fire or other cause;

(2) be predominantly open and, because of obsolete

platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in the municipality or in an area immediately adjacent to a federally assisted new community; or

(4) be designated as a local or state-federal enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

(b) In this section, "federally assisted new community" means a federally assisted area that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act, if a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974. (V.A.C.S. Art. 1066e, Secs. 2 (part); 3(b) (part) as amd. Acts 68th Legis., R.S., Ch. 841, 1983.)

Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE. (a) A municipality may not create a reinvestment zone if:

(1) more than 10 percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the

municipality.

(b) A municipality may not change the boundaries of an existing reinvestment zone to include property more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes or to include more than 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality.

(c) A municipality may not create a reinvestment zone or change the boundaries of an existing reinvestment zone if the proposed zone or proposed boundaries of the zone contain more than 15 percent of the total appraised value of real property taxable by a county or school district.

(d) For purposes of this section, property is used for residential purposes if it is occupied by a house having fewer than five living units, and the appraised value is determined according to the most recent appraisal rolls of the municipality. (V.A.C.S. Art. 1066e, Secs. 5(a), (b) (part), (c), (d).)

Sec. 311.007. CHANGING BOUNDARIES OF EXISTING ZONE. Subject to the limitations provided by Section 311.006, the boundaries of an existing reinvestment zone may be reduced or enlarged by ordinance or resolution of the governing body of the municipality that created the zone. (V.A.C.S. Art. 1066e, Sec. 5(b) (part).)

Sec. 311.008. POWERS OF MUNICIPALITY. A municipality may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and

implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase, condemnation, or other means to implement project plans and sell that property on the terms and conditions it considers advisable;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed real property or other property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes; or

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, educational facilities, or parking facilities. (V.A.C.S. Art. 1066e, Sec. 9 (part).)

Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS. (a) The

board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of Subsection (b).

(b) Each taxing unit other than a municipality that levies taxes on real property in the zone may appoint one member of the board. A unit may waive its right to appoint a director. The governing body of the municipality that created the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the municipality, the governing body of the municipality may appoint more than 10 members as long as the total membership of the board does not exceed 15.

(c) Members of the board are appointed for terms of two years unless longer terms are provided under Article XI, Section 11, of the Texas Constitution. Terms of members may be staggered.

(d) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

(e) To be eligible for appointment to the board by the governing body of the municipality, an individual must:

(1) be a qualified voter of the municipality; or

(2) be at least 18 years of age and own real property in the zone, whether or not the individual resides in the municipality.

(f) Each year the governing body of the municipality shall appoint one member of the board to serve as chairman for a term of

one year that begins on January 1 of the following year. The board of directors may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The board may elect other officers as it considers appropriate. (V.A.C.S. Art. 1066e, Sec. 6.)

Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS. The board of directors of a reinvestment zone shall make recommendations to the governing body of the municipality that created the zone concerning the administration of this chapter in the zone. In addition to the powers granted to the board under this chapter, the governing body of the municipality by ordinance may delegate to the board any powers and duties relating to the implementation of the project plan for the zone that the governing body considers advisable. (V.A.C.S. Art. 1066e, Sec. 7.)

Sec. 311.011. PROJECT AND FINANCING PLANS. (a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality that created the zone. The plans must be as consistent as possible with the preliminary plans developed for the zone before the creation of the board.

(b) The project plan must include:

(1) a map showing existing uses and conditions of real property in the zone and a map showing proposed improvements to and proposed uses of that property;

(2) proposed changes of zoning ordinances, the master

plan of the municipality, building codes, and other municipal ordinances;

(3) a list of estimated nonproject costs; and

(4) a statement of a method of relocating persons to be displaced as a result of implementing the plan.

(c) The reinvestment zone financing plan must include:

(1) a detailed list describing the estimated project costs of the zone, including administrative expenses;

(2) a statement listing the kind, number, and location of all proposed public works or public improvements in the zone;

(3) an economic feasibility study;

(4) the estimated amount of bonded indebtedness to be incurred;

(5) the time when related costs or monetary obligations are to be incurred;

(6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit that levies taxes on real property in the zone;

(7) the current total appraised value of taxable real property in the zone;

(8) the estimated captured appraised value of the zone during each year of its existence; and

(9) the duration of the zone.

(d) The governing body of the municipality must approve a

project plan or reinvestment zone financing plan after its adoption by the board. The approval must be by ordinance that finds that the plan is feasible and conforms to the master plan, if any, of the municipality.

(e) The board of directors of the zone at any time may adopt an amendment to the project plan consistent with the requirements and limitations of this chapter. The amendment takes effect on approval by the governing body of the municipality. That approval must be by ordinance. If an amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, increases or decreases the percentage of a tax increment to be contributed by a taxing unit, increases the total estimated project costs, or designates additional property in the zone to be acquired by the municipality, the approval must be by ordinance adopted after a public hearing that satisfies the procedural requirements of Sections 311.003(c) and (d). (V.A.C.S. Art. 1066e, Secs. 2 (part); 8.)

Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT. (a) The amount of a taxing unit's tax increment for a year is the amount of property taxes levied by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone.

(b) The captured appraised value of real property taxable by a taxing unit for a year is the total appraised value of the property for that year less the tax increment base of the unit.

(c) The tax increment base of a taxing unit is the total

appraised value of all real property taxable by the unit and located in a reinvestment zone for the year in which the zone was designated under this chapter. (V.A.C.S. Art. 1066e, Sec. 2 (part).)

Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS. (a) Each taxing unit that taxes real property located in a reinvestment zone shall provide for the collection of its taxes in the zone as for any other property taxed by the unit.

(b) Each taxing unit shall pay into the tax increment fund for the zone an amount equal to the tax increment produced by the unit, less the sum of:

(1) property taxes produced from the tax increments that are, by contract executed before the designation of the area as a reinvestment zone, required to be paid by the unit to another political subdivision; and

(2) a portion, not to exceed 15 percent, of the tax increment produced by the unit as provided by the reinvestment zone financing plan.

(c) A taxing unit shall make a payment required by Subsection (b) not later than the 90th day after the delinquency date for the unit's property taxes. A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 percent.

(d) If the reinvestment zone is created on or after August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after three years from the date

the zone is created unless the following conditions exist or have been met within the three-year period:

(1) bonds have been issued for the zone under Section 311.015;

(2) the municipality has acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone.

(e) If the reinvestment zone was created before August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after September 1, 1986, unless the following conditions existed or were met before September 1, 1986:

(1) bonds were issued for the zone under Section 311.015;

(2) the municipality acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone. (V.A.C.S. Art. 1066e, Secs. 9 (part); 10.)

Sec. 311.014. TAX INCREMENT FUND. (a) In addition to the deposits required by Section 311.013, all revenues from the sale of tax increment bonds or notes, revenues from the sale of any property acquired as part of the tax increment financing plan, and other revenues to be used in the reinvestment zone shall be deposited in the tax increment fund for the zone.

(b) Money may be disbursed from the fund only to satisfy

claims of holders of tax increment bonds or notes issued for the zone or to pay project costs for the zone.

(c) Subject to an agreement with the holders of tax increment bonds or notes, money in a tax increment fund may be temporarily invested in the same manner as other funds of the municipality.

(d) After all project costs and all tax increment bonds or notes issued for a reinvestment zone have been paid, and subject to any agreement with bondholders, any money remaining in the tax increment fund shall be paid to the municipality and other taxing units levying taxes on property in the zone in proportion to the municipality's and each unit's respective share of the total amount of tax increments derived from taxable real property in the zone that were deposited in the fund during the fund's existence. (V.A.C.S. Art. 1066e, Secs. 2 (part); 14.)

Sec. 311.015. TAX INCREMENT BONDS AND NOTES. (a) A municipality creating a reinvestment zone may issue tax increment bonds or notes, the proceeds of which may be used to pay project costs for the reinvestment zone on behalf of which the bonds or notes were issued or to satisfy claims of holders of the bonds or notes. The municipality may issue refunding bonds or notes for the payment or retirement of tax increment bonds or notes previously issued by it.

(b) Tax increment bonds and notes are payable, as to both principal and interest, solely from the tax increment fund established for the reinvestment zone. The governing body of the

1 municipality may pledge irrevocably all or part of the fund for
2 payment of tax increment bonds or notes. The part of the fund
3 pledged in payment may be used only for the payment of the bonds or
4 notes or interest on the bonds or notes until the bonds or notes
5 have been fully paid. A holder of the bonds or notes or of coupons
6 issued on the bonds has a lien against the fund for payment of the
7 bonds or notes and interest on the bonds or notes and may protect
8 or enforce the lien at law or in equity.
9 (c) Tax increment bonds are issued by ordinance of the
10 municipality without any additional approval other than that of the
11 attorney general.
12 (d) Tax increment bonds or notes, together with the interest
13 on and income from those bonds or notes, are exempt from all taxes.
14 (e) The issuing municipality may provide in the contract
15 with the owners or holders of tax increment bonds that it will pay
16 into the tax increment fund all or any part of the revenue produced
17 or received from the operation or sale of a facility acquired,
18 improved, or constructed pursuant to a project plan, to be used to
19 pay principal and interest on the bonds. If the municipality
20 agrees, the owners or holders of tax increment bonds may have a
21 lien or mortgage on a facility acquired, improved, or constructed
22 with the proceeds of the bonds.
23 (f) Tax increment bonds may be issued in one or more series.
24 The ordinance approving a tax increment bond or note, or the trust
25 indenture or mortgage issued in connection with the bond or note,
26 shall provide:

(1) the date that the bond or note bears;

(2) that the bond or note is payable on demand or at a specified time;

(3) the interest rate that the bond or note bears;

(4) the denomination of the bond or note;

(5) whether the bond or note is in coupon or registered form;

(6) the conversion or registration privileges of the bond or note;

(7) the rank or priority of the bond or note;

(8) the manner of execution of the bond or note;

(9) the medium of payment in which and the place or places at which the bond or note is payable;

(10) the terms of redemption, with or without premium, to which the bond or note is subject;

(11) the manner in which the bond or note is secured; and

(12) any other characteristic of the bond or note.

(g) A bond or note issued under this chapter is fully negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued under this chapter or the security of a bond or note issued under this chapter, if the bond or note recites in substance that it was issued by the municipality for a reinvestment zone, the bond or note is conclusively deemed to have been issued for that purpose, and the development or redevelopment of the zone is conclusively

deemed to have been planned, located, and carried out as provided by this chapter.

(h) A bank, trust company, savings bank or institution, savings and loan association, investment company or other person carrying on a banking or investment business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, curator, trustee, or other fiduciary may invest any sinking funds, money, or other funds belonging to it or in its control in tax increment bonds or notes issued under this chapter. Tax increment bonds or notes are authorized security for all public deposits. A person, political subdivision, or public or private officer may use funds owned or controlled by the person, political subdivision, or officer to purchase tax increment bonds or notes. This chapter does not relieve any person of the duty to exercise reasonable care in selecting securities.

(i) A tax increment bond or note is not a general obligation of the municipality issuing the bond or note. A tax increment bond or note does not give rise to a charge against the general credit or taxing powers of the municipality and is not payable except as provided by this chapter. A tax increment bond or note issued under this chapter must state the restrictions of this subsection on its face.

(j) A tax increment bond or note may not be included in any computation of the debt of the issuing municipality.

(k) A municipality may not issue tax increment bonds or

notes in an amount that exceeds the total cost of implementing the project plan for the reinvestment zone for which the bonds or notes are issued.

(l) A tax increment bond or note must mature within 20 years of the date of issue. (V.A.C.S. Art. 1066e, Secs. 9 (part); 11.)

Sec. 311.016. ANNUAL REPORT. (a) On or before July 1 of each year, the governing body of a municipality shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality a report on the status of the zone. The report must include:

(1) the amount and source of revenue in the tax increment fund established for the zone;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on outstanding bonded indebtedness;

(4) the tax increment base and current captured appraised value retained by the zone; and

(5) the captured appraised value shared by the municipality and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality.

(b) A copy of a report made under this section shall be sent to the attorney general. (V.A.C.S. Art. 1066e, Sec. 12.)

Sec. 311.017. TERMINATION OF REINVESTMENT ZONE. (a) A reinvestment zone terminates on the earlier of:

(1) the termination date designated in the ordinance creating the zone or an earlier termination date designated by an ordinance adopted subsequent to the ordinance creating the zone; or

(2) the date on which all project costs, tax increment bonds, and interest on those bonds have been paid in full.

(b) The tax increment pledged to the payment of bonds and interest on the bonds may be discharged and the reinvestment zone may be terminated if the municipality that created the zone deposits or causes to be deposited with a trustee or other escrow agent authorized by law funds in an amount that, together with the interest on the investment of the funds in direct obligations of the United States, will be sufficient to pay the principal of, premium, if any, and interest on all bonds issued on behalf of the reinvestment zone at maturity or at the date fixed for redemption of the bonds, and to pay any other amounts that may become due, including compensation due or to become due to the trustee or escrow agent. (V.A.C.S. Art. 1066e, Sec. 13.)

CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.001. SHORT TITLE

[Sections 312.002-312.200 reserved for expansion]

SUBCHAPTER B. MUNICIPAL TAX ABATEMENT

Sec. 312.201. DESIGNATION OF REINVESTMENT ZONE

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT

Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT

Sec. 312.206. TAX ABATEMENT BY OTHER TAXING UNITS

Sec. 312.207. APPROVAL BY GOVERNING BODY

Sec. 312.208. MODIFICATION OR TERMINATION OF AGREEMENT

Sec. 312.209. APPLICATION OF NONSEVERABILITY PROVISION

[Sections 312.210-312.400 reserved for expansion]

SUBCHAPTER C. COUNTY TAX ABATEMENT

Sec. 312.401. DESIGNATION OF REINVESTMENT ZONE

Sec. 312.402. COUNTY TAX ABATEMENT AGREEMENT

CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.001. SHORT TITLE. This chapter may be cited as the Property Redevelopment and Tax Abatement Act. (V.A.C.S. Art. 1066f, Sec. 1.)

[Sections 312.002-312.200 reserved for expansion]

SUBCHAPTER B. MUNICIPAL TAX ABATEMENT

Sec. 312.201. DESIGNATION OF REINVESTMENT ZONE. (a) The governing body of a municipality by ordinance may designate as a reinvestment zone an area, or real or personal property the use of which is directly related to outdoor advertising, in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the requirements of Section 312.202.

(b) The ordinance must describe the boundaries of the zone

and the eligibility of the zone for residential tax abatement or commercial-industrial tax abatement or tax increment financing as provided for in Chapter 311.

(c) Area of a reinvestment zone designated for residential tax abatement or commercial-industrial tax abatement may be included in an overlapping or coincidental residential or commercial-industrial zone. In that event, the zone in which the property is considered to be located for purposes of executing an agreement under Section 312.204 is determined by the comprehensive zoning ordinance, if any, of the municipality.

(d) The governing body may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be published in a newspaper having general circulation in the municipality not later than the seventh day before the date of the hearing. (V.A.C.S. Art. 1066f, Secs. 3(c), 4(a), 5(a), (b).)

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone under this subchapter, an area must:

(1) substantially arrest or impair the sound growth of

the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalks or streets;

(C) faulty size, adequacy, accessibility, or usefulness of lots;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) any combination of these factors;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule

municipality;

(4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

(5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or

(6) be designated as a local or state-federal enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

(b) For purposes of this section, a federally assisted new community is a federally assisted area:

(1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and

(2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority created by that section for grants in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.). (V.A.C.S. Art.

1066f, Secs. 3(a), (b).)

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE. The designation of a reinvestment zone for residential or commercial-industrial tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect an existing tax abatement agreement made under this subchapter. (V.A.C.S. Art. 1066f, Sec. 4(b).)

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The governing body of a municipality shall agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation all or part of the value of the property for a period not to exceed 15 years, subject to the rights of holders of outstanding bonds of the municipality, on the condition that the owner of the property make specific improvements or repairs to the property. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

(b) The agreements made with the owners of property in a reinvestment zone must contain identical terms for the portion of the value of the property that is to be exempt and the duration of the exemption.

(c) The property subject to an agreement made under this section may be located in the extraterritorial jurisdiction of the

municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.

(d) Property that is in a reinvestment zone and that is owned or leased by a member of the governing body of the municipality or by a member of a zoning or planning board or commission of the municipality is excluded from property tax abatement or tax increment financing. (V.A.C.S. Art. 1066f, Secs. 2(a), 4(c), (d).)

Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT. (a) An agreement made under Section 312.204 must:

(1) list the kind, number, and location of all proposed improvements of the property;

(2) provide access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;

(3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

(4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

(b) An agreement made under Section 312.204 may include, at the option of the governing body of the municipality, provisions

for:

(1) improvements or repairs by the municipality to streets, sidewalks, and utility services or facilities associated with the property, except that the agreement may not provide for lower charges or rates than are made for other services or properties of a similar character;

(2) an economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when related costs or monetary obligations are to be incurred;

(3) a map showing existing uses and conditions of real property in the reinvestment zone;

(4) a map showing proposed improvements and uses in the reinvestment zone; and

(5) proposed changes of zoning ordinances, the master plan, the map, building codes, and city ordinances. (V.A.C.S. Art. 1066f, Secs. 2(b), (c).)

Sec. 312.206. TAX ABATEMENT BY OTHER TAXING UNITS. (a) If property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement made under Section 312.204, the governing body of any other taxing unit in which the property is located may execute a written agreement with the owner of the property. The agreement by the taxing unit must contain terms identical to those contained in the agreement with the municipality providing for the portion of the property that is to be exempt from taxation under the agreement, the duration of the

agreement, and the provisions included in the agreement under Section 312.205.

(b) If the governing body of a taxing unit does not execute an agreement as provided by Subsection (a) applicable to property subject to a municipal agreement, the taxing unit may not tax the property at a value greater than the value at which the property was taxed in the year preceding the execution of the agreement with the municipality. This limitation extends for a period equal to twice the duration of the municipal agreement.

(c) If the governing body of a municipality designates a reinvestment zone that includes property in the extraterritorial jurisdiction of the municipality, the governing body of any other taxing unit in which the property is located may execute a written agreement with the owner of the property to exempt from its property taxes all or part of the value of the property in the same manner as provided by Section 312.204 for a municipality. The taxing unit may execute an agreement even if the municipality does not execute an agreement for the property, and the terms of the agreement are not required to be identical to the terms of a municipal agreement. (V.A.C.S. Art. 1066f, Secs. 2(d), (e).)

Sec. 312.207. APPROVAL BY GOVERNING BODY. (a) To be effective, an agreement made under this subchapter must be approved by the affirmative vote of a majority of the members of the governing body of the municipality or other taxing unit at a regularly scheduled meeting of the governing body.

(b) On approval by the governing body, an agreement may be

executed in the same manner as other contracts made by the municipality or other taxing unit. (V.A.C.S. Art. 1066f, Sec. 5(c).)

Sec. 312.208. MODIFICATION OR TERMINATION OF AGREEMENT. (a) At any time before the expiration of an agreement made under this subchapter, the agreement may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 15 years from the date of the original agreement.

(b) An agreement made under this subchapter may be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed. (V.A.C.S. Art. 1066f, Sec. 6.)

Sec. 312.209. APPLICATION OF NONSEVERABILITY PROVISION. Section 2, Article 5, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985, applies to the provisions of this subchapter that are derived from amendments to the Property Redevelopment and Tax Abatement Act made by Chapter 221, Acts of the 69th Legislature, Regular Session, 1985. (New.)

[Sections 312.210-312.400 reserved for expansion]

SUBCHAPTER C. COUNTY TAX ABATEMENT

Sec. 312.401. DESIGNATION OF REINVESTMENT ZONE. (a) The commissioners court of a county by order may designate as a

reinvestment zone an area of the county that does not include area in the taxing jurisdiction of a municipality.

(b) The commissioners court may not designate an area as a reinvestment zone until it holds a public hearing on the designation and finds that the designation would be a benefit to the property to be included in the zone and would contribute to the economic development of the county. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be given in the same manner as provided for notice of a hearing to be held by a municipality under Section 312.201.

(c) The designation of a reinvestment zone under this section expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect existing agreements made under this subchapter.

(d) Property may be located both in a reinvestment zone designated by a county under this subchapter and in a reinvestment zone designated by a municipality under Subchapter B. (V.A.C.S. Art. 1066f, Secs. 7A(a), (d), (f).)

Sec. 312.402. COUNTY TAX ABATEMENT AGREEMENT. (a) The commissioners court may execute a tax abatement agreement with the owner of taxable real property located in a reinvestment zone designated under this subchapter. The execution, duration, and other terms of an agreement made under this section are governed by the provisions of Sections 312.204 and 312.205 applicable to a

municipality.

(b) A tax abatement agreement made under this section has the same effect on the other taxing units in which the property subject to the agreement is located as is provided by Section 312.206 for an agreement made by a municipality under Section 312.204 to abate taxes on property located in the taxing jurisdiction of the municipality.

(c) If property subject to an agreement with a county under this section is annexed by a municipality during the existence of the agreement, the governing body of the municipality must enter into an agreement in the same manner as any other taxing unit until the termination of the county agreement, or the municipality is limited to taxing the property subject to the agreement at the taxable value of the property in the year preceding the year the county agreement was executed until the termination of the county agreement plus a period of additional years immediately following the termination of the county agreement equal to the number of years in which the county agreement was in effect.

(d) Property that is located in a reinvestment zone designated by a county under this subchapter and that is owned or leased by a member of the commissioners court may not be subject to a tax abatement agreement made under this section.

(e) An agreement made under this section by a county or other taxing unit may be modified or terminated in the same manner and subject to the same limitations as provided by Section 312.208 for an agreement made under Subchapter B. (V.A.C.S. Art. 1066f,

1 Secs. 7A(c), (e), (g).)

2 [Chapters 313-320 reserved for expansion]

3 SUBTITLE C. LOCAL SALES AND USE TAXES

4 CHAPTER 321. MUNICIPAL SALES AND USE TAX ACT

5 SUBCHAPTER A. GENERAL PROVISIONS

6 Sec. 321.001. SHORT TITLE

7 Sec. 321.002. DEFINITIONS

8 Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE

9 Sec. 321.004. REFERENCES TO SALES OR USE TAX

10 [Sections 321.005-321.100 reserved for expansion]

11 SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY

12 MUNICIPALITIES

13 Sec. 321.101. TAX AUTHORIZED

14 Sec. 321.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL,

15 BOUNDARY CHANGE

16 Sec. 321.103. SALES TAX

17 Sec. 321.104. USE TAX

18 Sec. 321.105. RESIDENTIAL USE OF GAS AND ELECTRICITY

19 [Sections 321.106-321.200 reserved for expansion]

20 SUBCHAPTER C. COMPUTATION OF TAXES

21 Sec. 321.201. COMPUTATION OF SALES TAXES

22 Sec. 321.202. METHOD OF REPORTING: RETAILERS HAVING SALES

23 BELOW TAXABLE AMOUNT

24 Sec. 321.203. CONSUMMATION OF SALE

25 Sec. 321.204. COMPUTATION OF USE TAX

26 Sec. 321.205. USE TAX: MUNICIPALITY IN WHICH USE OCCURS

1 Sec. 321.206. INCIDENCE OF ADDITIONAL MUNICIPAL SALES
2 AND USE TAX
3 Sec. 321.207. LOCAL TAX INAPPLICABLE WHEN NO STATE TAX;
4 EXCEPTIONS
5 Sec. 321.208. STATE EXEMPTIONS APPLICABLE
6 Sec. 321.209. TRANSITION EXEMPTION
7 Sec. 321.210. TELECOMMUNICATIONS EXEMPTION
8 [Sections 321.211-321.300 reserved for expansion]
9 SUBCHAPTER D. ADMINISTRATION OF TAXES
10 Sec. 321.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES
11 Sec. 321.302. COMPTROLLER'S REPORTING DUTIES
12 Sec. 321.303. SALES TAX PERMITS AND EXEMPTION AND RESALE
13 CERTIFICATES
14 Sec. 321.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION
15 Sec. 321.305. PENALTIES
16 Sec. 321.306. COMPTROLLER'S RULES
17 Sec. 321.307. DELINQUENT TAXES: LIMITATIONS
18 Sec. 321.308. SEIZURE AND SALE OF PROPERTY
19 Sec. 321.309. SUIT FOR TAX COLLECTION
20 Sec. 321.310. DISAPPROVAL OF MUNICIPAL SUIT
21 Sec. 321.311. JUDGMENTS IN MUNICIPAL SUIT
22 [Sections 321.312-321.400 reserved for expansion]
23 SUBCHAPTER E. TAX ELECTION PROCEDURES
24 Sec. 321.401. CALLING OF ELECTION
25 Sec. 321.402. DEADLINES AFTER PETITION
26 Sec. 321.403. TIME OF ELECTION

Sec. 321.404. BALLOT WORDING

Sec. 321.405. OFFICIAL RESULTS OF ELECTION

Sec. 321.406. FREQUENCY OF ELECTION

Sec. 321.407. ELECTION CONTEST: NOTICE

Sec. 321.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE

[Sections 321.409-321.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 321.501. TRUST ACCOUNT

Sec. 321.502. DISTRIBUTION OF TRUST FUNDS

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Sec. 321.504. AMOUNTS RETAINED IN TRUST ACCOUNT

Sec. 321.505. INTEREST ON TRUST ACCOUNT

Sec. 321.506. USE OF TAX REVENUE BY MUNICIPALITY

Sec. 321.507. USE OF ADDITIONAL MUNICIPAL SALES AND USE TAX

Sec. 321.508. ENTERPRISE ZONE REFUNDS

Sec. 321.509. TAX POWERS OF MUNICIPALITY NOT LIMITED

SUBTITLE C. LOCAL SALES AND USE TAXES

CHAPTER 321. MUNICIPAL SALES AND USE TAX ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 321.001. SHORT TITLE. This chapter may be cited as the Municipal Sales and Use Tax Act. (V.A.C.S. Art. 1066c, Sec. 1 (part).)

Sec. 321.002. DEFINITIONS. (a) In this chapter:

(1) "Additional municipal sales and use tax" means only the additional tax authorized by Section 321.101(b).

(2) "Municipality" includes any incorporated city, town, or village.

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant.

(b) Words used in this chapter and defined by Chapter 151 have the meanings assigned by Chapter 151. (V.A.C.S. Art. 1066c, Sec. 1 (part); Sec. 6, Subsec. B(1) (part); New.)

Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B and Chapter 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes, unless modified by this chapter. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 4, Subsec. C (part); Sec. 6, Subsec. A.)

Sec. 321.004. REFERENCES TO SALES OR USE TAX. A reference to a sales tax or a use tax imposed or authorized by this chapter is a reference to both the taxes imposed under Section 321.101(a) or (b) unless otherwise provided. (New.)

[Sections 321.005-321.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY MUNICIPALITIES

Sec. 321.101. TAX AUTHORIZED. (a) A municipality may adopt or repeal a sales and use tax authorized by this chapter, other than the additional municipal sales and use tax, at an election in which a majority of the qualified voters of the municipality approve the adoption or repeal of the tax.

(b) A municipality that is not disqualified may, by a majority vote of the qualified voters of the municipality voting at an election held for that purpose, adopt an additional sales and use tax for the benefit of the municipality in accordance with this chapter. A municipality is disqualified from adopting the additional sales and use tax if the municipality:

(1) is included within the boundaries of a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes);

(2) is included within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), by a principal city having a population of less than 800,000;

(3) is wholly or partly located in a county that contains territory within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's

Texas Civil Statutes), by a principal city having a population in excess of 800,000, unless the city is a contiguous city; or

(4) imposes a tax authorized by Article 1118z, Revised Statutes.

(c) For the purposes of Subsection (b), "principal city" and "contiguous city" have the meanings assigned by Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

(d) In any municipality in which an additional sales and use tax has been imposed, in the same manner and by the same procedure the municipality by majority vote of the qualified voters of the municipality voting at an election held for that purpose may abolish the additional sales and use tax. The governing body of a municipality that has adopted the additional sales and use tax shall call an election on the question of the abolition of the additional tax not later than 10 years after the date of the last preceding election on the adoption or abolition of the additional tax.

(e) An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts, if, within the boundaries of the authority there is a municipality that has adopted the additional sales and use tax provided for in this section. (V.A.C.S. Art. 1066c, Sec. 2,

Subsecs. A, H (part); Sec. 2A, Subsecs. A, G (part).)

Sec. 321.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE. (a) A tax imposed under this chapter or the repeal of a tax abolished under this chapter takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 321.405(b). This subsection does not apply to the additional municipal sales and use tax.

(b) The additional municipal sales and use tax takes effect or is repealed in the municipality on the first day of the first calendar year occurring after the expiration of the first complete calendar quarter after the date on which the comptroller receives notice from the municipality of the adoption or repeal of the additional municipal sales and use tax.

(c) If a municipality in which the tax imposed under this chapter is in effect changes its boundaries, the municipal secretary shall send by United States registered or certified mail to the comptroller a certified copy of the ordinance that adds or detaches municipal territory and that shows the effective date of the boundary change. The ordinance must be accompanied by a map clearly showing the added or detached territory. Except as provided by Subsection (d), the tax takes effect in the added territory or is inapplicable to the detached territory on the first day of the first calendar quarter after the comptroller receives the ordinance and map.

(d) If, within 10 days after the receipt of an ordinance and map sent under Subsection (c), the comptroller notifies the secretary of the municipality that more time is required, the effective date of the application of the tax in the added or detached area is the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives the ordinance and map. (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. G (part), H (part), J; Sec. 2A, Subsecs. F (part), G (part), K.)

Sec. 321.103. SALES TAX. (a) In a municipality that has adopted the tax authorized by Section 321.101(a), there is imposed a tax on the receipts from the sale at retail of taxable items within the municipality at the rate of one percent and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use.

(b) In a municipality that has adopted the additional municipal sales and use tax, the tax is imposed at the rate of one-half of one percent on the receipts from the sale at retail of all taxable items within the municipality and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use unless the residential use of gas and electricity is exempted from the tax imposed under Section 321.101(a), in which case the residential use of gas and electricity is exempted under this subsection also. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 2A, Subsec. B.)

Sec. 321.104. USE TAX. (a) In a municipality that has

adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the muncipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the tangible personal property.

(b) In a municipality that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption of gas or electricity for residential purposes and purchased from any retailer during the period that the tax is effective within the municipality. The tax is imposed at the same rate as the tax provided by Subsection (a). (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. A (part), D (part).)

Sec. 321.105. RESIDENTIAL USE OF GAS AND ELECTRICITY. (a) There are exempted from the taxes imposed by a municipality under this chapter the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption within the municipality of gas and electricity for residential use in any municipality that:

(1) adopted the tax on or after October 1, 1979; or

(2) adopted the tax before that time but:

(A) failed to exempt the residential use of gas and electricity before May 1, 1979; and

(B) has not reimposed the tax as provided by Subsection (c).

(b) A governing body of a municipality that adopted the taxes under this chapter before October 1, 1979, may, by ordinance adopted by a vote of a majority of the membership of the governing body and recorded in the municipal minutes, exempt from the taxes authorized by this chapter the receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption of gas and electricity for residential use.

(c) A governing body of a municipality that has adopted the taxes authorized by this chapter before May 1, 1979, and in which residential use of gas and electricity is exempted within the municipality, may reimpose the taxes on gas and electricity for residential use by ordinance adopted by a vote of the majority of the membership of the governing body and entered in the municipal minutes.

(d) The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of an ordinance exempting or imposing the taxes on residential use of gas and electricity.

(e) The exemption or reimposition of taxes on residential use of gas and electricity takes effect within the municipality as provided by Section 321.104(a) after receipt of a copy of the ordinance. (V.A.C.S. Art. 1066c, Sec. 4A.)

[Sections 321.106-321.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 321.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a municipality that has adopted a tax authorized by

this chapter shall add each sales tax imposed by the municipality under this chapter and by Chapter 151 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price. If the municipality imposes the tax on gas and electricity for residential use, only the municipal tax is added to the sales price of sales of gas and electricity for residential use.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates, or the rate of the municipal tax only for sales of gas and electricity for residential use in a municipality that imposes the tax on gas and electricity for residential use, by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The comptroller may publish schedules and brackets of amounts of taxes based on the formula provided by Subsection (b) for use in municipalities that have adopted the taxes authorized by this chapter. (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. K (part), L; Sec. 2A, Subsecs. I (part), J.)

Sec. 321.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual

transactions in which the sales price is an amount on which no tax is produced from the combined state and local taxes. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. K (part); Sec. 2A, Subsec. I (part).)

Sec. 321.203. CONSUMMATION OF SALE. (a) A sale of a taxable item occurs within the municipality in which the sale is consummated. A sale is consummated as provided by this section, regardless of the place where transfer of title or possession or segregation in contemplation of a transfer of title or possession occurs.

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, a sale of an item of tangible personal property by the retailer is consummated at the retailer's place of business:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(d) If neither the possession of tangible personal property is taken at nor shipment or delivery of the property is made from the retailer's place of business in this state, the sale is consummated at:

(1) the retailer's place of business in this state

where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale is consummated at the location in this state to which tangible personal property is shipped or delivered or at which possession is taken by the customer if transfer of possession of tangible personal property occurs at, or shipment or delivery of the property originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other transmission originates, unless the point of origin cannot be determined, in which case the sale is at the address to which the call is billed.

(h) The sale of an amusement service is consummated in the

municipality in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any use of tangible personal property that subjects the property to the sales tax under the provisions of Section 151.154, the use or other consumption of the property that subjected the property to the tax is consummated at the place where the property is stored or kept at the time of or just before the use or consumption. (V.A.C.S. Art. 1066c, Sec. 6, Subsecs. B(1) (part), (2).)

Sec. 321.204. COMPUTATION OF USE TAX. (a) In each municipality that has adopted the taxes authorized by this chapter, the taxes imposed by Section 321.104(a) and the tax imposed by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except:

(1) in a municipality that imposes the tax on gas and electricity for residential use only the rate of the municipal tax is used to determine the amount of tax on the use, storage, or other consumption of gas and electricity for residential use; and

(2) only the rate of the municipal tax is used in a situation described by Section 321.205(b).

(b) The formula prescribed by Section 321.201(b) applies to the computation of the amount of use taxes under this chapter. (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. B (part), D (part).)

Sec. 321.205. USE TAX: MUNICIPALITY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter the name of the municipality adopting the tax is

substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of tangible personal property does not apply if the property is first used, stored, or consumed in a municipality or area that has not adopted the taxes authorized by this chapter.

(b) If a sale of tangible personal property is consummated in this state but not within a municipality that has adopted the taxes authorized by this chapter and the property is shipped directly, or brought by the purchaser or lessee directly, into a municipality that has adopted the taxes authorized by this chapter, the property is subject to the municipality's use tax. The use is considered to be consummated at the location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state and the use of the property is consummated within a municipality that has adopted the tax authorized by this chapter, the property is subject to the municipality's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the municipality in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation for further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a municipality that has adopted the tax under this chapter shall be subject to the municipal use tax. (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. A (part), C (part), E, F; Sec. 6, Subsec. B(3).)

Sec. 321.206. INCIDENCE OF ADDITIONAL MUNICIPAL SALES AND USE TAX. For the purpose of determining the proper sales tax under this chapter and the proper excise tax on the use, storage, or other consumption of taxable items under Section 321.101(b):

(1) if a taxable item is used, stored, or otherwise consumed in a municipality that has adopted the additional municipal sales and use tax, Sections 321.203(b), (c), (d), and (e) apply; and

(2) if the sales tax applies in a municipality that has not adopted the municipal sales and use tax, the excise tax on

the use, storage, or other consumption of the taxable item does not apply. (V.A.C.S. Art. 1066c, Sec. 4, Subsec. A (part).)

Sec. 321.207. LOCAL TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 321.205(b). (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 4, Subsec. A (part).)

Sec. 321.208. STATE EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Section 151.317(b). (V.A.C.S. Art. 1066c, Sec. 6, Subsec. C(1).)

Sec. 321.209. TRANSITION EXEMPTION. (a) For a period of three years only after the effective date of the tax authorized by Section 321.101(a) in a municipality, the receipts from the sale of, and the use, storage, and consumption of, taxable items are

exempt from the tax imposed by the municipality under Section 321.101(a) if the notice required by Subsection (b) is given and if:

(1) the items are used for the performance of a written contract entered into before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the contract may not be modified because of the tax; or

(2) the items are used under the obligation of a bid submitted before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the bid may not be withdrawn or modified because of the tax.

(b) The taxpayer must give the comptroller notice of the contract or bid on which an exemption is to be claimed within 60 days after the effective date of the tax imposed under Section 321.101(a) in the municipality. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. C(2).)

Sec. 321.210. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed under this chapter the sale within the municipality of telecommunications services unless the application of the exemption is repealed under this section.

(b) The governing body of a municipality by ordinance adopted by a majority vote of the governing body in the manner required for the adoption of other ordinances may repeal the application of the exemption provided by Subsection (a) for

telecommunications services sold within the municipality.

(c) A municipality that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the governing body of a municipality repealing the application of or reinstating the exemption must be entered in the minutes of the municipality. The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of each ordinance adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the municipality as provided by Section 321.102(a) after receipt of a copy of the ordinance. (V.A.C.S. Art. 1066c, Secs. 4B(a), (b).)

[Sections 321.211-321.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 321.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax imposed by a municipality under this chapter. The taxes imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed. (V.A.C.S. Art. 1066c, Sec. 4, Subsec. B (part); Sec. 5(a) (part).)

Sec. 321.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a municipality that has adopted the taxes authorized by this chapter if the municipality requests the reports. A report must include the name, address, and account number of each person in the municipality that has remitted to the comptroller a tax payment during the quarter covered by the

report.

(b) If a municipality requests an additional report, the comptroller shall make an additional quarterly report to the municipality including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the municipality who has failed to pay the tax under this chapter to the municipality or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a municipality determines that a person doing business in the municipality is not included in a comptroller's report, the municipality shall report to the comptroller the name and address of the person. Within 90 days after receiving the report from a municipality, the comptroller shall send to the municipality:

(1) an explanation as to why the person is not obligated for the municipal tax;

(2) a statement that the person is obligated for the municipal tax and the tax is delinquent; or

(3) a certification that the person is obligated for the municipal tax and that the full amount of the tax due has been

1 credited to the municipality's account.

2 (d) The comptroller shall send by United States certified or
3 registered mail to the municipal tax collector a notice of each
4 person who is delinquent in the payment to the municipality of the
5 taxes authorized by this chapter and shall send a copy of the
6 notice to the attorney general. A notice sent under this
7 subsection is a certification of the amount of tax owed and is
8 prima facie evidence of a determination of that amount and of its
9 delinquency. (V.A.C.S. Art. 1066c, Secs. 5(b), (c), (d); Sec. 12,
10 Subsec. A (part).)

11 Sec. 321.303. SALES TAX PERMITS AND EXEMPTION AND RESALE
12 CERTIFICATES. (a) Each place of business of a retailer must have
13 a permit issued by the comptroller under Subchapter F, Chapter 151.

14 (b) The same sales tax permit, exemption certificate, and
15 resale certificate required by Chapter 151 for the administration
16 and collection of the taxes imposed by that chapter satisfy the
17 requirements of this chapter. No additional permit or exemption or
18 resale certificate may be required except that the comptroller may
19 prescribe a separate exemption certificate form for the transition
20 exemption for prior contracts and bids under Section 321.209.
21 (V.A.C.S. Art. 1066c, Sec. 6, Subsecs. B(1) (part), D.)

22 Sec. 321.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION.
23 All discounts allowed a retailer under Chapter 151 for the
24 collection and prepayment of the taxes under that chapter are
25 allowed and applicable to the taxes collected under this chapter.
26 (V.A.C.S. Art. 1066c, Sec. 6, Subsec. E.)

Sec. 321.305. PENALTIES. The penalties provided by Chapter 151 for violations of that chapter apply to violations of this chapter. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. F.)

Sec. 321.306. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, reporting, and enforcement of this chapter. (V.A.C.S. Art. 1066c, Sec. 5(a) (part); Sec. 11; Sec. 12, Subsec. C(5) (part).)

Sec. 321.307. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a tax imposed or a penalty due under this chapter after the tax and penalty are delinquent or after a determination against the taxpayer are the same as limitations provided by Chapter 151. (V.A.C.S. Art. 1066c, Sec. 12, Subsec. A (part).)

Sec. 321.308. SEIZURE AND SALE OF PROPERTY. If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties of both taxes. The proceeds of a sale of seized property shall first be applied to the payment of amounts due the state and the remainder, if any, to the amounts due to the municipality to which the taxes are due. (V.A.C.S. Art. 1066c, Sec. 12, Subsec. B.)

Sec. 321.309. SUIT FOR TAX COLLECTION. (a) A municipality acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent

taxes and penalties due to the municipality under this chapter.

(b) A municipality may bring suit for the collection of taxes owed to the municipality under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 321.302(d);

(2) a written notice of the tax delinquency and the municipality's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. A (part), C(1).)

Sec. 321.310. DISAPPROVAL OF MUNICIPAL SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a municipality under Section 321.309(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the municipality seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the

Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a municipality must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a municipal collection suit, the municipality may again proceed as provided by Section 321.309(b) even though the liability of the taxpayer includes taxes for which the municipality has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. C(2), (3).)

Sec. 321.311. JUDGMENTS IN MUNICIPAL SUIT. (a) A judgment in a suit under Section 321.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another municipality or the state unless the state is party to the suit.

(b) A municipality shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A municipality shall by execution collect the taxes awarded to it in each judgment received by the municipality and is responsible for the renewal of the judgment before its expiration.

(d) The municipality shall notify the comptroller by certified mail of the amount of any taxes collected on the

judgment. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. C(4), (5) (part).)

[Sections 321.312-321.400 reserved for expansion]

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 321.401. CALLING OF ELECTION. (a) An election under this chapter is called by the adoption of an ordinance by the governing body of a municipality.

(b) The governing body may call the election by a vote of a majority of its members.

(c) The governing body shall call the election if a number of qualified voters of the municipality equal to at least 20 percent of the number of votes cast in the most recent regular municipal election petitions the governing body for a vote on the question.

(d) The governing body of any municipality that has not adopted the additional sales and use tax shall, on petition of qualified voters of the municipality equal in number to at least five percent of the number of voters registered in the municipality, provide by ordinance for the calling and holding of an election on the question of adopting the additional sales and use tax. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. C; Sec. 2A, Subsec. C.)

Sec. 321.402. DEADLINES AFTER PETITION. (a) After the receipt of a petition for an election under this chapter, the governing body of a municipality shall determine the sufficiency of the petition within 30 days.

(b) If the petition is sufficient, the governing body shall pass the ordinance calling the election within 60 days after receiving the petition. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. D.)

Sec. 321.403. TIME OF ELECTION. (a) An election under this chapter to adopt the tax authorized under Section 321.101(a) must be held on the first succeeding uniform election date for which sufficient time elapses for the holding of an election.

(b) An election on the approval of the additional sales and use tax must be held on the next succeeding uniform election date not less than 30 days after the passage of the ordinance calling the election. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. E; Sec. 2A, Subsec. D.)

Sec. 321.404. BALLOT WORDING. (a) In an election to adopt the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "A one percent sales and use tax is adopted within the city" or "The adoption of an additional one-half of one percent sales and use tax within the city to be used to reduce the property tax rate."

(b) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "The local sales and use tax within the city is abolished" or "The abolition of the additional sales and use tax within the city." (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. G (part), H (part); Sec. 2A, Subsecs. F (part), G (part).)

Sec. 321.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters approve of the adoption

or abolition of a tax authorized by this chapter, the governing body of the municipality shall by resolution or ordinance entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the municipal secretary shall send to the comptroller by United States certified or registered mail a certified copy of the resolution or the ordinance along with a map of the municipality clearly showing its boundaries.

(c) Not later than the 30th day after the date the comptroller receives a certified copy of an ordinance or resolution showing the adoption of the additional municipal sales and use tax, the comptroller shall notify the municipal secretary that he is prepared for the administration of the tax. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. I; Sec. 2A, Subsec. H.)

Sec. 321.406. FREQUENCY OF ELECTION. An election under this chapter in a municipality may not be held earlier than one year after the date of any previous election under this chapter in the

municipality. (V.A.C.S. Art. 1066c, Sec. 3.)

Sec. 321.407. ELECTION CONTEST: NOTICE. (a) If an election held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending.

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section. (V.A.C.S. Art. 1066c, Sec. 13, Subsec. A.)

Sec. 321.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the municipal secretary shall notify the comptroller by United States certified or registered mail and enclose a copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the municipality under this chapter, the tax or the abolition of the tax takes effect as provided by Section 321.102 except that the notice of the final judgment is substituted for the notice of election results prescribed by Section 321.405. (V.A.C.S. Art. 1066c, Sec. 13, Subsec. B.)

[Sections 321.409-321.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 321.501. TRUST ACCOUNT. (a) The comptroller shall deposit the taxes collected by the comptroller under this chapter with the state treasurer. The treasurer shall keep the deposits in trust in the separate suspense account of the municipality from which the taxes were collected.

(b) The comptroller and each employee of the comptroller who has any duty or responsibility in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of the funds that are acquired by the comptroller under this chapter shall enter into one or more surety bonds in the amount of $100,000 payable to any and all municipalities from which the funds are collected. The comptroller may enter into a blanket bond or bonds covering the comptroller and the comptroller's employees.

(c) The premiums for the bonds required by this section shall be paid when due from the state's share of money collected and held by the comptroller under this chapter before its deposit in the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 7.)

Sec. 321.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as feasible, the comptroller shall send to the municipal treasurer or to the person who performs the office of the municipal treasurer payable to the municipality the municipality's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art.

1066c, Sec. 8(a) (part).)

Sec. 321.503. STATE'S SHARE. Before sending any money to a municipality under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the municipality during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to premiums payments under Section 321.501(c), credit the money deducted to the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 8(a) (part).)

Sec. 321.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a municipality a portion of the municipality's share of the tax collected for the municipality under this chapter, not to exceed five percent of the amount remitted to the municipality. If the municipality has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the municipality at the time of the termination of the collection of the tax.

(b) From the amounts retained in a municipality's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a municipality's tax under this chapter the comptroller shall send to the municipality the remainder of the money in the municipality's account and shall close the account. (V.A.C.S. Art. 1066c, Sec. 8(a) (part).)

Sec. 321.505. INTEREST ON TRUST ACCOUNT. Interest earned on all deposits made with the state treasurer under Section 321.501, including interest earned from retained suspense accounts, shall be credited to the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 8, Subsec. (a) (part).)

Sec. 321.506. USE OF TAX REVENUE BY MUNICIPALITY. Except as provided by Section 321.507, the money received by a municipality under this chapter is for the use and benefit of the municipality and may be used for any purpose for which the general funds of the municipality may be used, except that a municipality may not pledge the revenue received under this chapter to the payment of bonds or other indebtedness. (V.A.C.S. Art. 1066c, Secs. 8(a) (part), 9(a).)

Sec. 321.507. USE OF ADDITIONAL MUNICIPAL SALES AND USE TAX. In each year in which a municipality imposes an additional municipal sales and use tax, if the revenue from the collection of the additional tax exceeds the amount of taxes computed for the municipality under Section 26.04(c), the excess shall be deposited in an account to be called the municipal sales tax debt service fund. Revenue deposited in the municipal sales tax debt service fund may be spent only for the reduction of lawful debts of the municipality, except that deposits that exceed the amount of revenue needed to pay the debt service needs of the municipality in the current year may be used for any municipal purpose consistent with the municipal budget. (V.A.C.S. Art. 1066c, Sec. 9(b).)

Sec. 321.508. ENTERPRISE ZONE REFUNDS. (a) A municipality

may establish a program to refund to a qualified business under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) the amount of tax paid under this chapter by the business and remitted to the comptroller.

(b) The refund must be conditioned on the qualified business having purchased or leased equipment or machinery for use in the local enterprise zone or having purchased material for use in remodeling, rehabilitating, or constructing a structure in the zone. (V.A.C.S. Art. 1066c, Sec. 8(b).)

Sec. 321.509. TAX POWERS OF MUNICIPALITY NOT LIMITED. This chapter does not abolish or limit the tax powers of a municipality. (V.A.C.S. Art. 1066c, Sec. 10.)

CHAPTER 322. SALES AND USE TAXES FOR SPECIAL PURPOSE TAXING AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

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Sec. 322.002. DEFINITIONS

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Sec. 322.102. USE TAX

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4 ENTITY
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20 SUBCHAPTER D. REVENUE DEPOSIT, DISTRIBUTION, AND USE
21 Sec. 322.301. COLLECTIONS HELD BY COMPTROLLER
22 Sec. 322.302. DISTRIBUTION OF TRUST FUNDS
23 Sec. 322.303. STATE'S SHARE
24 Sec. 322.304. AMOUNTS RETAINED IN TRUST ACCOUNT
25 Sec. 322.305. INTEREST ON TRUST ACCOUNTS

CHAPTER 322. SALES AND USE TAXES FOR SPECIAL PURPOSE TAXING AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 322.001. APPLICATION OF CHAPTER. (a) This chapter applies to the imposition, assessment, collection, administration, and enforcement of a sales and use tax imposed under the authority of Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), or Article 1118z, Revised Statutes.

(b) The effective dates and rates of the taxes imposed by a taxing entity are determined under the laws authorizing the adoption of the taxes. (New.)

Sec. 322.002. DEFINITIONS. In this chapter:

(1) "Taxing entity" means a rapid transit authority, a regional transit authority, including a subregional transportation authority, or a municipal mass transit department created under Article 1118z, Revised Statutes, that has adopted a sales and use tax under the law authorizing the creation of the entity.

(2) "Entity area" means the geographical limits of a taxing entity.

(3) "Municipal sales and use tax" means a sales and use tax imposed by a municipality under the Municipal Sales and Use Tax Act (Chapter 321) within an entity area. (V.A.C.S. Art. 1118x, Sec. 11B(B)(a); Art. 1118y, Sec. 16(b); New.)

[Sections 322.003-322.100 reserved for expansion]

SUBCHAPTER B. ASSESSMENT AND COMPUTATION OF TAXES

Sec. 322.101. SALES TAX. There is imposed in a taxing entity a sales tax at the rate authorized and set as provided by the law authorizing the creation of the taxing entity and applied to the receipts from the sale within the entity area of all taxable items that are subject to the sales tax under Chapter 151. (V.A.C.S. Art. 1118x, Sec. 11B(A) (part); Art. 1118y, Sec. 16(a) (part); Art. 1118z, Sec. 8(a) (part).)

Sec. 322.102. USE TAX. In a taxing entity, there is imposed an excise tax on the use, storage, and other consumption within the entity area of taxable items purchased, leased, or rented from a retailer during the period that the sales tax is effective within the entity area. The rate of the excise tax is the same rate as the rate of the sales tax imposed by the taxing entity and is applied to the sales price of the taxable item. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(1) (part); Art. 1118y, Sec. 16(f)(2)(A) (part); Art. 1118z, Sec. 8(c) (part).)

Sec. 322.103. COMPUTATION OF SALES TAXES. (a) Each retailer in an entity area shall add the sales tax imposed under this chapter, the sales taxes imposed under Chapter 151, and, if applicable, any sales taxes imposed under Chapter 321 or 323 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price.

If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined applicable tax rates. (V.A.C.S. Art. 1118x, Sec. 11B(B)(b); Art. 1118y, Sec. 16(f)(1); Art. 1118z, Sec. 8(b).)

Sec. 322.104. COMPUTATION OF USE TAX. (a) In each taxing entity the tax imposed by Subchapter D, Chapter 151, the tax imposed under Section 321.104(a), if applicable, and the tax imposed under Section 322.102 are added together to form a single combined tax rate, except in a situation described by Section 322.105(b).

(b) The formula prescribed by Section 322.103(b) applies to the computation of the amount of the tax under this section. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(2) (part); Art. 1118y, Sec. 16(f)(2)(B) (part); Art. 1118z, Sec. 8(d) (part).)

Sec. 322.105. USE TAX: WHERE USE OCCURS. (a) In determining the incidence of the use tax of a taxing entity, the name of the taxing entity is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax of a taxing entity on the use, storage, or other consumption of

tangible personal property does not apply if the property is first used, stored, or consumed in an area other than an entity area.

(b) If a sale of tangible personal property is consummated within this state but not within an entity area and the property is shipped directly or brought by the purchaser or lessee directly into an entity area, the property is subject to the entity's use tax. The use is considered to be consummated at the location where the item is first used, stored, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state, the property is subject to the use tax of the taxing entity and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) If tangible personal property that is exempt under Section 322.107 is shipped or delivered directly to a purchaser in an entity, the property is subject to the use tax of the entity in which the purchaser takes delivery or shipment. (V.A.C.S. Art. 1118x, Secs. 11B(B)(c)(1) (part), (3), (4), (5), (6) (part); Art. 1118y, Secs. 16(f)(2)(A) (part), (C), (D), (E), (F) (part); Art. 1118z, Secs. 8(c) (part), (e), (f), (g)(1), (g)(3).)

Sec. 322.106. TAX INAPPLICABLE WHEN NO STATE TAX;

EXCEPTIONS. (a) The sales tax of a taxing entity does not apply to the sale of a taxable item unless the sales tax imposed under Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax of a taxing entity on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption of the item.

(c) Subsection (b) does not apply to the application of the tax in a situation described by Section 322.105(b). (V.A.C.S. Art. 1118x, Secs. 11B(A) (part), (B)(c)(1) (part), (d)(1) (part); Art. 1118y, Secs. 16(a) (part), (f)(2)(A) (part), (3)(A) (part); Art. 1118z, Secs. 8(a) (part), (c) (part), (h) (part).)

Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING ENTITY. There are exempted from the sales tax of a taxing entity the receipts of the sale of tangible personal property that, under a sales contract, is shipped to a point outside the entity by means of:

(1) facilities operated by the retailer;

(2) delivery by the retailer to a carrier for shipment to a consignee at that point; or

(3) delivery by the retailer to a customs broker or a forwarding agent for shipment outside the entity. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(6) (part); Art. 1118y, Sec. 16(f)(2)(F) (part); Art. 1118z, Sec. 8(g)(2).)

Sec. 322.108. CERTAIN PROVISIONS OF MUNICIPAL SALES AND USE

TAX APPLICABLE. The following apply to the taxes imposed by this chapter in the same manner as applicable to a municipality under Chapter 321:

(1) Section 321.002(a)(3);

(2) Section 321.003;

(3) Section 321.203;

(4) Section 321.205(d);

(5) Section 321.208;

(6) Section 321.209;

(7) Section 321.303;

(8) Section 321.304; and

(9) Section 321.305. (V.A.C.S. Art. 1118x, Sec. 11B(B)(e) (part); Art. 1118y, Sec. 16(f)(4) (part); Art. 1118z, Sec. 8(j) (part).)

Sec. 322.109. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed by a taxing entity under this chapter the sale within the entity area of telecommunications services unless the application of the exemption is repealed under this section.

(b) The board of a taxing entity may, by a majority vote of the board in the manner required for the adoption of other orders, repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the city.

(c) A taxing entity board that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of a taxing entity board repealing the

application of or reinstating the exemption must be entered in the minutes of the entity. The entity board chairman or secretary shall send to the comptroller by United States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the entity on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives a copy of the order. (V.A.C.S. Art. 1118x, Secs. 11B(B)(b-1)(1), (2); Art. 1118y, Secs. 16(f)(1-A)(A), (B); Art. 1118z, Secs. 8(b-1)(1), (2).)

[Sections 322.110-322.200 reserved for expansion]

SUBCHAPTER C. ADMINISTRATION OF TAXES

Sec. 322.201. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. (a) The comptroller shall administer, collect, and enforce the sales and use tax of a taxing entity.

(b) The sales and use taxes imposed under this chapter, the taxes imposed under Chapters 321 and 323, and the taxes imposed under Chapter 151 shall be collected together to the extent that each is imposed in an entity area. (V.A.C.S. Art. 1118x, Secs. 11B(B)(c)(2) (part), (d)(1) (part); Art. 1118y, Secs. 16(f)(2)(B) (part), (3)(A) (part); Art. 1118z, Secs. 8(d) (part), (h) (part).)

Sec. 322.202. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall report to a taxing entity on the entity's sales and use taxes by making substantially the same reports that are required to be made by the comptroller to a municipality under

Sections 321.302(a), (b), and (c).

(b) The comptroller shall send to a taxing entity by United States certified or registered mail a notice of each person who is delinquent in the payment of the entity's sales and use taxes and shall send to the attorney general a copy of the notice. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 1118x, Secs. 11B(B)(d)(2), (h)(1) (part); Art. 1118y, Secs. 16(f)(3)(B), (7)(A) (part); Art. 1118z, Secs. (i), (n) (part).)

Sec. 322.203. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, and enforcement of this chapter and for the reporting of the taxes imposed under this chapter. (V.A.C.S. Art. 1118x, Secs. 11B(B)(d)(1) (part), (g), (h)(7) (part); Art. 1118y, Secs. 16(f)(3)(A) (part), (6), (7)(G) (part); Art. 1118z, Secs. 8(h) (part), (m), (t) (part).)

Sec. 322.204. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a sales and use tax imposed by a taxing entity or a penalty due on the tax after the tax and penalty are delinquent or after a determination against a taxpayer are the same as the limitations provided by Chapter 151. (V.A.C.S. Art. 1118x, Sec. 11B(B)(h)(1) (part); Art. 1118y, Sec. 16(f)(7)(A) (part); Art. 1118z, Sec. 8(n) (part).)

Sec. 322.205. SEIZURE AND SALE OF PROPERTY. (a) If the

comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties under this chapter, Chapter 151, and Chapter 321.

(b) The proceeds of the sale of seized property shall first be applied to the payment of amounts due the state, then to the payments of amounts due a municipality under Chapter 321, and the remainder, if any, to the payment of amounts due to the taxing entity to which the taxes are due. (V.A.C.S. Art. 1118x, Sec. 11B(B)(h)(2); Art. 1118y, Sec. 16(f)(7)(B); Art. 1118z, Sec. 8(o).)

Sec. 322.206. SUITS FOR TAX COLLECTION. (a) A taxing entity acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the taxing entity under this chapter.

(b) A taxing entity may bring suit for the collection of taxes owed to the taxing entity under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 322.202(b);

(2) a written notice of the tax delinquency and the entity's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(1)

(part), (3) (part); Art. 1118y, Secs. 16(f)(7)(A) (part), (C) (part); Art. 1118z, Secs. 8(n) (part), (p) (part).)

Sec. 322.207. DISAPPROVAL OF SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a taxing entity under Section 322.206(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the taxing entity seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a taxing entity must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a taxing entity collection suit, the taxing entity may again proceed as provided by Section 322.206(b) even though the liability of the taxpayer includes taxes

for which the entity has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(3) (part), (4), (5); Art. 1118y, Secs. 16(f)(7)(C) (part), (D), (E); Art. 1118z, Secs. 8(p) (part), (q), (r).)

Sec. 322.208. JUDGMENTS IN SUIT. (a) A judgment in a suit under Section 322.206(b) for or against a taxpayer does not affect a claim against the taxpayer by a municipality or the state unless the state is party to the suit.

(b) A taxing entity shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A taxing entity shall by execution collect the taxes awarded to it in each judgment received by it and is responsible for the renewal of the judgment before its expiration.

(d) The taxing entity shall notify the comptroller by certified mail of the amount of any taxes collected on the judgment. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(6), (7) (part); Art. 1118y, Secs. 16(f)(7)(F), (G) (part); Art. 1118z, Secs. 8(s), (t) (part).)

[Sections 322.209-322.300 reserved for expansion]

SUBCHAPTER D. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 322.301. COLLECTIONS HELD BY COMPTROLLER. The comptroller shall deposit, hold, account for, and transmit sales and use taxes collected under this chapter for each taxing entity

in the same manner as required under Section 321.501 for each municipality. (V.A.C.S. Art. 1118x, Sec. 11B(B)(e) (part); Art. 1118y, Sec. 16(f)(4) (part); Art. 1118z, Sec. 8(k) (part).)

Sec. 322.302. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and as often as feasible, the comptroller shall send to the person at each taxing entity who performs the function of entity treasurer, payable to the taxing entity, the entity's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.303. STATE'S SHARE. Before sending any money to a taxing entity under this subchapter, the comptroller shall deduct two percent of the amount of the taxes collected within the entity area during the period for which a distribution is made as the state's charge for its services under this chapter and shall credit the money deducted to the general revenue fund. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.304. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a taxing entity a portion of the entity's share of the tax collected for the entity under this chapter, not to exceed five percent of the amount remitted to the entity. If the entity has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the entity at the time of the termination of

the collection of the tax.

(b) From the amounts retained in an entity's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of an entity's tax under this chapter other than a department under Article 1118z, Revised Statutes, the comptroller shall send to the entity the remainder of the money in the entity's account and shall close the account. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.305. INTEREST ON TRUST ACCOUNTS. Interest earned on all deposits made with the state treasurer under this chapter, including interest earned on retained accounts, shall be credited to the general revenue fund. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part).)

CHAPTER 323. COUNTY SALES AND USE TAX ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 323.001. SHORT TITLE

Sec. 323.002. DEFINITIONS

Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE

[Sections 323.004-323.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY COUNTIES

Sec. 323.101. TAX AUTHORIZED

1 Sec. 323.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL,
2 BOUNDARY CHANGE
3 Sec. 323.103. SALES TAX
4 Sec. 323.104. USE TAX
5 [Sections 323.105-323.200 reserved for expansion]
6 SUBCHAPTER C. COMPUTATION OF TAXES
7 Sec. 323.201. COMPUTATION OF SALES TAXES
8 Sec. 323.202. METHOD OF REPORTING: RETAILERS HAVING SALES
9 BELOW TAXABLE AMOUNT
10 Sec. 323.203. CONSUMMATION OF SALE
11 Sec. 323.204. COMPUTATION OF USE TAX
12 Sec. 323.205. USE TAX: COUNTY IN WHICH USE OCCURS
13 Sec. 323.206. COUNTY TAX INAPPLICABLE WHEN NO STATE TAX;
14 EXCEPTIONS
15 Sec. 323.207. STATE EXEMPTIONS APPLICABLE
16 Sec. 323.208. TELECOMMUNICATIONS EXEMPTION
17 [Sections 323.209-323.300 reserved for expansion]
18 SUBCHAPTER D. ADMINISTRATION OF TAXES
19 Sec. 323.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES
20 Sec. 323.302. COMPTROLLER'S REPORTING DUTIES
21 Sec. 323.303. SALES TAX PERMITS AND EXEMPTION AND RESALE
22 CERTIFICATES
23 Sec. 323.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION
24 Sec. 323.305. PENALTIES
25 Sec. 323.306. COMPTROLLER'S RULES
26 Sec. 323.307. DELINQUENT TAXES: LIMITATIONS

1 Sec. 323.308. SEIZURE AND SALE OF PROPERTY
2 Sec. 323.309. SUIT FOR TAX COLLECTION
3 Sec. 323.310. DISAPPROVAL OF COUNTY SUIT
4 Sec. 323.311. JUDGMENTS IN COUNTY SUIT
5 [Sections 323.312-323.400 reserved for expansion]
6 SUBCHAPTER E. TAX ELECTION PROCEDURES
7 Sec. 323.401. CALLING OF ELECTION
8 Sec. 323.402. DEADLINES AFTER PETITION
9 Sec. 323.403. TIME OF ELECTION
10 Sec. 323.404. BALLOT WORDING
11 Sec. 323.405. OFFICIAL RESULTS OF ELECTION
12 Sec. 323.406. FREQUENCY OF ELECTION
13 Sec. 323.407. ELECTION CONTEST: NOTICE
14 Sec. 323.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE
15 [Sections 323.409-323.500 reserved for expansion]
16 SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE
17 Sec. 323.501. TRUST ACCOUNT
18 Sec. 323.502. DISTRIBUTION OF TRUST FUNDS
19 Sec. 323.503. STATE'S SHARE
20 Sec. 323.504. AMOUNTS RETAINED IN TRUST ACCOUNT
21 Sec. 323.505. USE OF TAX REVENUE
22 CHAPTER 323. COUNTY SALES AND USE TAX ACT
23 SUBCHAPTER A. GENERAL PROVISIONS
24 Sec. 323.001. SHORT TITLE. This chapter may be cited as the
25 County Sales and Use Tax Act. (V.A.C.S. Art. 2353e, Sec. 20
26 (part).)

Sec. 323.002. DEFINITIONS. The words used in this chapter and defined by Chapters 151 and 321 have the meanings assigned by Chapters 151 and 321. (V.A.C.S. Art. 2353e, Sec. 20 (part).)

Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B and Chapter 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes unless modified by this chapter. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part); Sec. 23, Subsec. (C) (part); Sec. 26, Subsec. (A).)

[Sections 323.004-323.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY COUNTIES

Sec. 323.101. TAX AUTHORIZED. (a) A qualified county may adopt or repeal the county sales and use tax authorized by this chapter at an election in which a majority of the qualified voters of the county approve the adoption or repeal of the tax, as applicable.

(b) A county is qualified to adopt the tax only if no part of the county is located in a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

(c) An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature,

Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts in a county in which the county sales and use tax provided for in this section is in effect or is scheduled to take effect. For the purposes of this subsection, an authority is not considered to be located in any county in which fewer than 250 persons are both residents of the authority and the county. (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (A), (H) (part).)

Sec. 323.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE. (a) A tax imposed under this chapter takes effect on the first day of the first calendar year occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

(b) The repeal of a tax abolished under this chapter takes effect on the first day of the first calendar year that begins on or after the first day of the first county fiscal year that begins at least 30 days after the date on which the comptroller receives a notice of the action as required by Section 323.405(b). (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (G) (part), (H) (part).)

Sec. 323.103. SALES TAX. In a county that has adopted the tax authorized by this chapter, there is imposed a tax on the receipts from the sale at retail of taxable items within the county at the rate of one-half of one percent, or in a county that includes no territory within the limits of a municipality, one percent. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part).)

Sec. 323.104. USE TAX. In a county that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the county of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the county. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the tangible personal property. (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (A) (part).)

[Sections 323.105-323.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 323.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a county that has adopted the tax authorized by this chapter shall add the sales tax imposed by this chapter and by Chapter 151, plus any other applicable sales tax, to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (J) (part).)

Sec. 323.202. METHOD OF REPORTING: RETAILERS HAVING SALES

BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined state and local taxes. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (J) (part).)

Sec. 323.203. CONSUMMATION OF SALE. (a) A sale of a taxable item occurs within the county in which the sale is consummated. A sale is consummated as provided by this section, regardless of the place where transfer of title or possession occurs.

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, a sale of an item of tangible personal property by the retailer is consummated at the retailer's place of business:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(d) If neither the possession of tangible personal property is taken at nor shipment or delivery of the property is made from the retailer's place of business in this state, the sale is

consummated at:

(1) the retailer's place of business in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale is consummated at the location in this state to which tangible personal property is shipped or delivered or at which possession is taken by the customer if transfer of possession of tangible personal property occurs at, or shipment or delivery of the property originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other transmission originates, unless the point of origin cannot be determined, in which case the sale is at

the address to which the call is billed.

(h) The sale of an amusement service is consummated in the county in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any use of tangible personal property that subjects the property to the sales tax under the provisions of Section 151.154, the use or other consumption of the property that subjected the property to the tax is consummated at the place where the property is stored or kept at the time of or just before the use or consumption. (V.A.C.S. Art. 2353e, Sec. 26, Subsecs. (B)(1) (part), (2).)

Sec. 323.204. COMPUTATION OF USE TAX. In each county that has adopted the taxes authorized by this chapter, the tax imposed by Section 323.104, by other applicable local taxes, and by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except only the rate of the county tax is used in a situation described by Section 323.205(b). (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (B) (part).)

Sec. 323.205. USE TAX: COUNTY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter, the name of the county adopting the tax is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of tangible personal property does not apply if the property is first used, stored, or consumed in a

county that has not adopted the taxes authorized by this chapter.

(b) If a sale of tangible personal property is consummated in this state but not within a county that has adopted the taxes authorized by this chapter and the property is shipped directly, or brought by the purchaser or lessee directly, into a county that has adopted the taxes authorized by this chapter, the property is subject to the county's use tax. The use is considered to be consummated at the location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state and the use of the property is consummated within a county that has adopted the tax authorized by this chapter, the property is subject to a county's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the county in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by

the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation for further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a county that has adopted the tax under this chapter shall be subject to the county use tax. (V.A.C.S. Art. 2353e, Sec. 23, Subsecs. (A) (part), (C) (part), (D), (E); Sec. 26, Subsec. (B)(3).)

Sec. 323.206. COUNTY TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 323.205(b). (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part); Sec. 23, Subsec. (A) (part).)

Sec. 323.207. STATE EXEMPTIONS APPLICABLE. The exemptions

provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Section 151.317(b). (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (C).)

Sec. 323.208. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed under this chapter the sale within the county of telecommunications services unless the application of the exemption is repealed under this section.

(b) The commissioners court of a county by a majority vote may repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the county.

(c) A county that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the commissioners court repealing the application of or reinstating the exemption must be entered in the minutes of the court. The county judge shall send to the comptroller by United States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the county on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives notification of the order. (V.A.C.S. Art. 2353e, Secs. 24(A), (B).)

[Sections 323.209-323.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 323.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax

imposed by a county under this chapter. The tax imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed. (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (B) (part); Sec. 25(A) (part).)

Sec. 323.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a county that has adopted the taxes authorized by this chapter if the county requests the reports. A report must include the name, address, and account number of each person in the county that has remitted to the comptroller a tax payment during the quarter covered by the report.

(b) If a county requests an additional report, the comptroller shall make an additional quarterly report to the county including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the county who has failed to pay the tax under this chapter to the county or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a county determines that a person doing business in the county is not included in a comptroller's report, the county shall report to the comptroller the name and address of the person.

Within 90 days after receiving the report from a county, the comptroller shall send to the county:

(1) an explanation as to why the person is not obligated for the county tax;

(2) a statement that the person is obligated for the county tax and the tax is delinquent; or

(3) a certification that the person is obligated for the county tax and that the full amount of the tax due has been credited to the county's account.

(d) The comptroller shall send by United States certified or registered mail to the county tax collector a notice of each person who is delinquent in the payment to the county of the taxes authorized by this chapter and shall send a copy of the notice to the attorney general. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 2353e, Secs. 25(B), (C), (D); Sec. 31, Subsec. (A) (part).)

Sec. 323.303. SALES TAX PERMITS AND EXEMPTION AND RESALE CERTIFICATES. (a) Each place of business of a retailer must have a permit issued by the comptroller under Subchapter F, Chapter 151.

(b) The same sales tax permit, exemption certificate, and resale certificate required by Chapter 151 for the administration and collection of the taxes imposed by that chapter satisfy the requirements of this chapter. No additional permit or exemption or resale certificate may be required. (V.A.C.S. Art. 2353e, Sec.

26, Subsecs. (B) (part), (D).)

Sec. 323.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION. All discounts allowed a retailer under Chapter 151 for the collection and prepayment of the taxes under that chapter are allowed and applicable to the taxes collected under this chapter. (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (E).)

Sec. 323.305. PENALTIES. The penalties provided by Chapter 151 for violations of that chapter apply to violations of this chapter. (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (F).)

Sec. 323.306. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, reporting, and enforcement of this chapter. (V.A.C.S. Art. 2353e, Sec. 25(A) (part); Sec. 30.)

Sec. 323.307. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a tax imposed or a penalty due under this chapter after the tax and penalty are delinquent or after a determination against the taxpayer are the same as limitations provided by Chapter 151. (V.A.C.S. Art. 2353e, Sec. 31, Subsec. (A) (part).)

Sec. 323.308. SEIZURE AND SALE OF PROPERTY. If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties of both taxes. The proceeds of a sale of seized property shall first

be applied to the payment of amounts due the state, any remainder to the amounts due to a municipality to which the taxes are due under Chapter 321, and any remainder to the amounts due to a county to which taxes are due. (V.A.C.S. Art. 2353e, Sec. 31, Subsec. (B).)

Sec. 323.309. SUIT FOR TAX COLLECTION. (a) A county acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the county under this chapter.

(b) A county may bring suit for the collection of taxes owed to the county under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 323.302(d);

(2) a written notice of the tax delinquency and the county's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (A) (part), (C)(1).)

Sec. 323.310. DISAPPROVAL OF COUNTY SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a county under Section 323.309(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the county seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a county must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a county collection suit, the county may again proceed as provided by Section 323.309(b) even though the liability of the taxpayer includes taxes for which the county has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (C)(2), (3).)

Sec. 323.311. JUDGMENTS IN COUNTY SUIT. (a) A judgment in a suit under Section 323.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another county, a municipality, or the state unless the state is party to the suit.

(b) A county shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state

is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A county shall by execution collect the taxes awarded to it in each judgment received by the county and is responsible for the renewal of the judgment before its expiration.

(d) The county shall send to the comptroller for deposit in the county's suspense account the amount of any taxes collected on the judgment. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (C)(4), (5).)

[Sections 323.312-323.400 reserved for expansion]

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 323.401. CALLING OF ELECTION. (a) An election under this chapter is called by the adoption of an order by the commissioners court of a county.

(b) The commissioners court may call the election by a vote of a majority of its members.

(c) The commissioners court shall call the election if a number of qualified voters of the county equal to at least five percent of the number of registered voters in the county petition for a vote on the question. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (C).)

Sec. 323.402. DEADLINES AFTER PETITION. (a) After the receipt of a petition for an election under this chapter, the commissioners court shall determine the sufficiency of the petition within 30 days.

(b) If the petition is sufficient, the commissioners court

shall pass the ordinance calling the election within 60 days after receiving the petition. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (D).)

Sec. 323.403. TIME OF ELECTION. An election under this chapter must be held on the next uniform election day not less than 30 days after the day on which the order calling the election was passed. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (E).)

Sec. 323.404. BALLOT WORDING. (a) Except as provided by Subsection (b), in an election to adopt the tax, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one-half percent county sales and use tax within the county to be used to reduce the county property tax rate."

(b) In an election in a county that includes no territory within the limits of a municipality, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one percent county sales and use tax within the county to be used to reduce the county property tax rate."

(c) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the proposition: "Abolition of the county sales and use tax within the county." (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (G) (part), (H) (part).)

Sec. 323.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters of a county approve of the adoption or abolition of the tax authorized by this chapter,

the commissioners court of the county shall by resolution entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the county judge shall send to the comptroller by United States certified or registered mail a certified copy of the resolution. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (I).)

Sec. 323.406. FREQUENCY OF ELECTION. An election under this chapter in a county may not be held earlier than one year after the date of any previous election under this chapter in the county. (V.A.C.S. Art. 2353e, Sec. 22.)

Sec. 323.407. ELECTION CONTEST: NOTICE. (a) If an election held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending.

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section. (V.A.C.S. Art. 2353e, Sec. 32, Subsec. (A).)

Sec. 323.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the county judge shall notify the comptroller by United States certified or registered mail and enclose a copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the county under this chapter, the tax or the abolition of the tax takes effect as provided by Section 323.102 except that the notice of the final judgment is substituted for the notice of election results prescribed by Section 323.405. (V.A.C.S. Art. 2353e, Sec. 32, Subsec. (B).)

[Sections 323.409-323.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 323.501. TRUST ACCOUNT. (a) The comptroller shall deposit the taxes collected by the comptroller under this chapter with the state treasurer. The treasurer shall keep the deposits in trust in the separate suspense account of the county from which the taxes were collected.

(b) The comptroller and each employee of the comptroller who

has any duty or responsibility in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of the funds that are acquired by the comptroller under this chapter shall enter into one or more surety bonds in the amount of $100,000 payable to any and all counties from which the funds are collected. The comptroller may enter into a blanket bond or bonds covering the comptroller and the comptroller's employees.

(c) The premiums for the bonds required by this section shall be paid when due from the state's share of money collected and held by the comptroller under this chapter before its deposit in the general revenue fund.

(d) If municipalities and counties are protected under a single bond, separate bonds are not required for compliance with this section and Section 321.501. (V.A.C.S. Art. 2353e, Sec. 27.)

Sec. 323.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as feasible, the comptroller shall send to the county treasurer payable to the county the county's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.503. STATE'S SHARE. Before sending any money to a county under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the county during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to

premiums payments under Section 323.501(c), credit the money deducted to the general revenue fund. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a county a portion of the county's share of the tax collected for the county under this chapter, not to exceed five percent of the amount remitted to the county. If the county has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the county at the time of the termination of the collection of the tax.

(b) From the amounts retained in a county's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a county's tax under this chapter the comptroller shall send to the county the remainder of the money in the county's account and shall close the account. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.505. USE OF TAX REVENUE. The money received by a county under this chapter is for the use and benefit of the county and shall be used for the replacement of property tax revenue lost as a result of the adoption of the taxes authorized by this chapter. The revenue in excess of the revenue used to replace those property taxes shall be used for the reduction of

indebtedness of the county. After all indebtedness is paid, the excess may be used for any purpose for which county general revenue may be used. A county may not pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness for a period longer than one year. (V.A.C.S. Art. 2353e, Sec. 29.)

[Chapters 324-350 reserved for expansion]

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

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SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 351.001. DEFINITIONS. In this chapter:

(1) "Municipality" includes any incorporated city, town, or village.

(2) "Convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and other municipal buildings that are suitable for use as convention and exposition facilities. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the immediate vicinity of other convention center facilities.

(3) "Eligible municipality" means a municipality that has a population of at least 1,200,000 and that has adopted by ordinance a capital improvement plan for convention and exposition facilities for the municipality.

(4) "Eligible coastal municipality" means a home-rule municipality that borders on the Gulf of Mexico and has a population of less than 80,000.

(5) "Hotel" has the meaning assigned by Section 156.001(1). (V.A.C.S. Art. 1269j-4.1, Sec. 3c(a)(1) (part); Sec. 3d(a); Secs. 3e(a)(1), (2); Sec. 3f(a); Sec. 3g(a)(2), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.002. TAX AUTHORIZED. (a) A municipality by ordinance may impose a tax on a person who, under a lease,

concession, permit, right of access, license, contract, or agreement, 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 sleeping.

(b) The price of a room in a hotel 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.

(c) The tax does not apply to a person who has the right to use or possess a room in a hotel for 30 or more days. (V.A.C.S. Art. 1269j-4.1, Sec. 3a(a) (part); Secs. 3d(b), (c), (d); Sec. 3e(b)(1) (part); Sec. 3f(b) (part); Sec. 3g(b) (part), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.003. TAX RATES. (a) Except as provided by this section, the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The rate in an eligible municipality may not exceed six percent of the price paid for a room in a hotel.

(c) The rate in a municipality having a population of 900,000 or more and a council-manager form of government may not exceed five percent of the price paid for a room in a hotel. (V.A.C.S. Art. 1269j-4.1, Secs. 3a(a) (part), 3e(b)(1) (part), 3f(b) (part), 3g(b) (part), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.004. TAX COLLECTION. (a) The municipal attorney

or other attorney acting for the municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality and who has failed to file a tax report or pay the tax when due to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order.

(b) The remedy provided by this section is in addition to other available remedies. (V.A.C.S. Art. 1269j-4.1, Sec. 3g, as added by Ch. 1009, Acts 68th Leg., R.S., 1983.)

Sec. 351.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) A municipality may permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

(b) The municipality may provide that the reimbursement provided by this section be forfeited because of a failure to pay the tax or to file a report as required by the municipality. (V.A.C.S. Art. 1269j-4.1, Secs. 3a(b), 3e(f).)

[Sections 351.006-351.100 reserved for expansion]

SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

Sec. 351.101. USE OF TAX REVENUE. (a) Revenue from the municipal hotel occupancy tax may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and

maintenance of convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising for general promotional and tourist advertising of the municipality and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the municipality or through contracts with persons or organizations selected by the municipality;

(4) 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; and

(5) historical restoration and preservation projects or activities:

(A) at or in the immediate vicinity of convention center facilities; or

(B) that would be frequented by tourists and visitors to the municipality.

(b) It is the intent of the legislature that revenues derived from the tax authorized by this chapter are to be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry. (V.A.C.S. Art. 1269j-4.1, Secs.

3c(a) (part), (c).)

Sec. 351.102. PLEDGE FOR BONDS. (a) Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), for one or more of the purposes provided by Section 351.101.

(b) Before an eligible municipality may issue bonds secured in whole or part by the revenue received from the tax imposed under this chapter, the municipality must certify that the average annual debt service on outstanding bonds and bonds in the process of issuance that are secured in whole or part by the tax authorized by this chapter and that were issued for purposes other than convention and exposition facilities does not exceed the maximum annual revenues that the municipality could receive from the tax imposed under this section in the absence of special provisions under this chapter that apply solely to eligible municipalities, plus any other revenue pledged to the payment of the bonds. (V.A.C.S. Art. 1269j-4.1, Secs. 3c(b) (part), 3e(c).)

Sec. 351.103. ALLOCATION OF REVENUE: GENERAL RULE. (a) The following amount of municipal hotel occupancy tax revenue must be allocated for the use provided by Section 351.101(a)(3):

(1) if the tax rate in a municipality is not more than three percent of the cost paid for a room, not less than the amount of revenue received by the municipality from the tax at a rate of

one-half of one percent of the cost of the room; or

(2) if the tax rate in a municipality exceeds three percent of the cost of a room, not less than the amount of revenue received by the municipality from the tax at a rate of one percent of the cost of a room.

(b) No more municipal hotel occupancy revenue than the amount of tax received by the municipality at the rate of one percent of the cost of a room may be used for the purpose provided by Section 351.101(a)(4).

(c) All municipal hotel occupancy tax revenue that is derived from the application of the tax at a rate in excess of four percent of the cost of a room may only be used for the purposes provided by Sections 351.101(a)(1), (2), and (3). (V.A.C.S. Art. 1269j-4.1, Secs. 3a(a) (part), 3c(b) (part).)

Sec. 351.104. ALLOCATION OF REVENUE: ELIGIBLE MUNICIPALITIES. (a) Subject to the limitation provided by Subsection (b) and Section 351.102, an eligible municipality may pledge to the payment of revenue bonds and revenue refunding bonds issued under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, all or any portion of the revenue derived from the municipality hotel occupancy tax and all or any portion of any other revenue of the municipality as the governing body may determine in the ordinance authorizing the issuance of the bonds.

(b) Consistent with the provisions of Section 351.103(a), an eligible municipality shall reserve that portion of the municipal hotel occupancy tax revenue derived from the application of the tax

at a rate in excess of four percent of the cost of a room solely for the purposes provided by Section 351.101(a)(1) and for the purpose of securing refunding bonds in connection therewith.

(c) Revenue received by an eligible municipality from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101. (V.A.C.S. Art. 1269j-4.1, Secs. 3e(b) (part), (d), (g).)

Sec. 351.105. ALLOCATION OF REVENUE: ELIGIBLE COASTAL MUNICIPALITIES. (a) An eligible coastal municipality that levies and collects an occupancy tax authorized by this chapter at a rate of seven percent or more shall pledge a portion of the revenue equal to at least one percent of the cost of a room to either or both of the following purposes:

(1) the payment of the bonds that the municipality or a park board of trustees may issue under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), or under Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6081g-1, Vernon's Texas Civil Statutes), in order to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair of public improvements, including parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in

connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality; or

(2) the maintenance, improvement, or operation of the parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality.

(b) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of four or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of three percent of the cost of a room shall be used for the purpose provided by Section 351.101(a)(3).

(c) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of five or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent shall be used for beach patrol, lifeguard services, marine water safety, and park law enforcement.

(d) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of six or more percent, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent of the cost of a

room shall be used as matching funds for state funds available to clean and maintain public beaches and for other public beach-cleaning funds. (V.A.C.S. Art. 1269j-4.1, Secs. 3f(c) (part), (d), (e), (f).)

Sec. 351.106. ALLOCATION OF REVENUE: MUNICIPALITIES WITH 900,000 AND COUNCIL-MANAGER GOVERNMENT. (a) A municipality that has a population of 900,000 or more and that has adopted a council-manager form of government shall use the amount of revenue from the tax that is derived from the application of the tax at a rate of more than four percent of the cost of a room as follows:

(1) no more than 65 percent to:

(A) constructing, improving, enlarging, equipping, and repairing the municipality's convention center complex; or

(B) pledging payment of revenue bonds and revenue refunding bonds issued under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), for the municipality's convention center complex; and

(2) at least 35 percent for the purposes provided by Section 351.101(a)(3).

(b) Revenue received by a municipality described by Subsection (a) from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101. (V.A.C.S. Art. 1269j-4.1, Secs. 3g(a)(1), (c), (d), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

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CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 352.001. DEFINITION. In this chapter, "hotel" has the meaning assigned by Section 156.001(1). (V.A.C.S. Art. 2352i, Sec. 1(1); Art. 2372d-8, Sec. 7(1).)

Sec. 352.002. TAX AUTHORIZED. (a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, 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 sleeping:

(1) a county that has a population of two million or more;

(2) a county that has a population of 90,000 or more, borders on the Republic of Mexico, and does not have three or more cities that each have a population of more than 17,500; and

(3) a county in which there is no municipality.

(b) The price of a room in a hotel 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.

(c) The tax does not apply to a person who has the right to use or possess a room in a hotel for 30 or more days. (V.A.C.S. Art. 2352i, Secs. 1(2), (3), (4); Sec. 2 (part); Art. 2372d-8, Sec. 1; Sec. 4(a) (part); Secs. 7(2), (3), (4).)

Sec. 352.003. TAX RATES. (a) Except as provided by this section the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The county tax rate in a municipality that has a population of 1,200,000 or more may not exceed one percent of the price paid for a room in a hotel.

(c) The rate in a county that does not have a municipality may not exceed four percent of the price paid for a room in a hotel. (V.A.C.S. Art. 2352i, Sec. 2 (part); Art. 2372d-8, Secs. 4(a) (part), (b).)

Sec. 352.004. TAX COLLECTION; PENALTY. (a) The owner or operator of a hotel shall report and send the taxes collected under this chapter to the county as provided by the resolution or order imposing the tax.

(b) If the owner fails to report when required or pay the tax when due, the owner shall pay a penalty of five percent of the amount of the tax due. If the owner fails to file the report or pay the tax before the 31st day after the date that the report or tax payment was due, he shall pay an additional penalty of five percent of the amount of the tax due.

(c) Delinquent taxes and accrued penalties draw interest at the rate of 10 percent a year beginning 60 days after the date on which the tax was due. (V.A.C.S. Art. 2352i, Sec. 2A; Art. 2372d-8, Sec. 4A.)

Sec. 352.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) A county may permit a person who is required to collect and pay over to the county the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

(b) This section does not apply to a county that has no municipality. (V.A.C.S. Art. 2372d-8, Sec. 15.)

[Sections 352.006-352.100 reserved for expansion]

SUBCHAPTER B. USE OF REVENUE

Sec. 352.101. USE OF REVENUE: COUNTIES OF TWO MILLION OR MORE. The revenue from a tax imposed under this chapter by a

county having a population of two million or more may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities that serve the purpose of attracting visitors and tourists to the county, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities; and

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants. (V.A.C.S. Art. 2372d-8, Sec. 6(a) (part).)

Sec. 352.102. USE OF REVENUE: COUNTIES BORDERING MEXICO. The revenue from a tax imposed under this chapter by a county that borders the Republic of Mexico and that is further described by Section 352.002(a) may only be used for the purposes listed in Section 352.101 and for advertising for general promotion and tourist advertising of the county and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the county. (V.A.C.S. Art. 2372d-8, Sec. 6(a).)

Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY. The revenue from a tax imposed under this chapter by

a county that has no municipality may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities including civic center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising for general promotional and tourist advertising of the county and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the commissioners court;

(4) the encouragement, promotion, improvement, and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms; and

(5) historical preservation and restoration. (V.A.C.S. Art. 2352i, Sec. 3.)

Sec. 352.104. PLEDGE FOR BONDS. A county may pledge the

revenue derived from the tax imposed under this chapter for the payment of bonds that are issued by the county under Section 3, Article I, Chapter 796, Acts of the 67th Legislature, Regular Session, 1981 (Article 2372d-8, Vernon's Texas Civil Statutes), for one or more of the purposes provided by Section 352.101. (V.A.C.S. Art. 2372d-8, Sec. 6(b).)

SECTION 2. CONFORMING AMENDMENT. Section 11.28, Tax Code, is amended to read as follows:

Sec. 11.28. PROPERTY EXEMPTED FROM CITY TAXATION BY AGREEMENT. The owner of property to which an agreement made under the Property Redevelopment and Tax Abatement Act <u>(Chapter 312 of this code)</u> applies is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

SECTION 3. CONFORMING AMENDMENT. Section 11.86(a), Education Code, is amended to read as follows:

(a) The board shall conduct an annual study using comparable sales and other generally accepted techniques to determine the total value of all taxable property in each school district. The study shall determine the taxable value of all property and of each class of property within the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. In conducting the studies, the board shall use appropriate standard valuation, statistical compilation, and analysis techniques. For the purposes of this

section, "taxable value" means market value less:

(1) the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study;

(2) the total dollar amount of any exemptions granted within a reinvestment zone under agreements authorized by the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]);

(3) the total dollar amount of any captured appraised value of property that is located in a reinvestment zone and that is eligible for tax increment financing under the [~~Texas~~] Tax Increment Financing Act [~~of 1981~~] (Chapter 311, Tax Code [~~Article 1066e, Vernon's Texas Civil Statutes~~]);

(4) the difference between the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value may not exceed the fair market value of the land;

(5) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(6) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the Texas Constitution that, if the

tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property; and

(7) the market value of all automobiles owned by a family or individual and not held or used for the production of income.

SECTION 4. CONFORMING AMENDMENT. Section 5(b), Article 1, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015o, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The municipality, acting pursuant to the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]), may abate municipal property taxes that otherwise would be owed by the owner of a sign that is required to be relocated or reconstructed. The abated taxes may be on any real or personal property owned by the owner of the sign except residential property. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right to abatement with respect to taxes on any nonresidential property in the same taxing jurisdiction. In any municipality where tax abatement is utilized in order to pay compensable costs, such costs shall include reasonable interest and such abatement period shall not exceed five years.

SECTION 5. CONFORMING AMENDMENT. Section 12, Texas

Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. REINVESTMENT ZONE. A local or state-federal enterprise zone may be designated a reinvestment zone for tax increment financing or tax abatement purposes as provided by the [~~Texas~~] Tax Increment Financing Act [~~of 1981~~] (Chapter 311, Tax Code [~~Article 1066e, Vernon's Texas Civil Statutes~~]) or the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]).

SECTION 6. CONFORMING AMENDMENT. Section 5(b), Chapter 658, Acts of the 69th Legislature, Regular Session, 1985 (Article 6674v-4, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The governing body of a toll road authority, with the approval of the commissioners court and in accordance with the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]), may abate county property taxes that otherwise would be owed by the owner of a sign to be removed. The governing body may declare an area to be a reinvestment zone for purposes of abating property taxes under this subsection if the area encompasses signs designated by the governing body for removal. The abated taxes may be on any real or personal property in the county, other than residential property, owned by the owner of the sign. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right of abatement with respect to taxes on any nonresidential

property in the same county. In a county in which tax abatement is used in order to pay compensation, the compensation shall include reasonable interest and the abatement period may not exceed five years.

SECTION 7. CONFORMING AMENDMENT. Subsection (A), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(A) Subject [~~subject~~] to approval at a tax election in accordance with this Act, the board of an authority shall be authorized to levy, collect and impose a local sales and use tax for the benefit of the authority[~~,-the-sales-tax-portion-of-which shall-not-exceed-one-percent-on--receipts--from--the--sale--of--all taxable--items--within--the--authority--area--which--are-subject-to taxation-under-the-provisions-of-the-Limited-Sales,-Excise-and--Use Tax--Act,--as-enacted-and-as-heretofore-or-hereafter-amended~~]. The provisions of Chapter 322, Tax Code, [~~this--section~~] shall be applicable to the levy, imposition and collection of such tax. The permissible rates for a local sales and use tax levied under this Act are:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; and

(4) one percent.

SECTION 8. CONFORMING AMENDMENT. Subsection (a), Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session,

1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Subject to approval at a confirmation election in accordance with this Act, the executive committee is authorized to levy, collect, and impose a local sales and use tax for the benefit of the authority[~~, the sales tax portion of which shall not exceed one percent of receipts from the sale at retail of all taxable items within the authority area which are subject to taxation under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted and as heretofore or hereafter amended~~]. The tax rate may be levied or collected only as a quarter of one percent, a half of one percent, three-quarters of one percent, or one percent. The provisions of Chapter 322, Tax Code, [~~this section~~] shall be applicable to the levy, imposition, and collection of the tax.

SECTION 9. CONFORMING AMENDMENT. Section 8, Article 1118z, Revised Statutes, is amended to read as follows:

Sec. 8. LOCAL SALES AND USE TAX. (a) Subject to approval at a tax election in accordance with this article, the board may levy and collect a local sales and use tax for financing of the system, the sales tax portion of which applies to receipts from the sale of all taxable items within the city or town that are subject to taxation under the Limited Sales, Excise, and Use Tax Act, Chapter 151, Tax Code. The effective date of a local sales and use tax is the first day of the second calendar quarter that begins after the date the comptroller receives, under Subsection (f) of Section 5 of this article, notice of an order except as provided by

Subsection (e) [~~(w)~~] of this section. The permissible rates for a local sales and use tax levied under this article are:

(1) one-quarter of one percent; and

(2) one-half of one percent.

(b) Chapter 322, Tax Code, applies to the application and collection of the tax imposed under this article. [~~Every--retailer within--the--city--or-town-shall-add-the-tax-imposed-by-the-Limited Sales,-Excise,-and-Use-Tax-Act,-any-applicable-local-sales-and--use tax,--and-the-tax-imposed-under-this-section-to-the-retailer's-sale price,-and-when-added,-the-combined-tax-is-a-part-of-the-price,--is a--debt--of--the--purchaser--to--the--retailer--until--paid,-and-is recoverable-at-law-in-the-same-manner-as-the-purchase--price.---The combined-taxes-on-the-transaction-are-determined-by-multiplying-the amount--of--the--sale--by--the-total-of-the-combined-applicable-tax rates.--Any-fraction-of-one-cent-less-than-one-half-of-one-cent--of tax-may-not-be-collected.--Any-fraction-of-one-cent-of-tax-equal-to one-half--of-one-cent-or-more-shall-be-collected-by-the-retailer-as a-whole-cent-of-tax.--After-receiving--written--approval--from--the comptroller,--a--retailer--who-can-establish-to-the-satisfaction-of the-comptroller-that-50-percent-or-more-of-the-retailer's--receipts from--the--sale-of-taxable-items-arise-from-individual-transactions in-which-the-total-sales-price--when--multiplied--by--the--combined rates-of-the-taxes-imposed-under-the-Limited-Sales,-Excise,-and-Use Tax--Act,--any--applicable--local--sales--and--use-tax,-and-the-tax imposed-under-this-section-equals--an--amount--that--is--less--than one-half--of--one--cent--may--exclude--the-receipts-from-sales-when~~

~~reporting-and-paying-the-taxes-imposed-under-this-section--and--the Limited--Sales,--Excise,--and--Use-Tax-Act-and-any-applicable-local sales-and-use-tax.--Any-attempt-on-the--part--of--any--retailer--to exercise--this--provision--without--prior--written--approval-of-the comptroller-is-a-refusal-to-pay-the-taxes-imposed-by--this--section and--the--Limited-Sales,-Excise,-and-Use-Tax-Act-and-any-applicable local-sales-and-use-tax,-and-the-retailer-is-subject-to--assessment for--taxes,-penalties,-and-interest-as-provided-by-this-section-and the-Limited-Sales,-Excise,-and-Use-Tax-Act-and-under-any-applicable law-providing-for-a-local-sales-and-use-tax.~~

~~[(b-1)(1)--There-are-exempted-from-the--taxes--imposed--under the-authority-of-this-article-the-receipts-from-the-sale-within-the city---of---telecommunications---services--except--as--provided--by Subdivision-(2)-of-this-subsection.~~

~~[(2)--The-board-that-has-adopted-the-tax-authorized--by--this article--may-adopt-an-order-by-a-majority-vote-of-the-board,-in-the manner-otherwise-required-for-the--adoption--by--the--board--of--an order,--repealing-the-application-of-the-exemption-provided-by-this section-for-telecommunications-services-sold-within--the--city.---A department--that--has-repealed-the-application-of-the-exemption-may in-the-same-manner-exempt-from-the-tax-the-receipts-from--the--sale within--the-city-or-town-of-telecommunications-services.--A-vote-of the-board-repealing-the-application-of-the-exemption--or--exempting the--receipts--from-the-sale-of-telecommunications-services-must-be entered-in-the-minutes-of-the-board.--If--an--order--repealing--the application--of--the--exemption--or-exempting-the-receipts-from-the~~

~~sale-of-telecommunications-services-is-adopted,-the-board--chairman or--secretary--to--the--board--shall--forward-to-the-comptroller-by United-States-registered-mail-or--certified--mail--a--copy--of--the order.---On--receipt--of--the--notification-by-the-comptroller,-one whole-calendar-quarter--shall--elapse--before--the--repeal--of--the application--of--the--exemption-or-the-exemption-becomes-effective. The-imposition-of-the-tax-or-the-exemption-then-takes-effect-on-the first-day-of-the--calendar--quarter--next--succeeding--the--elapsed quarter.~~

[~~(3)--Notwithstanding--Subdivision-(2)-of-this-subsection,-no order-repealing--the--application--of--the--exemption--provided--by Subdivision--(1)-of-this-subsection-may-take-effect-or-be-effective before-October-1,-1987.~~]

(c) [~~In-every-city-or-town-in-which-a-local--sales--and--use tax--has--been-adopted-under-this-section,-there-is-imposed-by-this section-an-excise-tax-on-the-storage,--use,--or--other--consumption within--the--city--or--town--of-taxable-items-purchased,-leased,-or rented-from-any--retailer--on--or--after--the--effective--date--for collection--of--the--sales-tax-portion-of-the-sales-and-use-tax-for storage,-use,-or-other-consumption-in-the-city-or-town-at-the--same rate--as-the-sales-tax-levied-under-this-section-on-the-sales-price of-the-taxable-item-or,-in-the-case-of-leases-or--rentals,--on--the lease--or--rental--price.---Except-as-provided-by-Subsection-(f)-of this-section,-the-use-tax-imposed-by-this-section-is--not--owed--to and--may--not-be-collected-by,-for,-or-on-behalf-of-a-department-if no-excise-tax-on-the-storage,-use,-or-other-consumption-of-an--item~~

~~of--tangible-personal-property-is-owed-to-or-collected-by-the-state under-the-Limited-Sales,--Excise,--and--Use--Tax--Act,--or--if--the tangible--personal--property--is--first--stored,--used,-or-consumed within-a-city-or-town-that-does-not-have-a-department-for-which-the sales-and-use-tax-authorized-by-this-section-has-been-adopted.~~

~~[(d)--In-each-city-or-town-in-which--the--tax--authorized--by this--section--has--been--imposed,-the-excise-tax-imposed-under-the Limited-Sales,-Excise,-and-Use-Tax-Act,-any-applicable--excise--tax under--the--Local--Sales--and--Use-Tax-Act-(Article-1066c,-Vernon's Texas-Civil-Statutes)-on-the-storage,-use,-or-other-consumption--of taxable--items,-and-the-excise-tax-imposed-by-this-section-shall-be added-together-to-form-a-combined-rate-of-excise-tax-equal--to--the sum--of-the-applicable-taxes.--The-tax-imposed-by-Subsection-(c)-of this-section-shall-be-collected-by-the-comptroller-on-behalf-of-and for-the-benefit-of--the--department.---The--formula--prescribed--by Subsection--(b)--of-this-section-is-applicable-to-the-collection-of the-excise-tax-imposed-under-Subsection-(c)-of-this-section.~~

~~[(e)--The--Limited--Sales,--Excise,--and--Use--Tax---Act---is applicable--to--the-collection-of-the-tax-imposed-by-Subsection-(c) of-this-section,-except-that-in--Subchapter--D,--Chapter--151,--Tax Code,--the--name--of-the-department-for-which-the-sales-and-use-tax authorized-by-this-section-has-been-adopted--shall--be--substituted for--that--of--the--state--where-the-words-"this-state"-are-used-to designate-the-taxing-authority-or-to-delimit-the-tax-imposed.~~

~~[(f)--If-a-sale-of-tangible-personal-property-is--consummated within--the-state-but-not-within-a-city-or-town-having-a-department~~

~~for-which-the-taxes-imposed-by-this-section-have--been--adopted--or within--a--city-that-has-adopted-the-tax-authorized-by-Section-11B, Chapter-141,-Acts-of-the-63rd-Legislature,--Regular--Session,--1973 (Article--1118x,--Vernon's--Texas--Civil--Statutes),-or-Section-16, Chapter-683,-Acts-of-the-66th-Legislature,--Regular--Session,--1979 (Article--1118y,--Vernon's--Texas-Civil-Statutes),-and-the-tangible personal-property-is--shipped--directly--into--or--brought--by--the purchaser--or--lessee--directly--into--a--city--or--town--having--a department-for-which-the-taxes-imposed-by-this--section--have--been adopted,--the--tangible-personal-property-is-subject-to-the-use-tax imposed--under--Subsection--(c)--of--this--section.---The--use---is considered--consummated--at--the--location--where-the-item-is-first stored,-used,-or-otherwise-consumed-after--the--intrastate--transit has-ceased.~~

[~~(g)(1)--If--the--tangible--personal-property-is-shipped-from outside-this-state-to-a-customer-within-this--state,--the--tangible personal--property--is-subject-to-the-use-tax-imposed-by-Subsection (c)-of-this-section-and-not-the-sales-tax-imposed-under--Subsection (a)--of-this-section.--The-use-is-consummated-at-the-first-point-in this-state--where--the--property--is--stored,--used,--or--otherwise consumed--after--interstate--transit-has-ceased.--Tangible-personal property-delivered-to-a-point-in-this-state-is-presumed-to--be--for storage,-use,-or-other-consumption-at-that-point-until-the-contrary is-established.~~

[~~(2)--There-are-exempted-from-the-sales-taxes-imposed-by-this section-receipts-from-any-sale-of-tangible-personal-property-which,~~

~~pursuant-to-the-contract-of-sale,-is-shipped-to-a-point-outside-the city-or-town-by-the-retailer-by-means-of:~~

~~[(A)--facilities-operated-by-the-retailer;~~

~~[(B)--delivery-by-the-retailer-to-a-carrier-for-shipment-to-a consignee-at-such-point;-or~~

~~[(C)--delivery--by--the--retailer--to--a--customs--broker--or forwarding-agent-for-shipment-outside-the-city-or-town.~~

~~[(3)--If--the--tangible--personal--property--exempted---under Subdivision--(2)--of--this--section--or--under--Paragraph-(e)(6)-of Subsection--(B),--Section--11B,--Chapter--141,--Acts--of--the--63rd Legislature,--Regular--Session,-1973-(Article-1118x,-Vernon's-Texas Civil-Statutes),-or-Paragraph-(F)-of-Section--16(f)(2)--of--Chapter 683,--Acts--of-the-66th-Legislature,-Regular-Session,-1979-(Article 1118y,-Vernon's-Texas-Civil--Statutes),--is--shipped--or--delivered directly--to--a--purchaser-in-another-city,-town,-or-authority-that has-adopted-the-taxes-imposed-under-any-of-these-laws,-the-tangible personal-property-is-subject-to-the-use-tax-imposed--by--Subsection (a)-of-this-section.~~

~~[(4)--For--the--purpose-of-determining-the-proper-local-sales and-use-tax,-the-sale-of-telecommunications-services-is-consummated at-the-location-of-the-telephone-or-other-telecommunications-device from-which-the-call-or-other-transmission-originates.--If-the-point of-origin-cannot-be-determined,-the--sale--is--consummated--at--the address-to-which-the-call-is-billed.~~

~~[(5)--Tax--due--on--the--sale--of--an--amusement--service--is allocated-to-the-city-or-town-in-which--the--performance--or--other~~

~~delivery of the service takes place.~~

[~~(h) On and after the effective date of any tax imposed under this section, the comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the comptroller shall collect, in addition to the taxes imposed by the Limited Sales, Excise, and Use Tax Act, an additional tax under the authority of this section at a permissible rate specified by the department on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within the city or town, which items are subject to the Limited Sales, Excise, and Use Tax Act. The tax imposed under this section and the tax imposed under the Limited Sales, Excise, and Use Tax Act and any applicable local sales and use tax shall be collected together and reported on such forms and under such administrative rules as may be prescribed by the comptroller.~~

[~~(i) The comptroller shall make to a department substantially the same reports as to taxes within the city or town collected for the department as are made to cities under Subsections (b), (c), and (d) of Section 5 of the Local Sales and Use Tax Act.~~

[~~(j) The following provisions govern the collection by the comptroller of the tax imposed under this section:~~

[~~(1) all applicable provisions contained in Title 2, Tax Code;~~

[~~(2) Section 6, Local Sales and Use Tax Act, and~~

[(3)--the-penalties--provided--in--Title--2,--Tax--Code,--for violations-of-that-title.

[(k)--The--sales--and--use--tax--collected-by-the-comptroller under-this-section-shall-be-deposited,--held,--accounted--for,--and transmitted--for--the--department--as--if--it--were-an-authority-as provided--by--Subdivision--(4),--Subsection--(B)(e),--Section--11B, Chapter--141,--Acts--of-the-63rd-Legislature,-Regular-Session,-1973 (Article-1118x,-Vernon's-Texas-Civil-Statutes).

[(l)--Each-department's-share-of--all--sales--and--use--taxes collected---under---this---section--by--the--comptroller--shall--be transmitted-periodically-and-as-promptly-as-feasible--to--the--city treasurer--by--the--comptroller.---Transmittals-required-under-this section-shall-be-made-at-least-twice-in--each--state--fiscal--year. Before-transmitting-funds,-the-comptroller-shall-deduct-two-percent of--the-sum-collected-from-each-city-or-town-during-the-period-as-a charge-by-the-state-for-its-services-specified-in-this-section,-and the-amounts-so-deducted-shall-be-deposited-by--the--comptroller--in the--state-treasury-to-the-credit-of-the-general-revenue-fund.--The comptroller-may-retain-in-the-suspense-account-of-any-department--a portion-of-the-department's-share-of-the-taxes-collected-under-this section.---The--balance-so-retained-in-the-suspense-account-may-not exceed-five-percent-of-the-amount-remitted-to-the-department.---The comptroller-is-authorized-to-make-refunds-from-the-suspense-account of--any--department--for--overpayments--made--to--the--department's accounts-and-to-redeem-dishonored-checks-and--drafts--deposited--to the-credit-of-the-suspense-account-of-the-department.

[(m)--The--comptroller--may-adopt-rules-not-inconsistent-with this-article-to--implement--the--enforcement,--administration,--and collection-of-the-taxes-authorized-by-this-section.

[(n)--In--any--city--or--town--in-which-the-sales-and-use-tax authorized-by-this-section-has--been--imposed,--if--any--person--is delinquent--in--the-payment-of-the-amount-required-to-be-paid-under this-section-or-if-a-determination-has-been-made--against--him--for taxes-and-a-penalty-under-this-section,-the-limitation-for-bringing suit--for--the--collection-of-the-delinquent-tax-and-penalty-is-the same-as-that-provided-by-the-Limited-Sales,--Excise,--and--Use--Tax Act.---If--any--person-is-delinquent-in-payment-of-taxes-under-this section,-the-comptroller--shall--notify--the--department--to--which delinquent--taxes-are-due-by-United-States-certified-mail-and-shall send-a-copy-of-the-notice-to-the-attorney-general.--The-department, acting-through-the-city-attorney,-may-join-in-any-suit--brought--by the--attorney--general--as-a-party-plaintiff-to-seek-a-judgment-for the-delinquent-taxes-and-penalty-due-the--department.---The--notice sent--by--the-comptroller-to-the-department-showing-the-delinquency of-a-taxpayer-constitutes-a-certification-of-the-amount-owed-and-is prima-facie-evidence-of-the-determination-of-the--tax--and--of--the delinquency--of-the-amounts-of-sales-and-use-taxes-set-forth-in-the notice.

[(o)--If-property-is-seized-by-the-comptroller-under-any--law authorizing-seizure-of-the-property-of-a-taxpayer-who-is-delinquent in-payment-of-the-tax-imposed-by-the-Limited-Sales,-Excise,-and-Use Tax--Act--and--if-the-taxpayer-is-also-delinquent-in-payment-of-any

~~tax--imposed--under--this--section,--the--comptroller--shall---sell sufficient-property-to-pay-the-delinquent-taxes-and-penalty-due-any department--under--this-section-in-addition-to-that-required-to-pay any-amount-due-the-state-under-the-Limited-Sales,-Excise,--and--Use Tax--Act--and--due--any-city-under-the-Local-Sales-and-Use-Tax-Act. The-proceeds-from-the-sale-shall-first-be-applied-to-all--sums--due the-state,-then-all-sums-due-any-city-under-the-Local-Sales-and-Use Tax--Act,--and--the-remainder,-if-any,-shall-be-applied-to-all-sums due-the-department.~~

[~~(p)--A-city-or-town-having-a-department-for--which--the--tax authorized--by-this-section-has-been-adopted-may-bring-suit-for-the collection-of-sales,--excise,--or--use--taxes--imposed--under--this section--that--have-been-certified-as-provided-by-Subsection-(n)-of this-section-and-are-owed-to-the-department-under-this-section--if, at--least--60--days--before--the-day-of-filing-of-the-suit,-written notice-by--certified--mail--of--the--tax--delinquency--and--of--the intention--to--file-suit-is-given-to-the-taxpayer,-the-comptroller, and-the-attorney-general,-and-if-neither-the--comptroller--nor--the attorney--general--disapproves--the--suit--by-written-notice-to-the department.~~

[~~(q)--The-comptroller-or-attorney-general-may-disapprove--the institution-of-tax-suit-under-this-section-by-a-city-or-town-if:~~

[~~(1)--negotiations--between--the--state--and-the-taxpayer-are being-conducted-for-the-purpose-of--the--collection--of--delinquent taxes--owed--to-the-state-and-the-department-seeking-to-bring-suit,~~

[~~(2)--the-taxpayer-owes-substantial-taxes-to--the--state--and~~

there--is--a-reasonable-possibility-that-the-taxpayer-may-be-unable to-pay-the-total-amount-owed-in-full;

[(3)--the-state-will-bring-suit-against-the-taxpayer-for--the collection--of--all--sales,--excise,--and--use--taxes-due-under-the Limited-Sales,-Excise,-and-Use-Tax-Act-and-this-section,-or

[(4)--the-suit-involves-a-critical-legal-question-relating-to the-interpretation-of--state--law--or--a--provision--of--the--Texas Constitution--or--United-States-Constitution-in-which-the-state-has an-overriding-interest.

[(r)--A-notice-of-disapproval-to-a-city-or-town-must-give-the reason--for--the--determination--of--the--comptroller--or--attorney general.--A-disapproval-is-final-and-not-subject-to-review.--A-city or---town,---after--the--first--anniversary--of--the--date--of--the disapproval,-may-proceed-again-as-provided--in--Subsection--(p)--of this--section--even--though--the-liability-of-the-taxpayer-includes taxes-for-which-the-city-or-town-has-previously--given--notice--and the--comptroller-or-attorney-general-has-previously-disapproved-the suit.

[(s)--In-any-suit-under-Subsection-(n)-of--this--section--for the--collection--of--the--tax--for--a-department,-a-judgment-for-or against-the-taxpayer-does-not-affect-any-claim-against-the-taxpayer by-the-state,-or-a-claim-arising-under-the-Local-Sales-and-Use--Tax Act-by-a-city,-unless-the-state-is-a-party-to-the-action.

[(t)--A-copy-of-the-final-judgment-in-favor-of-a-city-or-town acting--under--this--section--in-a-case-in-which-the-state-is-not-a party-shall-be-abstracted-by-the-city-or-town-and--a--copy--of--the

~~judgment--together-with-a-copy-of-the-abstract-shall-be-sent-to-the comptroller.--The-city-or-town-shall-collect-taxes-awarded--to--the city--or--town-for-the-department-under-the-judgment-as-provided-by Subsection-(e),-Section-151.608,-Tax-Code,-and-is--responsible--for the--renewal--of--the-judgment-before-the-expiration-of-the-10-year period.--If-a-collection-is-made-by-a-city-or-town--on--a--judgment regarding--a-claim-arising-under-this-section,-the-department-shall send-notice-of-the--amount--collected--by--certified--mail--to--the comptroller.---The--comptroller-may-prescribe-a-form-for-the-notice to-be-used-by-departments.~~

[~~(u)~~] The board by order may decrease the local sales and use tax rate or may call an election to increase or decrease the local sales and use tax rate.

(d) [~~(v)~~] At the election, the ballots shall be prepared to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate of (name of department) to (percentage)." The increase or decrease in the tax rate is effective if it is approved by a majority of the votes cast. A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation and the comptroller and filed in the deed records of the county in the same manner as provided for a tax election by Section 5 of this article.

(e) [~~(w)~~] An increase or decrease in the rate of a local sales and use tax already levied takes effect on the first day of the next calendar quarter after actual notification to the

comptroller, except that if the comptroller notifies the presiding officer of the board in writing before the 11th day after the day of receipt of the notification that he requires more time to implement collection and reporting procedures, the comptroller may delay implementation for one whole calendar quarter. Thereafter, the new tax rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

(f) [~~(x)~~] The board shall deposit taxes remitted to the department under this section as provided by Subsection (c) of Section 4 of this article in an account separate from an account for funds as provided by Subsection (e) of Section 4 of this article. Taxes collected under this section may be used only for mass transit purposes.

SECTION 10. CONFORMING AMENDMENT. Section 3f, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended, if the Local Government Code is not adopted by the 70th Legislature, Regular Session, 1987, to read as follows:

Sec. 3f. (a) In this section, "eligible coastal city" means a home-rule city that borders on the Gulf of Mexico and that has a population of less than 80,000, according to the most recent federal census. [~~The definitions contained in Section 3d of this Act apply to this section.~~]

(b) [~~In lieu of the taxes authorized by Section 3a of this Act, an eligible coastal city may levy by ordinance on the cost of occupancy of any sleeping room furnished by any hotel, in which the~~

~~cost--of--occupancy--is-$2-or-more-a-day,-a-tax-not-to-exceed-seven percent-of-the-consideration-paid-by-the-occupant-of--the--sleeping room-to-the-hotel.~~

[~~(e)--A--city--that--levies--and--collects--an--occupancy-tax authorized-by-this-section-at-a-rate-of-seven-percent-or-more--must pledge--a--portion--of-the-revenue-equal-to-at-least-one-percent-of the-cost-of-the-occupancy-of-hotel-rooms-to-either-or-both--of--the following-purposes:~~

[~~(1)--the--payment-of-the-bonds-that-the-city-or-a-Park-Board of-Trustees-may-issue-under-Section-3-of-this-Act-or-under--Chapter 33,-Acts-of-the-57th-Legislature,-3rd-Called-Session,-1962-(Article 6081g-1,-Vernon's-Texas-Civil-Statutes),-in-order-to-provide-all-or part--of--the--funds--for-the-establishment,-acquisition,-purchase, construction,-improvement,-enlargement,-equipment,-or-repair-of-any or-all-public-improvements,-including-but--not--limited--to--parks, civic--centers,--civic--center--buildings,--auditoriums,-exhibition halls,-coliseums,-marinas,-cruise-ship-terminal-facilities,-hotels, motels,--parking--facilities,--golf--courses,--trolley--or--trolley transportation--systems,--and-other-facilities-as-may-be-considered advisable-in--connection--with--these--facilities--that--serve--the purpose-of-attracting-visitors-and-tourists-to-the-city,-or~~

[~~(2)--the--maintenance,--improvement,--or--operation--of--the parks,--civic--centers,--civic---center---buildings,---auditoriums, exhibition---halls,---coliseums,---marinas,--cruise--ship--terminal facilities,--hotels,--motels,--parking--facilities,--golf--courses, trolley--or-trolley-transportation-systems,-and-other-facilities-as~~

~~may-be-considered-advisable-in--connection--with--these--facilities that--serve--the-purpose-of-attracting-visitors-and-tourists-to-the city.~~]

<u>An eligible coastal</u> [~~The~~] city and/or Park Board of Trustees, is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the city and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease under this subsection shall be on the terms and conditions the city and/or Park Board of Trustees deems appropriate.

[~~(d)--If--the-tax-authorized-by-this-section-is-levied-by-the city-at-a-rate-of-four-percent-or-more,-an-amount-of-revenue--equal to--at--least--three--percent-of-the-cost-of-the-occupancy-of-hotel rooms--shall--be--reserved--for--the--purpose--of--advertising--and conducting--solicitation--programs-to-acquaint-potential-users-with~~

~~public-meeting-and--convention--facilities--and--for--promotion--of tourism--and-advertising-of-the-city-and-its-vicinity-either-by-the city-or-through-contract-with-persons-or-organizations-selected--by the-city.~~

[~~(e)--If--the-tax-authorized-by-this-section-is-levied-by-the city-at-a-rate-of-five-percent-or-more,-an-amount-of-revenue--equal to-at-least-one-percent-of-the-cost-of-the-occupancy-of-hotel-rooms shall--be--reserved--for--beach--patrol,-lifeguard-services,-marine water-safety,-and-park-law-enforcement.~~

[~~(f)--If-the-tax-authorized-by-this-section-is-levied-by--the city--at--a-rate-of-six-percent-or-more,-an-amount-of-revenue-equal to-at-least-one-percent-of-the-cost-of--occupancy--of--hotel--rooms shall-be-reserved-for-public-beach-cleaning-funds-including-but-not limited-to-use-as-matching-funds-state-funds-available-to-clean-and maintain-public-beaches.~~

[~~(g)--This--section--does--not--permit--the-impairment-of-any bonds-issued-under-the-provisions--of--this--Act--and--all--revenue previously--pledged-to-the-payment-of-these-bonds-shall-continue-to be-reserved-for-the-payment-of-the-principal-and-interest-on--these bonds.~~]

SECTION 11. CONTINGENT AMENDMENT. (a) If the Local Government Code is not enacted by the 70th Legislature, Regular Session, 1987, or does not become law, Sections 302.001, 302.101, and 302.102, Tax Code, as added by Section 1 of this Act, read as follows and not as provided by Section 1 of this Act:

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES. (a) A

city or town operating under Chapters 1-10, Title 28, Revised Statutes, may levy property taxes for current expenses, for the construction or purchase of public buildings, water works, sewers, and other permanent improvements in the municipality, including municipal schools and school sites, and for the construction and improvement of municipal roads, streets, and bridges in the municipality.

(b) A town or village operating under Chapter 11, Title 28, Revised Statutes, may levy property taxes at an annual rate not to exceed 25 cents for each $100 of property valuation.

(c) A home-rule municipality may levy special or general property taxes for lawful purposes. (V.A.C.S. Arts. 1026 (part); 1027 (part); 1028 (part); 1146, Subdiv. 1 (part); 1175, Subdiv. (7).)

Sec. 302.101. OCCUPATION TAXES. (a) The governing body of a municipality, other than a city, town, or village operating under Chapter 12, Title 28, Revised Statutes, and having 200 or fewer inhabitants, may impose and collect occupation taxes.

(b) A license required by a city or town operating under Chapters 1-10, Title 28, Revised Statutes, may not extend to more than one establishment or apply to more than one occupation, business, or calling and may not be imposed except by a vote of two-thirds of the elected aldermen. (V.A.C.S. Art. 1015, Subdiv. 35; Arts. 1031, 1032 (part), 1033 (part), 1146 (part).)

Sec. 302.102. TAX COLLECTION POWERS. (a) The governing body of a city or town operating under Chapters 1-10, Title 28,

Revised Statutes, may adopt ordinances and make rules relating to the imposition, assessment, and collection of taxes, except ad valorem taxes, authorized by this subchapter. An ordinance may provide for the sale of real and personal property for the collection of a tax authorized by this subchapter.

(b) A home-rule municipality may collect taxes that are authorized by the charter of the municipality or by law and may impose penalties for delinquent taxes. This subsection does not apply to property taxes. (V.A.C.S. Arts. 1041, 1175, Subdiv. 9.)

(b) If the Local Government Code is enacted by the 70th Legislature and becomes law, this section has no effect.

SECTION 12. REPEALER. The following statutes as compiled in Vernon's Texas Civil Statutes are repealed:

Article 1015, Subdivisions (34) and (35); Article 1026; Article 1027; Article 1028; Article 1029; Article 1031; Article 1032; Article 1033; Article 1034; Article 1039; Article 1040; Article 1041; Article 1066a; Article 1066c; Article 1066e; Article 1066f; Article 1118x, Section 11B, Subsection (B); Article 1118y, Section 16, Subsections (b) and (f); Article 1146, Subdivision (1); Article 1175, Subdivisions (7), (8), and (9); Article 1182f; Article 1269j-4.1, Sections 3a, 3b, 3c, 3d, 3e, and 3g as added by Chapters 879 and 1009, Acts of the 68th Legislature, Regular Session, 1983; Article 2352; Article 2352i; Article 2353; Article 2353e; Article 2372d-8, Sections 4, 4A, 6, 7 and 15; and Article 7057h.

SECTION 13. LEGISLATIVE INTENT. This Act is enacted

pursuant to Article III, Section 43, of the Texas Constitution. This Act is intended as a recodification only, and no substantive change in the law is intended by this Act.

SECTION 14. EFFECTIVE DATE. This Act takes effect September 1, 1987.

SECTION 15. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 888 as follows:

(1) On page 98, line 11, strike "tax collector" and substitute "attorney".

(2) On page 98, strike line 26 and substitute the following: "resale certificate may be required.

"(c) The comptroller may prescribe the form of an exemption certificate for a prior contract exemption under this chapter. (V.A.C.S. Art. 2353e, Sec.".

(3) On page 67, line 19, and on page 105, line 11, between "a" and "copy" insert at each location "certified".

Guerrero

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

March 13, 1987

TO: Honorable Ray Farabee, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 888
By: McFarland

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 888 (relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, HES, JWH, AL, AF

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HOUSE COMMITTEE REPORT

1st. Printing

1987 APR -7 PM 8:45
HOUSE OF REPRESENTATIVES

By: McFarland (Saunders) S.B. No. 888

A BILL TO BE ENTITLED

AN ACT

relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ADOPTION OF TITLE. The Tax Code is amended by adding Title 3 to read as follows:

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

Chapter 301. General Provisions

Chapter 302. Taxation Powers of Municipalities

[Chapters 303-310 reserved for expansion]

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

Chapter 311. Tax Increment Financing of Municipal Development

Chapter 312. Property Redevelopment and Tax Abatement

[Chapters 313-320 reserved for expansion]

SUBTITLE C. LOCAL SALES AND USE TAXES

Chapter 321. Municipal Sales and Use Tax Act

Chapter 322. Sales and Use Taxes for Special Purpose Taxing Authorities

Chapter 323. County Sales and Use Tax Act

[Chapters 324-350 reserved for expansion]

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

Chapter 351. Municipal Hotel Occupancy Taxes
Chapter 352. County Hotel Occupancy Taxes

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

CHAPTER 301. GENERAL PROVISIONS

Sec. 301.001. PURPOSE OF TITLE
Sec. 301.002. CONSTRUCTION OF CODE
Sec. 301.003. INTERNAL REFERENCES

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

CHAPTER 301. GENERAL PROVISIONS

Sec. 301.001. PURPOSE OF TITLE. (a) This title is enacted as a part of the state's continuing statutory revision program, conducted by the Texas Legislative Council as directed by Section 323.007, Government Code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this title is to make the general and permanent state tax laws more accessible and understandable by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible. (New.)

Sec. 301.002. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this title, except as specifically provided by this title. (New.)

Sec. 301.003. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears. (New.)

CHAPTER 302. TAXATION POWERS OF MUNICIPALITIES

SUBCHAPTER A. PROPERTY TAXES

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES

Sec. 302.002. OTHER TAXES NOT CONSIDERED: CERTAIN HOME-RULE MUNICIPALITIES

[Sections 302.003-302.100 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO EXCISE TAXES

Sec. 302.101. OCCUPATION TAXES

Sec. 302.102. TAX COLLECTION POWERS

CHAPTER 302. TAXATION POWERS OF MUNICIPALITIES

SUBCHAPTER A. PROPERTY TAXES

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES. (a) A Type A general-law municipality may levy property taxes for current expenses, for the construction or purchase of public buildings, water works, sewers, and other permanent improvements in the municipality, including municipal schools and school sites, and for the construction and improvement of municipal roads, streets, and bridges in the municipality.

(b) A Type B general-law municipality may levy property taxes at an annual rate not to exceed 25 cents for each $100 of property valuation.

(c) A home-rule municipality may levy special or general property taxes for lawful purposes. (V.A.C.S. Arts. 1026 (part); 1027 (part); 1028 (part); 1146, Subdiv. 1 (part); 1175, Subdiv. (7).)

Sec. 302.002. OTHER TAXES NOT CONSIDERED: CERTAIN HOME-RULE MUNICIPALITIES. (a) In determining the power of certain home-rule municipalities to levy taxes, the taxes levied by a county, a political subdivision of a county, or a district under Article III, Section 52, of the Texas Constitution are not considered.

(b) This section prevails over a provision of a municipal charter to the extent of a conflict.

(c) This section applies only to a municipality that attempted to amend its charter before June 30, 1939, and at the time of the election to amend the charter did not own a water

system, sanitary sewer system, electric light system, or natural gas system from which it could derive revenue. (V.A.C.S. Art. 1066a, Secs. 1, 2, 3.)

[Sections 302.003-302.100 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO EXCISE TAXES

Sec. 302.101. OCCUPATION TAXES. (a) The governing body of a municipality, other than a Type C general-law municipality having 200 or fewer inhabitants, may impose and collect occupation taxes.

(b) A license required by a Type A general-law municipality may not extend to more than one establishment or apply to more than one occupation, business, or calling and may not be imposed except by a vote of two-thirds of the elected aldermen. (V.A.C.S. Art. 1015, Subdiv. 35; Arts. 1031, 1032 (part), 1033 (part), 1146 (part).)

Sec. 302.102. TAX COLLECTION POWERS. (a) The governing body of a Type A general-law municipality may adopt ordinances and make rules relating to the imposition, assessment, and collection of taxes, except ad valorem taxes, authorized by this subchapter. An ordinance may provide for the sale of real and personal property for the collection of a tax authorized by this subchapter.

(b) A home-rule municipality may collect taxes that are authorized by the charter of the municipality or by law and may impose penalties for delinquent taxes. This subsection does not apply to property taxes. (V.A.C.S. Arts. 1041; 1175, Subdiv. 9.)

[Chapters 303-310 reserved for expansion]

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 311. TAX INCREMENT FINANCING OF MUNICIPAL DEVELOPMENT

Sec. 311.001. SHORT TITLE
Sec. 311.002. DEFINITIONS
Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE
Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE
Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE
Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE
Sec. 311.007. CHANGING BOUNDARIES OF EXISTING ZONE
Sec. 311.008. POWERS OF MUNICIPALITY
Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS
Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS
Sec. 311.011. PROJECT AND FINANCING PLANS
Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT
Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS
Sec. 311.014. TAX INCREMENT FUND
Sec. 311.015. TAX INCREMENT BONDS AND NOTES
Sec. 311.016. ANNUAL REPORT
Sec. 311.017. TERMINATION OF REINVESTMENT ZONE

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 311. TAX INCREMENT FINANCING OF MUNICIPAL DEVELOPMENT

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Tax Increment Financing Act. (V.A.C.S. Art. 1066e, Sec. 1.)

Sec. 311.002. DEFINITIONS. In this chapter:

(1) "Project costs" means the expenditures made or

estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality establishing a reinvestment zone that are listed in the project plan as costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations. "Project costs" include:

(A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;

(B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;

(C) real property assembly costs;

(D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;

(E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality in connection with the implementation of a project plan;

(F) relocation costs;

(G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;

(H) interest before and during construction and for one year after completion of construction, whether or not capitalized;

(I) the cost of operating the reinvestment zone and project facilities;

(J) the amount of any contributions made by the municipality from general revenue for the implementation of the project plan; and

(K) payments made at the discretion of the governing body of the municipality that the municipality finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.

(2) "Project plan" means the project plan for the development or redevelopment of a reinvestment zone approved under this chapter, including all amendments of the plan approved as provided by this chapter.

(3) "Reinvestment zone financing plan" means the financing plan for a reinvestment zone described by this chapter.

(4) "Taxing unit" has the meaning assigned by Section 1.04. (V.A.C.S. Art. 1066e, Sec. 2 (part).)

Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE. (a) The governing body of a municipality by ordinance may designate a

contiguous geographic area in the jurisdiction of the municipality to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.

(b) Before adopting an ordinance providing for a reinvestment zone, the governing body of the municipality must prepare a preliminary reinvestment zone financing plan. As soon as the plan is completed, a copy of the plan must be sent to the governing body of each taxing unit that levies taxes on real property in the proposed zone.

(c) Before adopting an ordinance providing for a reinvestment zone, the municipality must hold a public hearing on the creation of the zone and its benefits to the municipality and to property in the proposed zone. At the hearing an interested person may speak for or against the creation of the zone, its boundaries, or the concept of tax increment financing. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the municipality.

(d) A municipality must provide a reasonable opportunity for the owner of property to protest the inclusion of the property in a proposed reinvestment zone.

(e) Not later than the 60th day before the date of the public hearing required by Subsection (c), the governing body of the municipality must notify in writing the governing body of each

taxing unit that levies real property taxes in the proposed reinvestment zone that it intends to establish the zone. The notice must contain a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The notice may be given later than the 60th day before the date of the public hearing if the governing body of each county and school district that levies real property taxes in the proposed zone agrees to waive the requirement.

(f) A taxing unit may request additional information from the governing body of the municipality. The governing body of the municipality shall provide the information requested to the extent practicable. In addition to the notice required by Subsection (e), the governing body of the municipality shall make a formal presentation to the governing body of each county or school district that levies real property taxes in the proposed reinvestment zone. The presentation must include a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The governing body of the municipality shall notify each taxing unit that levies real property taxes in the proposed zone of each presentation to be made to a county or school district under this subsection. Members of the governing body of each taxing unit that levies real property taxes in the proposed zone may attend a

presentation under this subsection. If agreed to by the county or school districts involved, the governing body of the municipality may make a single presentation to more than one county or school district governing body.

(g) Not later than the 15th day after the date on which the notice required by Subsection (e) is given, each taxing unit that levies real property taxes in the proposed reinvestment zone shall designate a representative to meet with the governing body of the municipality to discuss the project plan and the reinvestment zone financing plan and shall notify the governing body of the municipality of its designation. At any time after the 15th day after the date on which the notice required by Subsection (e) has been given to every taxing unit, the governing body of the municipality may call a meeting of the representatives of the taxing units. The governing body of the municipality may call as many meetings as it considers necessary. Each representative shall be notified of each meeting in advance. At the meetings the governing body of the municipality and the representatives of the other taxing units may discuss the boundaries of the zone, development in the zone, the tax increment that each taxing unit will contribute to the tax increment fund, the retention by a taxing unit of a portion of its tax increment as permitted by Section 311.013, the exclusion of particular parcels of property from the zone, the board of directors for the zone, and tax collection for the zone. On the motion of the governing body of the municipality calling the meeting, any other matter relevant to

the proposed reinvestment zone may be discussed. (V.A.C.S. Art. 1066e, Secs. 3(a); 4(a), (b), (c), (d), (e), (f); 9 (part).)

Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE. (a) The ordinance designating an area as a reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) create a board of directors for the zone and specify the number of directors of the board as provided by Section 311.009;

(3) provide that the zone take effect on January 1 of the year following the year in which the ordinance is adopted;

(4) provide a date for termination of the zone;

(5) assign a name to the zone for identification, with the first zone created by a municipality designated as "Reinvestment Zone Number One, City (or Town, as applicable) of (name of municipality)" and subsequently created zones assigned names in the same form numbered consecutively in the order of their creation;

(6) establish a tax increment fund for the zone; and

(7) contain findings that:

(A) improvements in the zone will significantly enhance the value of all the taxable real property in the zone and will be of general benefit to the municipality; and

(B) the area meets the requirements of Section 311.005.

(b) For purposes of complying with Subsection (a)(7)(A), the ordinance is not required to identify the specific parcels of real property to be enhanced in value. (V.A.C.S. Art. 1066e, Sec. 4(g).)

Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title; or

(H) conditions that endanger life or property by fire or other cause;

(2) be predominantly open and, because of obsolete

platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in the municipality or in an area immediately adjacent to a federally assisted new community; or

(4) be designated as a local or state-federal enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

(b) In this section, "federally assisted new community" means a federally assisted area that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act, if a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974. (V.A.C.S. Art. 1066e, Secs. 2 (part); 3(b) (part) as amd. Acts 68th Legis., R.S., Ch. 841, 1983.)

Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE. (a) A municipality may not create a reinvestment zone if:

(1) more than 10 percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the

municipality.

(b) A municipality may not change the boundaries of an existing reinvestment zone to include property more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes or to include more than 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality.

(c) A municipality may not create a reinvestment zone or change the boundaries of an existing reinvestment zone if the proposed zone or proposed boundaries of the zone contain more than 15 percent of the total appraised value of real property taxable by a county or school district.

(d) For purposes of this section, property is used for residential purposes if it is occupied by a house having fewer than five living units, and the appraised value is determined according to the most recent appraisal rolls of the municipality. (V.A.C.S. Art. 1066e, Secs. 5(a), (b) (part), (c), (d).)

Sec. 311.007. CHANGING BOUNDARIES OF EXISTING ZONE. Subject to the limitations provided by Section 311.006, the boundaries of an existing reinvestment zone may be reduced or enlarged by ordinance or resolution of the governing body of the municipality that created the zone. (V.A.C.S. Art. 1066e, Sec. 5(b) (part).)

Sec. 311.008. POWERS OF MUNICIPALITY. A municipality may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and

implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase, condemnation, or other means to implement project plans and sell that property on the terms and conditions it considers advisable;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed real property or other property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes; or

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, educational facilities, or parking facilities. (V.A.C.S. Art. 1066e, Sec. 9 (part).)

Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS. (a) The

board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of Subsection (b).

(b) Each taxing unit other than a municipality that levies taxes on real property in the zone may appoint one member of the board. A unit may waive its right to appoint a director. The governing body of the municipality that created the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the municipality, the governing body of the municipality may appoint more than 10 members as long as the total membership of the board does not exceed 15.

(c) Members of the board are appointed for terms of two years unless longer terms are provided under Article XI, Section 11, of the Texas Constitution. Terms of members may be staggered.

(d) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

(e) To be eligible for appointment to the board by the governing body of the municipality, an individual must:

(1) be a qualified voter of the municipality; or

(2) be at least 18 years of age and own real property in the zone, whether or not the individual resides in the municipality.

(f) Each year the governing body of the municipality shall appoint one member of the board to serve as chairman for a term of

one year that begins on January 1 of the following year. The board of directors may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The board may elect other officers as it considers appropriate. (V.A.C.S. Art. 1066e, Sec. 6.)

Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS. The board of directors of a reinvestment zone shall make recommendations to the governing body of the municipality that created the zone concerning the administration of this chapter in the zone. In addition to the powers granted to the board under this chapter, the governing body of the municipality by ordinance may delegate to the board any powers and duties relating to the implementation of the project plan for the zone that the governing body considers advisable. (V.A.C.S. Art. 1066e, Sec. 7.)

Sec. 311.011. PROJECT AND FINANCING PLANS. (a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality that created the zone. The plans must be as consistent as possible with the preliminary plans developed for the zone before the creation of the board.

(b) The project plan must include:

(1) a map showing existing uses and conditions of real property in the zone and a map showing proposed improvements to and proposed uses of that property;

(2) proposed changes of zoning ordinances, the master

plan of the municipality, building codes, and other municipal ordinances;

(3) a list of estimated nonproject costs; and

(4) a statement of a method of relocating persons to be displaced as a result of implementing the plan.

(c) The reinvestment zone financing plan must include:

(1) a detailed list describing the estimated project costs of the zone, including administrative expenses;

(2) a statement listing the kind, number, and location of all proposed public works or public improvements in the zone;

(3) an economic feasibility study;

(4) the estimated amount of bonded indebtedness to be incurred;

(5) the time when related costs or monetary obligations are to be incurred;

(6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit that levies taxes on real property in the zone;

(7) the current total appraised value of taxable real property in the zone;

(8) the estimated captured appraised value of the zone during each year of its existence; and

(9) the duration of the zone.

(d) The governing body of the municipality must approve a

project plan or reinvestment zone financing plan after its adoption by the board. The approval must be by ordinance that finds that the plan is feasible and conforms to the master plan, if any, of the municipality.

(e) The board of directors of the zone at any time may adopt an amendment to the project plan consistent with the requirements and limitations of this chapter. The amendment takes effect on approval by the governing body of the municipality. That approval must be by ordinance. If an amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, increases or decreases the percentage of a tax increment to be contributed by a taxing unit, increases the total estimated project costs, or designates additional property in the zone to be acquired by the municipality, the approval must be by ordinance adopted after a public hearing that satisfies the procedural requirements of Sections 311.003(c) and (d). (V.A.C.S. Art. 1066e, Secs. 2 (part); 8.)

Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT. (a) The amount of a taxing unit's tax increment for a year is the amount of property taxes levied by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone.

(b) The captured appraised value of real property taxable by a taxing unit for a year is the total appraised value of the property for that year less the tax increment base of the unit.

(c) The tax increment base of a taxing unit is the total

appraised value of all real property taxable by the unit and located in a reinvestment zone for the year in which the zone was designated under this chapter. (V.A.C.S. Art. 1066e, Sec. 2 (part).)

Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS. (a) Each taxing unit that taxes real property located in a reinvestment zone shall provide for the collection of its taxes in the zone as for any other property taxed by the unit.

(b) Each taxing unit shall pay into the tax increment fund for the zone an amount equal to the tax increment produced by the unit, less the sum of:

(1) property taxes produced from the tax increments that are, by contract executed before the designation of the area as a reinvestment zone, required to be paid by the unit to another political subdivision; and

(2) a portion, not to exceed 15 percent, of the tax increment produced by the unit as provided by the reinvestment zone financing plan.

(c) A taxing unit shall make a payment required by Subsection (b) not later than the 90th day after the delinquency date for the unit's property taxes. A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 percent.

(d) If the reinvestment zone is created on or after August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after three years from the date

the zone is created unless the following conditions exist or have been met within the three-year period:

(1) bonds have been issued for the zone under Section 311.015;

(2) the municipality has acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone.

(e) If the reinvestment zone was created before August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after September 1, 1986, unless the following conditions existed or were met before September 1, 1986:

(1) bonds were issued for the zone under Section 311.015;

(2) the municipality acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone. (V.A.C.S. Art. 1066e, Secs. 9 (part); 10.)

Sec. 311.014. TAX INCREMENT FUND. (a) In addition to the deposits required by Section 311.013, all revenues from the sale of tax increment bonds or notes, revenues from the sale of any property acquired as part of the tax increment financing plan, and other revenues to be used in the reinvestment zone shall be deposited in the tax increment fund for the zone.

(b) Money may be disbursed from the fund only to satisfy

claims of holders of tax increment bonds or notes issued for the zone or to pay project costs for the zone.

(c) Subject to an agreement with the holders of tax increment bonds or notes, money in a tax increment fund may be temporarily invested in the same manner as other funds of the municipality.

(d) After all project costs and all tax increment bonds or notes issued for a reinvestment zone have been paid, and subject to any agreement with bondholders, any money remaining in the tax increment fund shall be paid to the municipality and other taxing units levying taxes on property in the zone in proportion to the municipality's and each unit's respective share of the total amount of tax increments derived from taxable real property in the zone that were deposited in the fund during the fund's existence. (V.A.C.S. Art. 1066e, Secs. 2 (part); 14.)

Sec. 311.015. TAX INCREMENT BONDS AND NOTES. (a) A municipality creating a reinvestment zone may issue tax increment bonds or notes, the proceeds of which may be used to pay project costs for the reinvestment zone on behalf of which the bonds or notes were issued or to satisfy claims of holders of the bonds or notes. The municipality may issue refunding bonds or notes for the payment or retirement of tax increment bonds or notes previously issued by it.

(b) Tax increment bonds and notes are payable, as to both principal and interest, solely from the tax increment fund established for the reinvestment zone. The governing body of the

1 municipality may pledge irrevocably all or part of the fund for
2 payment of tax increment bonds or notes. The part of the fund
3 pledged in payment may be used only for the payment of the bonds or
4 notes or interest on the bonds or notes until the bonds or notes
5 have been fully paid. A holder of the bonds or notes or of coupons
6 issued on the bonds has a lien against the fund for payment of the
7 bonds or notes and interest on the bonds or notes and may protect
8 or enforce the lien at law or in equity.
9 (c) Tax increment bonds are issued by ordinance of the
10 municipality without any additional approval other than that of the
11 attorney general.
12 (d) Tax increment bonds or notes, together with the interest
13 on and income from those bonds or notes, are exempt from all taxes.
14 (e) The issuing municipality may provide in the contract
15 with the owners or holders of tax increment bonds that it will pay
16 into the tax increment fund all or any part of the revenue produced
17 or received from the operation or sale of a facility acquired,
18 improved, or constructed pursuant to a project plan, to be used to
19 pay principal and interest on the bonds. If the municipality
20 agrees, the owners or holders of tax increment bonds may have a
21 lien or mortgage on a facility acquired, improved, or constructed
22 with the proceeds of the bonds.
23 (f) Tax increment bonds may be issued in one or more series.
24 The ordinance approving a tax increment bond or note, or the trust
25 indenture or mortgage issued in connection with the bond or note,
26 shall provide:

(1) the date that the bond or note bears;

(2) that the bond or note is payable on demand or at a specified time;

(3) the interest rate that the bond or note bears;

(4) the denomination of the bond or note;

(5) whether the bond or note is in coupon or registered form;

(6) the conversion or registration privileges of the bond or note;

(7) the rank or priority of the bond or note;

(8) the manner of execution of the bond or note;

(9) the medium of payment in which and the place or places at which the bond or note is payable;

(10) the terms of redemption, with or without premium, to which the bond or note is subject;

(11) the manner in which the bond or note is secured; and

(12) any other characteristic of the bond or note.

(g) A bond or note issued under this chapter is fully negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued under this chapter or the security of a bond or note issued under this chapter, if the bond or note recites in substance that it was issued by the municipality for a reinvestment zone, the bond or note is conclusively deemed to have been issued for that purpose, and the development or redevelopment of the zone is conclusively

deemed to have been planned, located, and carried out as provided by this chapter.

(h) A bank, trust company, savings bank or institution, savings and loan association, investment company or other person carrying on a banking or investment business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, curator, trustee, or other fiduciary may invest any sinking funds, money, or other funds belonging to it or in its control in tax increment bonds or notes issued under this chapter. Tax increment bonds or notes are authorized security for all public deposits. A person, political subdivision, or public or private officer may use funds owned or controlled by the person, political subdivision, or officer to purchase tax increment bonds or notes. This chapter does not relieve any person of the duty to exercise reasonable care in selecting securities.

(i) A tax increment bond or note is not a general obligation of the municipality issuing the bond or note. A tax increment bond or note does not give rise to a charge against the general credit or taxing powers of the municipality and is not payable except as provided by this chapter. A tax increment bond or note issued under this chapter must state the restrictions of this subsection on its face.

(j) A tax increment bond or note may not be included in any computation of the debt of the issuing municipality.

(k) A municipality may not issue tax increment bonds or

notes in an amount that exceeds the total cost of implementing the project plan for the reinvestment zone for which the bonds or notes are issued.

(l) A tax increment bond or note must mature within 20 years of the date of issue. (V.A.C.S. Art. 1066e, Secs. 9 (part); 11.)

Sec. 311.016. ANNUAL REPORT. (a) On or before July 1 of each year, the governing body of a municipality shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality a report on the status of the zone. The report must include:

(1) the amount and source of revenue in the tax increment fund established for the zone;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on outstanding bonded indebtedness;

(4) the tax increment base and current captured appraised value retained by the zone; and

(5) the captured appraised value shared by the municipality and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality.

(b) A copy of a report made under this section shall be sent to the attorney general. (V.A.C.S. Art. 1066e, Sec. 12.)

Sec. 311.017. TERMINATION OF REINVESTMENT ZONE. (a) A reinvestment zone terminates on the earlier of:

(1) the termination date designated in the ordinance creating the zone or an earlier termination date designated by an ordinance adopted subsequent to the ordinance creating the zone; or

(2) the date on which all project costs, tax increment bonds, and interest on those bonds have been paid in full.

(b) The tax increment pledged to the payment of bonds and interest on the bonds may be discharged and the reinvestment zone may be terminated if the municipality that created the zone deposits or causes to be deposited with a trustee or other escrow agent authorized by law funds in an amount that, together with the interest on the investment of the funds in direct obligations of the United States, will be sufficient to pay the principal of, premium, if any, and interest on all bonds issued on behalf of the reinvestment zone at maturity or at the date fixed for redemption of the bonds, and to pay any other amounts that may become due, including compensation due or to become due to the trustee or escrow agent. (V.A.C.S. Art. 1066e, Sec. 13.)

CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.001. SHORT TITLE

[Sections 312.002-312.200 reserved for expansion]

SUBCHAPTER B. MUNICIPAL TAX ABATEMENT

Sec. 312.201. DESIGNATION OF REINVESTMENT ZONE

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE

1 Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE
2 Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT
3 Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT
4 Sec. 312.206. TAX ABATEMENT BY OTHER TAXING UNITS
5 Sec. 312.207. APPROVAL BY GOVERNING BODY
6 Sec. 312.208. MODIFICATION OR TERMINATION OF AGREEMENT
7 Sec. 312.209. APPLICATION OF NONSEVERABILITY PROVISION
8 [Sections 312.210-312.400 reserved for expansion]
9 SUBCHAPTER C. COUNTY TAX ABATEMENT
10 Sec. 312.401. DESIGNATION OF REINVESTMENT ZONE
11 Sec. 312.402. COUNTY TAX ABATEMENT AGREEMENT
12 CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT
13 SUBCHAPTER A. GENERAL PROVISIONS
14 Sec. 312.001. SHORT TITLE. This chapter may be cited as the
15 Property Redevelopment and Tax Abatement Act. (V.A.C.S. Art.
16 1066f, Sec. 1.)
17 [Sections 312.002-312.200 reserved for expansion]
18 SUBCHAPTER B. MUNICIPAL TAX ABATEMENT
19 Sec. 312.201. DESIGNATION OF REINVESTMENT ZONE. (a) The
20 governing body of a municipality by ordinance may designate as a
21 reinvestment zone an area, or real or personal property the use of
22 which is directly related to outdoor advertising, in the taxing
23 jurisdiction or extraterritorial jurisdiction of the municipality
24 that the governing body finds satisfies the requirements of Section
25 312.202.
26 (b) The ordinance must describe the boundaries of the zone

and the eligibility of the zone for residential tax abatement or commercial-industrial tax abatement or tax increment financing as provided for in Chapter 311.

(c) Area of a reinvestment zone designated for residential tax abatement or commercial-industrial tax abatement may be included in an overlapping or coincidental residential or commercial-industrial zone. In that event, the zone in which the property is considered to be located for purposes of executing an agreement under Section 312.204 is determined by the comprehensive zoning ordinance, if any, of the municipality.

(d) The governing body may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be published in a newspaper having general circulation in the municipality not later than the seventh day before the date of the hearing. (V.A.C.S. Art. 1066f, Secs. 3(c), 4(a), 5(a), (b).)

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone under this subchapter, an area must:

(1) substantially arrest or impair the sound growth of

1 the municipality creating the zone, retard the provision of housing
2 accommodations, or constitute an economic or social liability and
3 be a menace to the public health, safety, morals, or welfare in its
4 present condition and use because of the presence of:
5 (A) a substantial number of substandard, slum,
6 deteriorated, or deteriorating structures;
7 (B) the predominance of defective or inadequate
8 sidewalks or streets;
9 (C) faulty size, adequacy, accessibility, or
10 usefulness of lots;
11 (D) unsanitary or unsafe conditions;
12 (E) the deterioration of site or other
13 improvements;
14 (F) tax or special assessment delinquency
15 exceeding the fair value of the land;
16 (G) defective or unusual conditions of title;
17 (H) conditions that endanger life or property by
18 fire or other cause; or
19 (I) any combination of these factors;
20 (2) be predominantly open and, because of obsolete
21 platting, deterioration of structures or site improvements, or
22 other factors, substantially impair or arrest the sound growth of
23 the municipality;
24 (3) be in a federally assisted new community located
25 in a home-rule municipality or in an area immediately adjacent to a
26 federally assisted new community located in a home-rule

municipality;

(4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

(5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or

(6) be designated as a local or state-federal enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

(b) For purposes of this section, a federally assisted new community is a federally assisted area:

(1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and

(2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority created by that section for grants in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.). (V.A.C.S. Art.

1066f, Secs. 3(a), (b).)

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE. The designation of a reinvestment zone for residential or commercial-industrial tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect an existing tax abatement agreement made under this subchapter. (V.A.C.S. Art. 1066f, Sec. 4(b).)

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The governing body of a municipality shall agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation all or part of the value of the property for a period not to exceed 15 years, subject to the rights of holders of outstanding bonds of the municipality, on the condition that the owner of the property make specific improvements or repairs to the property. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

(b) The agreements made with the owners of property in a reinvestment zone must contain identical terms for the portion of the value of the property that is to be exempt and the duration of the exemption.

(c) The property subject to an agreement made under this section may be located in the extraterritorial jurisdiction of the

municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.

(d) Property that is in a reinvestment zone and that is owned or leased by a member of the governing body of the municipality or by a member of a zoning or planning board or commission of the municipality is excluded from property tax abatement or tax increment financing. (V.A.C.S. Art. 1066f, Secs. 2(a), 4(c), (d).)

Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT. (a) An agreement made under Section 312.204 must:

(1) list the kind, number, and location of all proposed improvements of the property;

(2) provide access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;

(3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

(4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

(b) An agreement made under Section 312.204 may include, at the option of the governing body of the municipality, provisions

for:

(1) improvements or repairs by the municipality to streets, sidewalks, and utility services or facilities associated with the property, except that the agreement may not provide for lower charges or rates than are made for other services or properties of a similar character;

(2) an economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when related costs or monetary obligations are to be incurred;

(3) a map showing existing uses and conditions of real property in the reinvestment zone;

(4) a map showing proposed improvements and uses in the reinvestment zone; and

(5) proposed changes of zoning ordinances, the master plan, the map, building codes, and city ordinances. (V.A.C.S. Art. 1066f, Secs. 2(b), (c).)

Sec. 312.206. TAX ABATEMENT BY OTHER TAXING UNITS. (a) If property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement made under Section 312.204, the governing body of any other taxing unit in which the property is located may execute a written agreement with the owner of the property. The agreement by the taxing unit must contain terms identical to those contained in the agreement with the municipality providing for the portion of the property that is to be exempt from taxation under the agreement, the duration of the

agreement, and the provisions included in the agreement under Section 312.205.

(b) If the governing body of a taxing unit does not execute an agreement as provided by Subsection (a) applicable to property subject to a municipal agreement, the taxing unit may not tax the property at a value greater than the value at which the property was taxed in the year preceding the execution of the agreement with the municipality. This limitation extends for a period equal to twice the duration of the municipal agreement.

(c) If the governing body of a municipality designates a reinvestment zone that includes property in the extraterritorial jurisdiction of the municipality, the governing body of any other taxing unit in which the property is located may execute a written agreement with the owner of the property to exempt from its property taxes all or part of the value of the property in the same manner as provided by Section 312.204 for a municipality. The taxing unit may execute an agreement even if the municipality does not execute an agreement for the property, and the terms of the agreement are not required to be identical to the terms of a municipal agreement. (V.A.C.S. Art. 1066f, Secs. 2(d), (e).)

Sec. 312.207. APPROVAL BY GOVERNING BODY. (a) To be effective, an agreement made under this subchapter must be approved by the affirmative vote of a majority of the members of the governing body of the municipality or other taxing unit at a regularly scheduled meeting of the governing body.

(b) On approval by the governing body, an agreement may be

executed in the same manner as other contracts made by the municipality or other taxing unit. (V.A.C.S. Art. 1066f, Sec. 5(c).)

Sec. 312.208. MODIFICATION OR TERMINATION OF AGREEMENT. (a) At any time before the expiration of an agreement made under this subchapter, the agreement may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 15 years from the date of the original agreement.

(b) An agreement made under this subchapter may be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed. (V.A.C.S. Art. 1066f, Sec. 6.)

Sec. 312.209. APPLICATION OF NONSEVERABILITY PROVISION. Section 2, Article 5, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985, applies to the provisions of this subchapter that are derived from amendments to the Property Redevelopment and Tax Abatement Act made by Chapter 221, Acts of the 69th Legislature, Regular Session, 1985. (New.)

[Sections 312.210-312.400 reserved for expansion]

SUBCHAPTER C. COUNTY TAX ABATEMENT

Sec. 312.401. DESIGNATION OF REINVESTMENT ZONE. (a) The commissioners court of a county by order may designate as a

reinvestment zone an area of the county that does not include area in the taxing jurisdiction of a municipality.

(b) The commissioners court may not designate an area as a reinvestment zone until it holds a public hearing on the designation and finds that the designation would be a benefit to the property to be included in the zone and would contribute to the economic development of the county. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be given in the same manner as provided for notice of a hearing to be held by a municipality under Section 312.201.

(c) The designation of a reinvestment zone under this section expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect existing agreements made under this subchapter.

(d) Property may be located both in a reinvestment zone designated by a county under this subchapter and in a reinvestment zone designated by a municipality under Subchapter B. (V.A.C.S. Art. 1066f, Secs. 7A(a), (d), (f).)

Sec. 312.402. COUNTY TAX ABATEMENT AGREEMENT. (a) The commissioners court may execute a tax abatement agreement with the owner of taxable real property located in a reinvestment zone designated under this subchapter. The execution, duration, and other terms of an agreement made under this section are governed by the provisions of Sections 312.204 and 312.205 applicable to a

1 municipality.

2 (b) A tax abatement agreement made under this section has
3 the same effect on the other taxing units in which the property
4 subject to the agreement is located as is provided by Section
5 312.206 for an agreement made by a municipality under Section
6 312.204 to abate taxes on property located in the taxing
7 jurisdiction of the municipality.

8 (c) If property subject to an agreement with a county under
9 this section is annexed by a municipality during the existence of
10 the agreement, the governing body of the municipality must enter
11 into an agreement in the same manner as any other taxing unit until
12 the termination of the county agreement, or the municipality is
13 limited to taxing the property subject to the agreement at the
14 taxable value of the property in the year preceding the year the
15 county agreement was executed until the termination of the county
16 agreement plus a period of additional years immediately following
17 the termination of the county agreement equal to the number of
18 years in which the county agreement was in effect.

19 (d) Property that is located in a reinvestment zone
20 designated by a county under this subchapter and that is owned or
21 leased by a member of the commissioners court may not be subject to
22 a tax abatement agreement made under this section.

23 (e) An agreement made under this section by a county or
24 other taxing unit may be modified or terminated in the same manner
25 and subject to the same limitations as provided by Section 312.208
26 for an agreement made under Subchapter B. (V.A.C.S. Art. 1066f,

1 Secs. 7A(c), (e), (g).)

2 [Chapters 313-320 reserved for expansion]

3 SUBTITLE C. LOCAL SALES AND USE TAXES

4 CHAPTER 321. MUNICIPAL SALES AND USE TAX ACT

5 SUBCHAPTER A. GENERAL PROVISIONS

6 Sec. 321.001. SHORT TITLE

7 Sec. 321.002. DEFINITIONS

8 Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE

9 Sec. 321.004. REFERENCES TO SALES OR USE TAX

10 [Sections 321.005-321.100 reserved for expansion]

11 SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY

12 MUNICIPALITIES

13 Sec. 321.101. TAX AUTHORIZED

14 Sec. 321.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL,

15 BOUNDARY CHANGE

16 Sec. 321.103. SALES TAX

17 Sec. 321.104. USE TAX

18 Sec. 321.105. RESIDENTIAL USE OF GAS AND ELECTRICITY

19 [Sections 321.106-321.200 reserved for expansion]

20 SUBCHAPTER C. COMPUTATION OF TAXES

21 Sec. 321.201. COMPUTATION OF SALES TAXES

22 Sec. 321.202. METHOD OF REPORTING: RETAILERS HAVING SALES

23 BELOW TAXABLE AMOUNT

24 Sec. 321.203. CONSUMMATION OF SALE

25 Sec. 321.204. COMPUTATION OF USE TAX

26 Sec. 321.205. USE TAX: MUNICIPALITY IN WHICH USE OCCURS

Sec. 321.206. INCIDENCE OF ADDITIONAL MUNICIPAL SALES AND USE TAX

Sec. 321.207. LOCAL TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS

Sec. 321.208. STATE EXEMPTIONS APPLICABLE

Sec. 321.209. TRANSITION EXEMPTION

Sec. 321.210. TELECOMMUNICATIONS EXEMPTION

[Sections 321.211-321.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 321.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES

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Sec. 321.306. COMPTROLLER'S RULES

Sec. 321.307. DELINQUENT TAXES: LIMITATIONS

Sec. 321.308. SEIZURE AND SALE OF PROPERTY

Sec. 321.309. SUIT FOR TAX COLLECTION

Sec. 321.310. DISAPPROVAL OF MUNICIPAL SUIT

Sec. 321.311. JUDGMENTS IN MUNICIPAL SUIT

[Sections 321.312-321.400 reserved for expansion]

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 321.401. CALLING OF ELECTION

Sec. 321.402. DEADLINES AFTER PETITION

Sec. 321.403. TIME OF ELECTION

1 Sec. 321.404. BALLOT WORDING
2 Sec. 321.405. OFFICIAL RESULTS OF ELECTION
3 Sec. 321.406. FREQUENCY OF ELECTION
4 Sec. 321.407. ELECTION CONTEST: NOTICE
5 Sec. 321.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE
6 [Sections 321.409-321.500 reserved for expansion]
7 SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE
8 Sec. 321.501. TRUST ACCOUNT
9 Sec. 321.502. DISTRIBUTION OF TRUST FUNDS
10 Sec. 321.503. STATE'S SHARE
11 Sec. 321.504. AMOUNTS RETAINED IN TRUST ACCOUNT
12 Sec. 321.505. INTEREST ON TRUST ACCOUNT
13 Sec. 321.506. USE OF TAX REVENUE BY MUNICIPALITY
14 Sec. 321.507. USE OF ADDITIONAL MUNICIPAL SALES AND
15 USE TAX
16 Sec. 321.508. ENTERPRISE ZONE REFUNDS
17 Sec. 321.509. TAX POWERS OF MUNICIPALITY NOT LIMITED
18 SUBTITLE C. LOCAL SALES AND USE TAXES
19 CHAPTER 321. MUNICIPAL SALES AND USE TAX ACT
20 SUBCHAPTER A. GENERAL PROVISIONS
21 Sec. 321.001. SHORT TITLE. This chapter may be cited as the
22 Municipal Sales and Use Tax Act. (V.A.C.S. Art. 1066c, Sec. 1
23 (part).)
24 Sec. 321.002. DEFINITIONS. (a) In this chapter:
25 (1) "Additional municipal sales and use tax" means
26 only the additional tax authorized by Section 321.101(b).

(2) "Municipality" includes any incorporated city, town, or village.

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant.

(b) Words used in this chapter and defined by Chapter 151 have the meanings assigned by Chapter 151. (V.A.C.S. Art. 1066c, Sec. 1 (part); Sec. 6, Subsec. B(1) (part); New.)

Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B and Chapter 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes, unless modified by this chapter. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 4, Subsec. C (part); Sec. 6, Subsec. A.)

Sec. 321.004. REFERENCES TO SALES OR USE TAX. A reference to a sales tax or a use tax imposed or authorized by this chapter is a reference to both the taxes imposed under Section 321.101(a) or (b) unless otherwise provided. (New.)

[Sections 321.005-321.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY MUNICIPALITIES

Sec. 321.101. TAX AUTHORIZED. (a) A municipality may adopt or repeal a sales and use tax authorized by this chapter, other than the additional municipal sales and use tax, at an election in which a majority of the qualified voters of the municipality approve the adoption or repeal of the tax.

(b) A municipality that is not disqualified may, by a majority vote of the qualified voters of the municipality voting at an election held for that purpose, adopt an additional sales and use tax for the benefit of the municipality in accordance with this chapter. A municipality is disqualified from adopting the additional sales and use tax if the municipality:

(1) is included within the boundaries of a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes);

(2) is included within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), by a principal city having a population of less than 800,000;

(3) is wholly or partly located in a county that contains territory within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's

Texas Civil Statutes), by a principal city having a population in excess of 800,000, unless the city is a contiguous city; or

(4) imposes a tax authorized by Article 1118z, Revised Statutes.

(c) For the purposes of Subsection (b), "principal city" and "contiguous city" have the meanings assigned by Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

(d) In any municipality in which an additional sales and use tax has been imposed, in the same manner and by the same procedure the municipality by majority vote of the qualified voters of the municipality voting at an election held for that purpose may abolish the additional sales and use tax. The governing body of a municipality that has adopted the additional sales and use tax shall call an election on the question of the abolition of the additional tax not later than 10 years after the date of the last preceding election on the adoption or abolition of the additional tax.

(e) An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts, if, within the boundaries of the authority there is a municipality that has adopted the additional sales and use tax provided for in this section. (V.A.C.S. Art. 1066c, Sec. 2,

Subsecs. A, H (part); Sec. 2A, Subsecs. A, G (part).)

Sec. 321.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE. (a) A tax imposed under this chapter or the repeal of a tax abolished under this chapter takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 321.405(b). This subsection does not apply to the additional municipal sales and use tax.

(b) The additional municipal sales and use tax takes effect or is repealed in the municipality on the first day of the first calendar year occurring after the expiration of the first complete calendar quarter after the date on which the comptroller receives notice from the municipality of the adoption or repeal of the additional municipal sales and use tax.

(c) If a municipality in which the tax imposed under this chapter is in effect changes its boundaries, the municipal secretary shall send by United States registered or certified mail to the comptroller a certified copy of the ordinance that adds or detaches municipal territory and that shows the effective date of the boundary change. The ordinance must be accompanied by a map clearly showing the added or detached territory. Except as provided by Subsection (d), the tax takes effect in the added territory or is inapplicable to the detached territory on the first day of the first calendar quarter after the comptroller receives the ordinance and map.

(d) If, within 10 days after the receipt of an ordinance and map sent under Subsection (c), the comptroller notifies the secretary of the municipality that more time is required, the effective date of the application of the tax in the added or detached area is the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives the ordinance and map. (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. G (part), H (part), J; Sec. 2A, Subsecs. F (part), G (part), K.)

Sec. 321.103. SALES TAX. (a) In a municipality that has adopted the tax authorized by Section 321.101(a), there is imposed a tax on the receipts from the sale at retail of taxable items within the municipality at the rate of one percent and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use.

(b) In a municipality that has adopted the additional municipal sales and use tax, the tax is imposed at the rate of one-half of one percent on the receipts from the sale at retail of all taxable items within the municipality and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use unless the residential use of gas and electricity is exempted from the tax imposed under Section 321.101(a), in which case the residential use of gas and electricity is exempted under this subsection also. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 2A, Subsec. B.)

Sec. 321.104. USE TAX. (a) In a municipality that has

adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the muncipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the tangible personal property.

(b) In a municipality that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption of gas or electricity for residential purposes and purchased from any retailer during the period that the tax is effective within the municipality. The tax is imposed at the same rate as the tax provided by Subsection (a). (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. A (part), D (part).)

Sec. 321.105. RESIDENTIAL USE OF GAS AND ELECTRICITY. (a) There are exempted from the taxes imposed by a municipality under this chapter the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption within the municipality of gas and electricity for residential use in any municipality that:

(1) adopted the tax on or after October 1, 1979; or

(2) adopted the tax before that time but:

(A) failed to exempt the residential use of gas and electricity before May 1, 1979; and

(B) has not reimposed the tax as provided by Subsection (c).

(b) A governing body of a municipality that adopted the taxes under this chapter before October 1, 1979, may, by ordinance adopted by a vote of a majority of the membership of the governing body and recorded in the municipal minutes, exempt from the taxes authorized by this chapter the receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption of gas and electricity for residential use.

(c) A governing body of a municipality that has adopted the taxes authorized by this chapter before May 1, 1979, and in which residential use of gas and electricity is exempted within the municipality, may reimpose the taxes on gas and electricity for residential use by ordinance adopted by a vote of the majority of the membership of the governing body and entered in the municipal minutes.

(d) The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of an ordinance exempting or imposing the taxes on residential use of gas and electricity.

(e) The exemption or reimposition of taxes on residential use of gas and electricity takes effect within the municipality as provided by Section 321.104(a) after receipt of a copy of the ordinance. (V.A.C.S. Art. 1066c, Sec. 4A.)

[Sections 321.106-321.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 321.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a municipality that has adopted a tax authorized by

this chapter shall add each sales tax imposed by the municipality under this chapter and by Chapter 151 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price. If the municipality imposes the tax on gas and electricity for residential use, only the municipal tax is added to the sales price of sales of gas and electricity for residential use.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates, or the rate of the municipal tax only for sales of gas and electricity for residential use in a municipality that imposes the tax on gas and electricity for residential use, by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The comptroller may publish schedules and brackets of amounts of taxes based on the formula provided by Subsection (b) for use in municipalities that have adopted the taxes authorized by this chapter. (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. K (part), L; Sec. 2A, Subsecs. I (part), J.)

Sec. 321.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual

transactions in which the sales price is an amount on which no tax is produced from the combined state and local taxes. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. K (part); Sec. 2A, Subsec. I (part).)

Sec. 321.203. CONSUMMATION OF SALE. (a) A sale of a taxable item occurs within the municipality in which the sale is consummated. A sale is consummated as provided by this section, regardless of the place where transfer of title or possession or segregation in contemplation of a transfer of title or possession occurs.

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, a sale of an item of tangible personal property by the retailer is consummated at the retailer's place of business:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(d) If neither the possession of tangible personal property is taken at nor shipment or delivery of the property is made from the retailer's place of business in this state, the sale is consummated at:

(1) the retailer's place of business in this state

where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale is consummated at the location in this state to which tangible personal property is shipped or delivered or at which possession is taken by the customer if transfer of possession of tangible personal property occurs at, or shipment or delivery of the property originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other transmission originates, unless the point of origin cannot be determined, in which case the sale is at the address to which the call is billed.

(h) The sale of an amusement service is consummated in the

municipality in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any use of tangible personal property that subjects the property to the sales tax under the provisions of Section 151.154, the use or other consumption of the property that subjected the property to the tax is consummated at the place where the property is stored or kept at the time of or just before the use or consumption. (V.A.C.S. Art. 1066c, Sec. 6, Subsecs. B(1) (part), (2).)

Sec. 321.204. COMPUTATION OF USE TAX. (a) In each municipality that has adopted the taxes authorized by this chapter, the taxes imposed by Section 321.104(a) and the tax imposed by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except:

(1) in a municipality that imposes the tax on gas and electricity for residential use only the rate of the municipal tax is used to determine the amount of tax on the use, storage, or other consumption of gas and electricity for residential use; and

(2) only the rate of the municipal tax is used in a situation described by Section 321.205(b).

(b) The formula prescribed by Section 321.201(b) applies to the computation of the amount of use taxes under this chapter. (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. B (part), D (part).)

Sec. 321.205. USE TAX: MUNICIPALITY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter the name of the municipality adopting the tax is

substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of tangible personal property does not apply if the property is first used, stored, or consumed in a municipality or area that has not adopted the taxes authorized by this chapter.

(b) If a sale of tangible personal property is consummated in this state but not within a municipality that has adopted the taxes authorized by this chapter and the property is shipped directly, or brought by the purchaser or lessee directly, into a municipality that has adopted the taxes authorized by this chapter, the property is subject to the municipality's use tax. The use is considered to be consummated at the location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state and the use of the property is consummated within a municipality that has adopted the tax authorized by this chapter, the property is subject to the municipality's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the municipality in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation for further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a municipality that has adopted the tax under this chapter shall be subject to the municipal use tax. (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. A (part), C (part), E, F; Sec. 6, Subsec. B(3).)

Sec. 321.206. INCIDENCE OF ADDITIONAL MUNICIPAL SALES AND USE TAX. For the purpose of determining the proper sales tax under this chapter and the proper excise tax on the use, storage, or other consumption of taxable items under Section 321.101(b):

(1) if a taxable item is used, stored, or otherwise consumed in a municipality that has adopted the additional municipal sales and use tax, Sections 321.203(b), (c), (d), and (e) apply; and

(2) if the sales tax applies in a municipality that has not adopted the municipal sales and use tax, the excise tax on

the use, storage, or other consumption of the taxable item does not apply. (V.A.C.S. Art. 1066c, Sec. 4, Subsec. A (part).)

Sec. 321.207. LOCAL TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 321.205(b). (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 4, Subsec. A (part).)

Sec. 321.208. STATE EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Section 151.317(b). (V.A.C.S. Art. 1066c, Sec. 6, Subsec. C(1).)

Sec. 321.209. TRANSITION EXEMPTION. (a) For a period of three years only after the effective date of the tax authorized by Section 321.101(a) in a municipality, the receipts from the sale of, and the use, storage, and consumption of, taxable items are

exempt from the tax imposed by the municipality under Section 321.101(a) if the notice required by Subsection (b) is given and if:

(1) the items are used for the performance of a written contract entered into before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the contract may not be modified because of the tax; or

(2) the items are used under the obligation of a bid submitted before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the bid may not be withdrawn or modified because of the tax.

(b) The taxpayer must give the comptroller notice of the contract or bid on which an exemption is to be claimed within 60 days after the effective date of the tax imposed under Section 321.101(a) in the municipality. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. C(2).)

Sec. 321.210. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed under this chapter the sale within the municipality of telecommunications services unless the application of the exemption is repealed under this section.

(b) The governing body of a municipality by ordinance adopted by a majority vote of the governing body in the manner required for the adoption of other ordinances may repeal the application of the exemption provided by Subsection (a) for

telecommunications services sold within the municipality.

(c) A municipality that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the governing body of a municipality repealing the application of or reinstating the exemption must be entered in the minutes of the municipality. The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of each ordinance adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the municipality as provided by Section 321.102(a) after receipt of a copy of the ordinance. (V.A.C.S. Art. 1066c, Secs. 4B(a), (b).)

[Sections 321.211-321.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 321.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax imposed by a municipality under this chapter. The taxes imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed. (V.A.C.S. Art. 1066c, Sec. 4, Subsec. B (part); Sec. 5(a) (part).)

Sec. 321.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a municipality that has adopted the taxes authorized by this chapter if the municipality requests the reports. A report must include the name, address, and account number of each person in the municipality that has remitted to the comptroller a tax payment during the quarter covered by the

report.

(b) If a municipality requests an additional report, the comptroller shall make an additional quarterly report to the municipality including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the municipality who has failed to pay the tax under this chapter to the municipality or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a municipality determines that a person doing business in the municipality is not included in a comptroller's report, the municipality shall report to the comptroller the name and address of the person. Within 90 days after receiving the report from a municipality, the comptroller shall send to the municipality:

(1) an explanation as to why the person is not obligated for the municipal tax;

(2) a statement that the person is obligated for the municipal tax and the tax is delinquent; or

(3) a certification that the person is obligated for the municipal tax and that the full amount of the tax due has been

1 credited to the municipality's account.

2 (d) The comptroller shall send by United States certified or
3 registered mail to the municipal tax collector a notice of each
4 person who is delinquent in the payment to the municipality of the
5 taxes authorized by this chapter and shall send a copy of the
6 notice to the attorney general. A notice sent under this
7 subsection is a certification of the amount of tax owed and is
8 prima facie evidence of a determination of that amount and of its
9 delinquency. (V.A.C.S. Art. 1066c, Secs. 5(b), (c), (d); Sec. 12,
10 Subsec. A (part).)

11 Sec. 321.303. SALES TAX PERMITS AND EXEMPTION AND RESALE
12 CERTIFICATES. (a) Each place of business of a retailer must have
13 a permit issued by the comptroller under Subchapter F, Chapter 151.

14 (b) The same sales tax permit, exemption certificate, and
15 resale certificate required by Chapter 151 for the administration
16 and collection of the taxes imposed by that chapter satisfy the
17 requirements of this chapter. No additional permit or exemption or
18 resale certificate may be required except that the comptroller may
19 prescribe a separate exemption certificate form for the transition
20 exemption for prior contracts and bids under Section 321.209.
21 (V.A.C.S. Art. 1066c, Sec. 6, Subsecs. B(1) (part), D.)

22 Sec. 321.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION.
23 All discounts allowed a retailer under Chapter 151 for the
24 collection and prepayment of the taxes under that chapter are
25 allowed and applicable to the taxes collected under this chapter.
26 (V.A.C.S. Art. 1066c, Sec. 6, Subsec. E.)

Sec. 321.305. PENALTIES. The penalties provided by Chapter 151 for violations of that chapter apply to violations of this chapter. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. F.)

Sec. 321.306. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, reporting, and enforcement of this chapter. (V.A.C.S. Art. 1066c, Sec. 5(a) (part); Sec. 11; Sec. 12, Subsec. C(5) (part).)

Sec. 321.307. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a tax imposed or a penalty due under this chapter after the tax and penalty are delinquent or after a determination against the taxpayer are the same as limitations provided by Chapter 151. (V.A.C.S. Art. 1066c, Sec. 12, Subsec. A (part).)

Sec. 321.308. SEIZURE AND SALE OF PROPERTY. If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties of both taxes. The proceeds of a sale of seized property shall first be applied to the payment of amounts due the state and the remainder, if any, to the amounts due to the municipality to which the taxes are due. (V.A.C.S. Art. 1066c, Sec. 12, Subsec. B.)

Sec. 321.309. SUIT FOR TAX COLLECTION. (a) A municipality acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent

taxes and penalties due to the municipality under this chapter.

(b) A municipality may bring suit for the collection of taxes owed to the municipality under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 321.302(d);

(2) a written notice of the tax delinquency and the municipality's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. A (part), C(1).)

Sec. 321.310. DISAPPROVAL OF MUNICIPAL SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a municipality under Section 321.309(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the municipality seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the

Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a municipality must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a municipal collection suit, the municipality may again proceed as provided by Section 321.309(b) even though the liability of the taxpayer includes taxes for which the municipality has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. C(2), (3).)

Sec. 321.311. JUDGMENTS IN MUNICIPAL SUIT. (a) A judgment in a suit under Section 321.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another municipality or the state unless the state is party to the suit.

(b) A municipality shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A municipality shall by execution collect the taxes awarded to it in each judgment received by the municipality and is responsible for the renewal of the judgment before its expiration.

(d) The municipality shall notify the comptroller by certified mail of the amount of any taxes collected on the

judgment. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. C(4), (5) (part).)

[Sections 321.312-321.400 reserved for expansion]

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 321.401. CALLING OF ELECTION. (a) An election under this chapter is called by the adoption of an ordinance by the governing body of a municipality.

(b) The governing body may call the election by a vote of a majority of its members.

(c) The governing body shall call the election if a number of qualified voters of the municipality equal to at least 20 percent of the number of votes cast in the most recent regular municipal election petitions the governing body for a vote on the question.

(d) The governing body of any municipality that has not adopted the additional sales and use tax shall, on petition of qualified voters of the municipality equal in number to at least five percent of the number of voters registered in the municipality, provide by ordinance for the calling and holding of an election on the question of adopting the additional sales and use tax. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. C; Sec. 2A, Subsec. C.)

Sec. 321.402. DEADLINES AFTER PETITION. (a) After the receipt of a petition for an election under this chapter, the governing body of a municipality shall determine the sufficiency of the petition within 30 days.

(b) If the petition is sufficient, the governing body shall pass the ordinance calling the election within 60 days after receiving the petition. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. D.)

Sec. 321.403. TIME OF ELECTION. (a) An election under this chapter to adopt the tax authorized under Section 321.101(a) must be held on the first succeeding uniform election date for which sufficient time elapses for the holding of an election.

(b) An election on the approval of the additional sales and use tax must be held on the next succeeding uniform election date not less than 30 days after the passage of the ordinance calling the election. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. E; Sec. 2A, Subsec. D.)

Sec. 321.404. BALLOT WORDING. (a) In an election to adopt the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "A one percent sales and use tax is adopted within the city" or "The adoption of an additional one-half of one percent sales and use tax within the city to be used to reduce the property tax rate."

(b) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "The local sales and use tax within the city is abolished" or "The abolition of the additional sales and use tax within the city." (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. G (part), H (part); Sec. 2A, Subsecs. F (part), G (part).)

Sec. 321.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters approve of the adoption

or abolition of a tax authorized by this chapter, the governing body of the municipality shall by resolution or ordinance entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the municipal secretary shall send to the comptroller by United States certified or registered mail a certified copy of the resolution or the ordinance along with a map of the municipality clearly showing its boundaries.

(c) Not later than the 30th day after the date the comptroller receives a certified copy of an ordinance or resolution showing the adoption of the additional municipal sales and use tax, the comptroller shall notify the municipal secretary that he is prepared for the administration of the tax. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. I; Sec. 2A, Subsec. H.)

Sec. 321.406. FREQUENCY OF ELECTION. An election under this chapter in a municipality may not be held earlier than one year after the date of any previous election under this chapter in the

municipality. (V.A.C.S. Art. 1066c, Sec. 3.)

Sec. 321.407. ELECTION CONTEST: NOTICE. (a) If an election held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending.

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section. (V.A.C.S. Art. 1066c, Sec. 13, Subsec. A.)

Sec. 321.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the municipal secretary shall notify the comptroller by United States certified or registered mail and enclose a copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the municipality under this chapter, the tax or the abolition of the tax takes effect as provided by Section 321.102 except that the notice of the final judgment is substituted for the notice of election results prescribed by Section 321.405. (V.A.C.S. Art. 1066c, Sec. 13, Subsec. B.)

[Sections 321.409-321.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 321.501. TRUST ACCOUNT. (a) The comptroller shall deposit the taxes collected by the comptroller under this chapter with the state treasurer. The treasurer shall keep the deposits in trust in the separate suspense account of the municipality from which the taxes were collected.

(b) The comptroller and each employee of the comptroller who has any duty or responsibility in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of the funds that are acquired by the comptroller under this chapter shall enter into one or more surety bonds in the amount of $100,000 payable to any and all municipalities from which the funds are collected. The comptroller may enter into a blanket bond or bonds covering the comptroller and the comptroller's employees.

(c) The premiums for the bonds required by this section shall be paid when due from the state's share of money collected and held by the comptroller under this chapter before its deposit in the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 7.)

Sec. 321.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as feasible, the comptroller shall send to the municipal treasurer or to the person who performs the office of the municipal treasurer payable to the municipality the municipality's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art.

1066c, Sec. 8(a) (part).)

Sec. 321.503. STATE'S SHARE. Before sending any money to a municipality under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the municipality during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to premiums payments under Section 321.501(c), credit the money deducted to the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 8(a) (part).)

Sec. 321.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a municipality a portion of the municipality's share of the tax collected for the municipality under this chapter, not to exceed five percent of the amount remitted to the municipality. If the municipality has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the municipality at the time of the termination of the collection of the tax.

(b) From the amounts retained in a municipality's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a municipality's tax under this chapter the comptroller shall send to the municipality the remainder of the money in the municipality's account and shall close the account. (V.A.C.S. Art. 1066c, Sec. 8(a) (part).)

Sec. 321.505. INTEREST ON TRUST ACCOUNT. Interest earned on all deposits made with the state treasurer under Section 321.501, including interest earned from retained suspense accounts, shall be credited to the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 8, Subsec. (a) (part).)

Sec. 321.506. USE OF TAX REVENUE BY MUNICIPALITY. Except as provided by Section 321.507, the money received by a municipality under this chapter is for the use and benefit of the municipality and may be used for any purpose for which the general funds of the municipality may be used, except that a municipality may not pledge the revenue received under this chapter to the payment of bonds or other indebtedness. (V.A.C.S. Art. 1066c, Secs. 8(a) (part), 9(a).)

Sec. 321.507. USE OF ADDITIONAL MUNICIPAL SALES AND USE TAX. In each year in which a municipality imposes an additional municipal sales and use tax, if the revenue from the collection of the additional tax exceeds the amount of taxes computed for the municipality under Section 26.04(c), the excess shall be deposited in an account to be called the municipal sales tax debt service fund. Revenue deposited in the municipal sales tax debt service fund may be spent only for the reduction of lawful debts of the municipality, except that deposits that exceed the amount of revenue needed to pay the debt service needs of the municipality in the current year may be used for any municipal purpose consistent with the municipal budget. (V.A.C.S. Art. 1066c, Sec. 9(b).)

Sec. 321.508. ENTERPRISE ZONE REFUNDS. (a) A municipality

may establish a program to refund to a qualified business under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) the amount of tax paid under this chapter by the business and remitted to the comptroller.

(b) The refund must be conditioned on the qualified business having purchased or leased equipment or machinery for use in the local enterprise zone or having purchased material for use in remodeling, rehabilitating, or constructing a structure in the zone. (V.A.C.S. Art. 1066c, Sec. 8(b).)

Sec. 321.509. TAX POWERS OF MUNICIPALITY NOT LIMITED. This chapter does not abolish or limit the tax powers of a municipality. (V.A.C.S. Art. 1066c, Sec. 10.)

CHAPTER 322. SALES AND USE TAXES FOR SPECIAL PURPOSE TAXING AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 322.001. APPLICATION OF CHAPTER

Sec. 322.002. DEFINITIONS

[Sections 322.003-322.100 reserved for expansion]

SUBCHAPTER B. ASSESSMENT AND COMPUTATION OF TAXES

Sec. 322.101. SALES TAX

Sec. 322.102. USE TAX

Sec. 322.103. COMPUTATION OF SALES TAXES

Sec. 322.104. COMPUTATION OF USE TAX

Sec. 322.105. USE TAX: WHERE USE OCCURS

1 Sec. 322.106. TAX INAPPLICABLE WHEN NO STATE TAX;
2 EXCEPTIONS
3 Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING
4 ENTITY
5 Sec. 322.108. CERTAIN PROVISIONS OF MUNICIPAL SALES AND USE
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9 SUBCHAPTER C. ADMINISTRATION OF TAXES
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11 TAXES
12 Sec. 322.202. COMPTROLLER'S REPORTING DUTIES
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15 Sec. 322.205. SEIZURE AND SALE OF PROPERTY
16 Sec. 322.206. SUITS FOR TAX COLLECTION
17 Sec. 322.207. DISAPPROVAL OF SUIT
18 Sec. 322.208. JUDGMENTS IN SUIT
19 [Sections 322.209-322.300 reserved for expansion]
20 SUBCHAPTER D. REVENUE DEPOSIT, DISTRIBUTION, AND USE
21 Sec. 322.301. COLLECTIONS HELD BY COMPTROLLER
22 Sec. 322.302. DISTRIBUTION OF TRUST FUNDS
23 Sec. 322.303. STATE'S SHARE
24 Sec. 322.304. AMOUNTS RETAINED IN TRUST ACCOUNT
25 Sec. 322.305. INTEREST ON TRUST ACCOUNTS

CHAPTER 322. SALES AND USE TAXES FOR SPECIAL PURPOSE TAXING AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 322.001. APPLICATION OF CHAPTER. (a) This chapter applies to the imposition, assessment, collection, administration, and enforcement of a sales and use tax imposed under the authority of Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), or Article 1118z, Revised Statutes.

(b) The effective dates and rates of the taxes imposed by a taxing entity are determined under the laws authorizing the adoption of the taxes. (New.)

Sec. 322.002. DEFINITIONS. In this chapter:

(1) "Taxing entity" means a rapid transit authority, a regional transit authority, including a subregional transportation authority, or a municipal mass transit department created under Article 1118z, Revised Statutes, that has adopted a sales and use tax under the law authorizing the creation of the entity.

(2) "Entity area" means the geographical limits of a taxing entity.

(3) "Municipal sales and use tax" means a sales and use tax imposed by a municipality under the Municipal Sales and Use Tax Act (Chapter 321) within an entity area. (V.A.C.S. Art. 1118x, Sec. 11B(B)(a); Art. 1118y, Sec. 16(b); New.)

[Sections 322.003-322.100 reserved for expansion]

SUBCHAPTER B. ASSESSMENT AND COMPUTATION OF TAXES

Sec. 322.101. SALES TAX. There is imposed in a taxing entity a sales tax at the rate authorized and set as provided by the law authorizing the creation of the taxing entity and applied to the receipts from the sale within the entity area of all taxable items that are subject to the sales tax under Chapter 151. (V.A.C.S. Art. 1118x, Sec. 11B(A) (part); Art. 1118y, Sec. 16(a) (part); Art. 1118z, Sec. 8(a) (part).)

Sec. 322.102. USE TAX. In a taxing entity, there is imposed an excise tax on the use, storage, and other consumption within the entity area of taxable items purchased, leased, or rented from a retailer during the period that the sales tax is effective within the entity area. The rate of the excise tax is the same rate as the rate of the sales tax imposed by the taxing entity and is applied to the sales price of the taxable item. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(1) (part); Art. 1118y, Sec. 16(f)(2)(A) (part); Art. 1118z, Sec. 8(c) (part).)

Sec. 322.103. COMPUTATION OF SALES TAXES. (a) Each retailer in an entity area shall add the sales tax imposed under this chapter, the sales taxes imposed under Chapter 151, and, if applicable, any sales taxes imposed under Chapter 321 or 323 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price.

If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined applicable tax rates. (V.A.C.S. Art. 1118x, Sec. 11B(B)(b); Art. 1118y, Sec. 16(f)(1); Art. 1118z, Sec. 8(b).)

Sec. 322.104. COMPUTATION OF USE TAX. (a) In each taxing entity the tax imposed by Subchapter D, Chapter 151, the tax imposed under Section 321.104(a), if applicable, and the tax imposed under Section 322.102 are added together to form a single combined tax rate, except in a situation described by Section 322.105(b).

(b) The formula prescribed by Section 322.103(b) applies to the computation of the amount of the tax under this section. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(2) (part); Art. 1118y, Sec. 16(f)(2)(B) (part); Art. 1118z, Sec. 8(d) (part).)

Sec. 322.105. USE TAX: WHERE USE OCCURS. (a) In determining the incidence of the use tax of a taxing entity, the name of the taxing entity is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax of a taxing entity on the use, storage, or other consumption of

tangible personal property does not apply if the property is first used, stored, or consumed in an area other than an entity area.

(b) If a sale of tangible personal property is consummated within this state but not within an entity area and the property is shipped directly or brought by the purchaser or lessee directly into an entity area, the property is subject to the entity's use tax. The use is considered to be consummated at the location where the item is first used, stored, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state, the property is subject to the use tax of the taxing entity and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) If tangible personal property that is exempt under Section 322.107 is shipped or delivered directly to a purchaser in an entity, the property is subject to the use tax of the entity in which the purchaser takes delivery or shipment. (V.A.C.S. Art. 1118x, Secs. 11B(B)(c)(1) (part), (3), (4), (5), (6) (part); Art. 1118y, Secs. 16(f)(2)(A) (part), (C), (D), (E), (F) (part); Art. 1118z, Secs. 8(c) (part), (e), (f), (g)(1), (g)(3).)

Sec. 322.106. TAX INAPPLICABLE WHEN NO STATE TAX;

EXCEPTIONS. (a) The sales tax of a taxing entity does not apply to the sale of a taxable item unless the sales tax imposed under Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax of a taxing entity on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption of the item.

(c) Subsection (b) does not apply to the application of the tax in a situation described by Section 322.105(b). (V.A.C.S. Art. 1118x, Secs. 11B(A) (part), (B)(c)(1) (part), (d)(1) (part); Art. 1118y, Secs. 16(a) (part), (f)(2)(A) (part), (3)(A) (part); Art. 1118z, Secs. 8(a) (part), (c) (part), (h) (part).)

Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING ENTITY. There are exempted from the sales tax of a taxing entity the receipts of the sale of tangible personal property that, under a sales contract, is shipped to a point outside the entity by means of:

(1) facilities operated by the retailer;

(2) delivery by the retailer to a carrier for shipment to a consignee at that point; or

(3) delivery by the retailer to a customs broker or a forwarding agent for shipment outside the entity. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(6) (part); Art. 1118y, Sec. 16(f)(2)(F) (part); Art. 1118z, Sec. 8(g)(2).)

Sec. 322.108. CERTAIN PROVISIONS OF MUNICIPAL SALES AND USE

TAX APPLICABLE. The following apply to the taxes imposed by this chapter in the same manner as applicable to a municipality under Chapter 321:

(1) Section 321.002(a)(3);

(2) Section 321.003;

(3) Section 321.203;

(4) Section 321.205(d);

(5) Section 321.208;

(6) Section 321.209;

(7) Section 321.303;

(8) Section 321.304; and

(9) Section 321.305. (V.A.C.S. Art. 1118x, Sec. 11B(B)(e) (part); Art. 1118y, Sec. 16(f)(4) (part); Art. 1118z, Sec. 8(j) (part).)

Sec. 322.109. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed by a taxing entity under this chapter the sale within the entity area of telecommunications services unless the application of the exemption is repealed under this section.

(b) The board of a taxing entity may, by a majority vote of the board in the manner required for the adoption of other orders, repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the city.

(c) A taxing entity board that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of a taxing entity board repealing the

application of or reinstating the exemption must be entered in the minutes of the entity. The entity board chairman or secretary shall send to the comptroller by United States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the entity on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives a copy of the order. (V.A.C.S. Art. 1118x, Secs. 11B(B)(b-1)(1), (2); Art. 1118y, Secs. 16(f)(1-A)(A), (B); Art. 1118z, Secs. 8(b-1)(1), (2).)

[Sections 322.110-322.200 reserved for expansion]

SUBCHAPTER C. ADMINISTRATION OF TAXES

Sec. 322.201. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. (a) The comptroller shall administer, collect, and enforce the sales and use tax of a taxing entity.

(b) The sales and use taxes imposed under this chapter, the taxes imposed under Chapters 321 and 323, and the taxes imposed under Chapter 151 shall be collected together to the extent that each is imposed in an entity area. (V.A.C.S. Art. 1118x, Secs. 11B(B)(c)(2) (part), (d)(1) (part); Art. 1118y, Secs. 16(f)(2)(B) (part), (3)(A) (part); Art. 1118z, Secs. 8(d) (part), (h) (part).)

Sec. 322.202. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall report to a taxing entity on the entity's sales and use taxes by making substantially the same reports that are required to be made by the comptroller to a municipality under

Sections 321.302(a), (b), and (c).

(b) The comptroller shall send to a taxing entity by United States certified or registered mail a notice of each person who is delinquent in the payment of the entity's sales and use taxes and shall send to the attorney general a copy of the notice. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 1118x, Secs. 11B(B)(d)(2), (h)(1) (part); Art. 1118y, Secs. 16(f)(3)(B), (7)(A) (part); Art. 1118z, Secs. (i), (n) (part).)

Sec. 322.203. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, and enforcement of this chapter and for the reporting of the taxes imposed under this chapter. (V.A.C.S. Art. 1118x, Secs. 11B(B)(d)(1) (part), (g), (h)(7) (part); Art. 1118y, Secs. 16(f)(3)(A) (part), (6), (7)(G) (part); Art. 1118z, Secs. 8(h) (part), (m), (t) (part).)

Sec. 322.204. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a sales and use tax imposed by a taxing entity or a penalty due on the tax after the tax and penalty are delinquent or after a determination against a taxpayer are the same as the limitations provided by Chapter 151. (V.A.C.S. Art. 1118x, Sec. 11B(B)(h)(1) (part); Art. 1118y, Sec. 16(f)(7)(A) (part); Art. 1118z, Sec. 8(n) (part).)

Sec. 322.205. SEIZURE AND SALE OF PROPERTY. (a) If the

comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties under this chapter, Chapter 151, and Chapter 321.

(b) The proceeds of the sale of seized property shall first be applied to the payment of amounts due the state, then to the payments of amounts due a municipality under Chapter 321, and the remainder, if any, to the payment of amounts due to the taxing entity to which the taxes are due. (V.A.C.S. Art. 1118x, Sec. 11B(B)(h)(2); Art. 1118y, Sec. 16(f)(7)(B); Art. 1118z, Sec. 8(o).)

Sec. 322.206. SUITS FOR TAX COLLECTION. (a) A taxing entity acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the taxing entity under this chapter.

(b) A taxing entity may bring suit for the collection of taxes owed to the taxing entity under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 322.202(b);

(2) a written notice of the tax delinquency and the entity's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(1)

(part), (3) (part); Art. 1118y, Secs. 16(f)(7)(A) (part), (C) (part); Art. 1118z, Secs. 8(n) (part), (p) (part).)

Sec. 322.207. DISAPPROVAL OF SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a taxing entity under Section 322.206(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the taxing entity seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a taxing entity must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a taxing entity collection suit, the taxing entity may again proceed as provided by Section 322.206(b) even though the liability of the taxpayer includes taxes

for which the entity has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(3) (part), (4), (5); Art. 1118y, Secs. 16(f)(7)(C) (part), (D), (E); Art. 1118z, Secs. 8(p) (part), (q), (r).)

Sec. 322.208. JUDGMENTS IN SUIT. (a) A judgment in a suit under Section 322.206(b) for or against a taxpayer does not affect a claim against the taxpayer by a municipality or the state unless the state is party to the suit.

(b) A taxing entity shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A taxing entity shall by execution collect the taxes awarded to it in each judgment received by it and is responsible for the renewal of the judgment before its expiration.

(d) The taxing entity shall notify the comptroller by certified mail of the amount of any taxes collected on the judgment. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(6), (7) (part); Art. 1118y, Secs. 16(f)(7)(F), (G) (part); Art. 1118z, Secs. 8(s), (t) (part).)

[Sections 322.209-322.300 reserved for expansion]

SUBCHAPTER D. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 322.301. COLLECTIONS HELD BY COMPTROLLER. The comptroller shall deposit, hold, account for, and transmit sales and use taxes collected under this chapter for each taxing entity

in the same manner as required under Section 321.501 for each municipality. (V.A.C.S. Art. 1118x, Sec. 11B(B)(e) (part); Art. 1118y, Sec. 16(f)(4) (part); Art. 1118z, Sec. 8(k) (part).)

Sec. 322.302. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and as often as feasible, the comptroller shall send to the person at each taxing entity who performs the function of entity treasurer, payable to the taxing entity, the entity's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.303. STATE'S SHARE. Before sending any money to a taxing entity under this subchapter, the comptroller shall deduct two percent of the amount of the taxes collected within the entity area during the period for which a distribution is made as the state's charge for its services under this chapter and shall credit the money deducted to the general revenue fund. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.304. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a taxing entity a portion of the entity's share of the tax collected for the entity under this chapter, not to exceed five percent of the amount remitted to the entity. If the entity has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the entity at the time of the termination of

the collection of the tax.

(b) From the amounts retained in an entity's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of an entity's tax under this chapter other than a department under Article 1118z, Revised Statutes, the comptroller shall send to the entity the remainder of the money in the entity's account and shall close the account. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.305. INTEREST ON TRUST ACCOUNTS. Interest earned on all deposits made with the state treasurer under this chapter, including interest earned on retained accounts, shall be credited to the general revenue fund. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part).)

CHAPTER 323. COUNTY SALES AND USE TAX ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 323.001. SHORT TITLE

Sec. 323.002. DEFINITIONS

Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE

[Sections 323.004-323.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY COUNTIES

Sec. 323.101. TAX AUTHORIZED

1 Sec. 323.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL,
2 BOUNDARY CHANGE
3 Sec. 323.103. SALES TAX
4 Sec. 323.104. USE TAX
5 [Sections 323.105-323.200 reserved for expansion]
6 SUBCHAPTER C. COMPUTATION OF TAXES
7 Sec. 323.201. COMPUTATION OF SALES TAXES
8 Sec. 323.202. METHOD OF REPORTING: RETAILERS HAVING SALES
9 BELOW TAXABLE AMOUNT
10 Sec. 323.203. CONSUMMATION OF SALE
11 Sec. 323.204. COMPUTATION OF USE TAX
12 Sec. 323.205. USE TAX: COUNTY IN WHICH USE OCCURS
13 Sec. 323.206. COUNTY TAX INAPPLICABLE WHEN NO STATE TAX;
14 EXCEPTIONS
15 Sec. 323.207. STATE EXEMPTIONS APPLICABLE
16 Sec. 323.208. TELECOMMUNICATIONS EXEMPTION
17 [Sections 323.209-323.300 reserved for expansion]
18 SUBCHAPTER D. ADMINISTRATION OF TAXES
19 Sec. 323.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES
20 Sec. 323.302. COMPTROLLER'S REPORTING DUTIES
21 Sec. 323.303. SALES TAX PERMITS AND EXEMPTION AND RESALE
22 CERTIFICATES
23 Sec. 323.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION
24 Sec. 323.305. PENALTIES
25 Sec. 323.306. COMPTROLLER'S RULES
26 Sec. 323.307. DELINQUENT TAXES: LIMITATIONS

1 Sec. 323.308. SEIZURE AND SALE OF PROPERTY
2 Sec. 323.309. SUIT FOR TAX COLLECTION
3 Sec. 323.310. DISAPPROVAL OF COUNTY SUIT
4 Sec. 323.311. JUDGMENTS IN COUNTY SUIT
5 [Sections 323.312-323.400 reserved for expansion]
6 SUBCHAPTER E. TAX ELECTION PROCEDURES
7 Sec. 323.401. CALLING OF ELECTION
8 Sec. 323.402. DEADLINES AFTER PETITION
9 Sec. 323.403. TIME OF ELECTION
10 Sec. 323.404. BALLOT WORDING
11 Sec. 323.405. OFFICIAL RESULTS OF ELECTION
12 Sec. 323.406. FREQUENCY OF ELECTION
13 Sec. 323.407. ELECTION CONTEST: NOTICE
14 Sec. 323.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE
15 [Sections 323.409-323.500 reserved for expansion]
16 SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE
17 Sec. 323.501. TRUST ACCOUNT
18 Sec. 323.502. DISTRIBUTION OF TRUST FUNDS
19 Sec. 323.503. STATE'S SHARE
20 Sec. 323.504. AMOUNTS RETAINED IN TRUST ACCOUNT
21 Sec. 323.505. USE OF TAX REVENUE
22 CHAPTER 323. COUNTY SALES AND USE TAX ACT
23 SUBCHAPTER A. GENERAL PROVISIONS
24 Sec. 323.001. SHORT TITLE. This chapter may be cited as the
25 County Sales and Use Tax Act. (V.A.C.S. Art. 2353e, Sec. 20
26 (part).)

Sec. 323.002. DEFINITIONS. The words used in this chapter and defined by Chapters 151 and 321 have the meanings assigned by Chapters 151 and 321. (V.A.C.S. Art. 2353e, Sec. 20 (part).)

Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B and Chapter 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes unless modified by this chapter. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part); Sec. 23, Subsec. (C) (part); Sec. 26, Subsec. (A).)

[Sections 323.004-323.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY COUNTIES

Sec. 323.101. TAX AUTHORIZED. (a) A qualified county may adopt or repeal the county sales and use tax authorized by this chapter at an election in which a majority of the qualified voters of the county approve the adoption or repeal of the tax, as applicable.

(b) A county is qualified to adopt the tax only if no part of the county is located in a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

(c) An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature,

Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts in a county in which the county sales and use tax provided for in this section is in effect or is scheduled to take effect. For the purposes of this subsection, an authority is not considered to be located in any county in which fewer than 250 persons are both residents of the authority and the county. (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (A), (H) (part).)

Sec. 323.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE. (a) A tax imposed under this chapter takes effect on the first day of the first calendar year occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

(b) The repeal of a tax abolished under this chapter takes effect on the first day of the first calendar year that begins on or after the first day of the first county fiscal year that begins at least 30 days after the date on which the comptroller receives a notice of the action as required by Section 323.405(b). (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (G) (part), (H) (part).)

Sec. 323.103. SALES TAX. In a county that has adopted the tax authorized by this chapter, there is imposed a tax on the receipts from the sale at retail of taxable items within the county at the rate of one-half of one percent, or in a county that includes no territory within the limits of a municipality, one percent. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part).)

Sec. 323.104. USE TAX. In a county that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the county of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the county. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the tangible personal property. (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (A) (part).)

[Sections 323.105-323.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 323.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a county that has adopted the tax authorized by this chapter shall add the sales tax imposed by this chapter and by Chapter 151, plus any other applicable sales tax, to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (J) (part).)

Sec. 323.202. METHOD OF REPORTING: RETAILERS HAVING SALES

BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined state and local taxes. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (J) (part).)

Sec. 323.203. CONSUMMATION OF SALE. (a) A sale of a taxable item occurs within the county in which the sale is consummated. A sale is consummated as provided by this section, regardless of the place where transfer of title or possession occurs.

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, a sale of an item of tangible personal property by the retailer is consummated at the retailer's place of business:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(d) If neither the possession of tangible personal property is taken at nor shipment or delivery of the property is made from the retailer's place of business in this state, the sale is

consummated at:

(1) the retailer's place of business in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale is consummated at the location in this state to which tangible personal property is shipped or delivered or at which possession is taken by the customer if transfer of possession of tangible personal property occurs at, or shipment or delivery of the property originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other transmission originates, unless the point of origin cannot be determined, in which case the sale is at

the address to which the call is billed.

(h) The sale of an amusement service is consummated in the county in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any use of tangible personal property that subjects the property to the sales tax under the provisions of Section 151.154, the use or other consumption of the property that subjected the property to the tax is consummated at the place where the property is stored or kept at the time of or just before the use or consumption. (V.A.C.S. Art. 2353e, Sec. 26, Subsecs. (B)(1) (part), (2).)

Sec. 323.204. COMPUTATION OF USE TAX. In each county that has adopted the taxes authorized by this chapter, the tax imposed by Section 323.104, by other applicable local taxes, and by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except only the rate of the county tax is used in a situation described by Section 323.205(b). (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (B) (part).)

Sec. 323.205. USE TAX: COUNTY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter, the name of the county adopting the tax is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of tangible personal property does not apply if the property is first used, stored, or consumed in a

county that has not adopted the taxes authorized by this chapter.

(b) If a sale of tangible personal property is consummated in this state but not within a county that has adopted the taxes authorized by this chapter and the property is shipped directly, or brought by the purchaser or lessee directly, into a county that has adopted the taxes authorized by this chapter, the property is subject to the county's use tax. The use is considered to be consummated at the location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state and the use of the property is consummated within a county that has adopted the tax authorized by this chapter, the property is subject to a county's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the county in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by

the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation for further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a county that has adopted the tax under this chapter shall be subject to the county use tax. (V.A.C.S. Art. 2353e, Sec. 23, Subsecs. (A) (part), (C) (part), (D), (E); Sec. 26, Subsec. (B)(3).)

Sec. 323.206. COUNTY TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 323.205(b). (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part); Sec. 23, Subsec. (A) (part).)

Sec. 323.207. STATE EXEMPTIONS APPLICABLE. The exemptions

provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Section 151.317(b). (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (C).)

Sec. 323.208. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed under this chapter the sale within the county of telecommunications services unless the application of the exemption is repealed under this section.

(b) The commissioners court of a county by a majority vote may repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the county.

(c) A county that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the commissioners court repealing the application of or reinstating the exemption must be entered in the minutes of the court. The county judge shall send to the comptroller by United States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the county on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives notification of the order. (V.A.C.S. Art. 2353e, Secs. 24(A), (B).)

[Sections 323.209-323.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 323.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax

imposed by a county under this chapter. The tax imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed. (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (B) (part); Sec. 25(A) (part).)

Sec. 323.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a county that has adopted the taxes authorized by this chapter if the county requests the reports. A report must include the name, address, and account number of each person in the county that has remitted to the comptroller a tax payment during the quarter covered by the report.

(b) If a county requests an additional report, the comptroller shall make an additional quarterly report to the county including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the county who has failed to pay the tax under this chapter to the county or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a county determines that a person doing business in the county is not included in a comptroller's report, the county shall report to the comptroller the name and address of the person.

Within 90 days after receiving the report from a county, the comptroller shall send to the county:

(1) an explanation as to why the person is not obligated for the county tax;

(2) a statement that the person is obligated for the county tax and the tax is delinquent; or

(3) a certification that the person is obligated for the county tax and that the full amount of the tax due has been credited to the county's account.

(d) The comptroller shall send by United States certified or registered mail to the county tax collector a notice of each person who is delinquent in the payment to the county of the taxes authorized by this chapter and shall send a copy of the notice to the attorney general. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 2353e, Secs. 25(B), (C), (D); Sec. 31, Subsec. (A) (part).)

Sec. 323.303. SALES TAX PERMITS AND EXEMPTION AND RESALE CERTIFICATES. (a) Each place of business of a retailer must have a permit issued by the comptroller under Subchapter F, Chapter 151.

(b) The same sales tax permit, exemption certificate, and resale certificate required by Chapter 151 for the administration and collection of the taxes imposed by that chapter satisfy the requirements of this chapter. No additional permit or exemption or resale certificate may be required. (V.A.C.S. Art. 2353e, Sec.

26, Subsecs. (B) (part), (D).)

Sec. 323.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION. All discounts allowed a retailer under Chapter 151 for the collection and prepayment of the taxes under that chapter are allowed and applicable to the taxes collected under this chapter. (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (E).)

Sec. 323.305. PENALTIES. The penalties provided by Chapter 151 for violations of that chapter apply to violations of this chapter. (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (F).)

Sec. 323.306. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, reporting, and enforcement of this chapter. (V.A.C.S. Art. 2353e, Sec. 25(A) (part); Sec. 30.)

Sec. 323.307. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a tax imposed or a penalty due under this chapter after the tax and penalty are delinquent or after a determination against the taxpayer are the same as limitations provided by Chapter 151. (V.A.C.S. Art. 2353e, Sec. 31, Subsec. (A) (part).)

Sec. 323.308. SEIZURE AND SALE OF PROPERTY. If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties of both taxes. The proceeds of a sale of seized property shall first

be applied to the payment of amounts due the state, any remainder to the amounts due to a municipality to which the taxes are due under Chapter 321, and any remainder to the amounts due to a county to which taxes are due. (V.A.C.S. Art. 2353e, Sec. 31, Subsec. (B).)

Sec. 323.309. SUIT FOR TAX COLLECTION. (a) A county acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the county under this chapter.

(b) A county may bring suit for the collection of taxes owed to the county under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 323.302(d);

(2) a written notice of the tax delinquency and the county's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (A) (part), (C)(1).)

Sec. 323.310. DISAPPROVAL OF COUNTY SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a county under Section 323.309(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the county seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a county must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a county collection suit, the county may again proceed as provided by Section 323.309(b) even though the liability of the taxpayer includes taxes for which the county has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (C)(2), (3).)

Sec. 323.311. JUDGMENTS IN COUNTY SUIT. (a) A judgment in a suit under Section 323.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another county, a municipality, or the state unless the state is party to the suit.

(b) A county shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state

is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A county shall by execution collect the taxes awarded to it in each judgment received by the county and is responsible for the renewal of the judgment before its expiration.

(d) The county shall send to the comptroller for deposit in the county's suspense account the amount of any taxes collected on the judgment. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (C)(4), (5).)

[Sections 323.312-323.400 reserved for expansion]

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 323.401. CALLING OF ELECTION. (a) An election under this chapter is called by the adoption of an order by the commissioners court of a county.

(b) The commissioners court may call the election by a vote of a majority of its members.

(c) The commissioners court shall call the election if a number of qualified voters of the county equal to at least five percent of the number of registered voters in the county petition for a vote on the question. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (C).)

Sec. 323.402. DEADLINES AFTER PETITION. (a) After the receipt of a petition for an election under this chapter, the commissioners court shall determine the sufficiency of the petition within 30 days.

(b) If the petition is sufficient, the commissioners court

shall pass the ordinance calling the election within 60 days after receiving the petition. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (D).)

Sec. 323.403. TIME OF ELECTION. An election under this chapter must be held on the next uniform election day not less than 30 days after the day on which the order calling the election was passed. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (E).)

Sec. 323.404. BALLOT WORDING. (a) Except as provided by Subsection (b), in an election to adopt the tax, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one-half percent county sales and use tax within the county to be used to reduce the county property tax rate."

(b) In an election in a county that includes no territory within the limits of a municipality, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one percent county sales and use tax within the county to be used to reduce the county property tax rate."

(c) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the proposition: "Abolition of the county sales and use tax within the county." (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (G) (part), (H) (part).)

Sec. 323.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters of a county approve of the adoption or abolition of the tax authorized by this chapter,

the commissioners court of the county shall by resolution entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the county judge shall send to the comptroller by United States certified or registered mail a certified copy of the resolution. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (I).)

Sec. 323.406. FREQUENCY OF ELECTION. An election under this chapter in a county may not be held earlier than one year after the date of any previous election under this chapter in the county. (V.A.C.S. Art. 2353e, Sec. 22.)

Sec. 323.407. ELECTION CONTEST: NOTICE. (a) If an election held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending.

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section. (V.A.C.S. Art. 2353e, Sec. 32, Subsec. (A).)

Sec. 323.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the county judge shall notify the comptroller by United States certified or registered mail and enclose a copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the county under this chapter, the tax or the abolition of the tax takes effect as provided by Section 323.102 except that the notice of the final judgment is substituted for the notice of election results prescribed by Section 323.405. (V.A.C.S. Art. 2353e, Sec. 32, Subsec. (B).)

[Sections 323.409-323.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 323.501. TRUST ACCOUNT. (a) The comptroller shall deposit the taxes collected by the comptroller under this chapter with the state treasurer. The treasurer shall keep the deposits in trust in the separate suspense account of the county from which the taxes were collected.

(b) The comptroller and each employee of the comptroller who

has any duty or responsibility in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of the funds that are acquired by the comptroller under this chapter shall enter into one or more surety bonds in the amount of $100,000 payable to any and all counties from which the funds are collected. The comptroller may enter into a blanket bond or bonds covering the comptroller and the comptroller's employees.

(c) The premiums for the bonds required by this section shall be paid when due from the state's share of money collected and held by the comptroller under this chapter before its deposit in the general revenue fund.

(d) If municipalities and counties are protected under a single bond, separate bonds are not required for compliance with this section and Section 321.501. (V.A.C.S. Art. 2353e, Sec. 27.)

Sec. 323.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as feasible, the comptroller shall send to the county treasurer payable to the county the county's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.503. STATE'S SHARE. Before sending any money to a county under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the county during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to

indebtedness of the county. After all indebtedness is paid, the excess may be used for any purpose for which county general revenue may be used. A county may not pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness for a period longer than one year. (V.A.C.S. Art. 2353e, Sec. 29.)

[Chapters 324-350 reserved for expansion]

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

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Sec. 351.001. DEFINITIONS

Sec. 351.002. TAX AUTHORIZED

Sec. 351.003. TAX RATES

Sec. 351.004. TAX COLLECTION

Sec. 351.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES

[Sections 351.006-351.100 reserved for expansion]

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Sec. 351.101. USE OF TAX REVENUE

Sec. 351.102. PLEDGE FOR BONDS

Sec. 351.103. ALLOCATION OF REVENUE: GENERAL RULE

Sec. 351.104. ALLOCATION OF REVENUE: ELIGIBLE MUNICIPALITIES

Sec. 351.105. ALLOCATION OF REVENUE: ELIGIBLE COASTAL MUNICIPALITIES

Sec. 351.106. ALLOCATION OF REVENUE: MUNICIPALITIES WITH 900,000 AND COUNCIL-MANAGER GOVERNMENT

premiums payments under Section 323.501(c), credit the money deducted to the general revenue fund. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a county a portion of the county's share of the tax collected for the county under this chapter, not to exceed five percent of the amount remitted to the county. If the county has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the county at the time of the termination of the collection of the tax.

(b) From the amounts retained in a county's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a county's tax under this chapter the comptroller shall send to the county the remainder of the money in the county's account and shall close the account. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.505. USE OF TAX REVENUE. The money received by a county under this chapter is for the use and benefit of the county and shall be used for the replacement of property tax revenue lost as a result of the adoption of the taxes authorized by this chapter. The revenue in excess of the revenue used to replace those property taxes shall be used for the reduction of

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 351.001. DEFINITIONS. In this chapter:

(1) "Municipality" includes any incorporated city, town, or village.

(2) "Convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and other municipal buildings that are suitable for use as convention and exposition facilities. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the immediate vicinity of other convention center facilities.

(3) "Eligible municipality" means a municipality that has a population of at least 1,200,000 and that has adopted by ordinance a capital improvement plan for convention and exposition facilities for the municipality.

(4) "Eligible coastal municipality" means a home-rule municipality that borders on the Gulf of Mexico and has a population of less than 80,000.

(5) "Hotel" has the meaning assigned by Section 156.001(1). (V.A.C.S. Art. 1269j-4.1, Sec. 3c(a)(1) (part); Sec. 3d(a); Secs. 3e(a)(1), (2); Sec. 3f(a); Sec. 3g(a)(2), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.002. TAX AUTHORIZED. (a) A municipality by ordinance may impose a tax on a person who, under a lease,

concession, permit, right of access, license, contract, or agreement, 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 sleeping.

(b) The price of a room in a hotel 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.

(c) The tax does not apply to a person who has the right to use or possess a room in a hotel for 30 or more days. (V.A.C.S. Art. 1269j-4.1, Sec. 3a(a) (part); Secs. 3d(b), (c), (d); Sec. 3e(b)(1) (part); Sec. 3f(b) (part); Sec. 3g(b) (part), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.003. TAX RATES. (a) Except as provided by this section, the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The rate in an eligible municipality may not exceed six percent of the price paid for a room in a hotel.

(c) The rate in a municipality having a population of 900,000 or more and a council-manager form of government may not exceed five percent of the price paid for a room in a hotel. (V.A.C.S. Art. 1269j-4.1, Secs. 3a(a) (part), 3e(b)(1) (part), 3f(b) (part), 3g(b) (part), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.004. TAX COLLECTION. (a) The municipal attorney

or other attorney acting for the municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality and who has failed to file a tax report or pay the tax when due to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order.

(b) The remedy provided by this section is in addition to other available remedies. (V.A.C.S. Art. 1269j-4.1, Sec. 3g, as added by Ch. 1009, Acts 68th Leg., R.S., 1983.)

Sec. 351.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) A municipality may permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

(b) The municipality may provide that the reimbursement provided by this section be forfeited because of a failure to pay the tax or to file a report as required by the municipality. (V.A.C.S. Art. 1269j-4.1, Secs. 3a(b), 3e(f).)

[Sections 351.006-351.100 reserved for expansion]

SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

Sec. 351.101. USE OF TAX REVENUE. (a) Revenue from the municipal hotel occupancy tax may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and

maintenance of convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising for general promotional and tourist advertising of the municipality and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the municipality or through contracts with persons or organizations selected by the municipality;

(4) 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; and

(5) historical restoration and preservation projects or activities:

(A) at or in the immediate vicinity of convention center facilities; or

(B) that would be frequented by tourists and visitors to the municipality.

(b) It is the intent of the legislature that revenues derived from the tax authorized by this chapter are to be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry. (V.A.C.S. Art. 1269j-4.1, Secs.

3c(a) (part), (c).)

Sec. 351.102. PLEDGE FOR BONDS. (a) Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), for one or more of the purposes provided by Section 351.101.

(b) Before an eligible municipality may issue bonds secured in whole or part by the revenue received from the tax imposed under this chapter, the municipality must certify that the average annual debt service on outstanding bonds and bonds in the process of issuance that are secured in whole or part by the tax authorized by this chapter and that were issued for purposes other than convention and exposition facilities does not exceed the maximum annual revenues that the municipality could receive from the tax imposed under this section in the absence of special provisions under this chapter that apply solely to eligible municipalities, plus any other revenue pledged to the payment of the bonds. (V.A.C.S. Art. 1269j-4.1, Secs. 3c(b) (part), 3e(c).)

Sec. 351.103. ALLOCATION OF REVENUE: GENERAL RULE. (a) The following amount of municipal hotel occupancy tax revenue must be allocated for the use provided by Section 351.101(a)(3):

(1) if the tax rate in a municipality is not more than three percent of the cost paid for a room, not less than the amount of revenue received by the municipality from the tax at a rate of

one-half of one percent of the cost of the room; or

(2) if the tax rate in a municipality exceeds three percent of the cost of a room, not less than the amount of revenue received by the municipality from the tax at a rate of one percent of the cost of a room.

(b) No more municipal hotel occupancy revenue than the amount of tax received by the municipality at the rate of one percent of the cost of a room may be used for the purpose provided by Section 351.101(a)(4).

(c) All municipal hotel occupancy tax revenue that is derived from the application of the tax at a rate in excess of four percent of the cost of a room may only be used for the purposes provided by Sections 351.101(a)(1), (2), and (3). (V.A.C.S. Art. 1269j-4.1, Secs. 3a(a) (part), 3c(b) (part).)

Sec. 351.104. ALLOCATION OF REVENUE: ELIGIBLE MUNICIPALITIES. (a) Subject to the limitation provided by Subsection (b) and Section 351.102, an eligible municipality may pledge to the payment of revenue bonds and revenue refunding bonds issued under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, all or any portion of the revenue derived from the municipality hotel occupancy tax and all or any portion of any other revenue of the municipality as the governing body may determine in the ordinance authorizing the issuance of the bonds.

(b) Consistent with the provisions of Section 351.103(a), an eligible municipality shall reserve that portion of the municipal hotel occupancy tax revenue derived from the application of the tax

at a rate in excess of four percent of the cost of a room solely for the purposes provided by Section 351.101(a)(1) and for the purpose of securing refunding bonds in connection therewith.

(c) Revenue received by an eligible municipality from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101. (V.A.C.S. Art. 1269j-4.1, Secs. 3e(b) (part), (d), (g).)

Sec. 351.105. ALLOCATION OF REVENUE: ELIGIBLE COASTAL MUNICIPALITIES. (a) An eligible coastal municipality that levies and collects an occupancy tax authorized by this chapter at a rate of seven percent or more shall pledge a portion of the revenue equal to at least one percent of the cost of a room to either or both of the following purposes:

(1) the payment of the bonds that the municipality or a park board of trustees may issue under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), or under Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6081g-1, Vernon's Texas Civil Statutes), in order to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair of public improvements, including parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in

connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality; or

(2) the maintenance, improvement, or operation of the parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality.

(b) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of four or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of three percent of the cost of a room shall be used for the purpose provided by Section 351.101(a)(3).

(c) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of five or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent shall be used for beach patrol, lifeguard services, marine water safety, and park law enforcement.

(d) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of six or more percent, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent of the cost of a

room shall be used as matching funds for state funds available to clean and maintain public beaches and for other public beach-cleaning funds. (V.A.C.S. Art. 1269j-4.1, Secs. 3f(c) (part), (d), (e), (f).)

Sec. 351.106. ALLOCATION OF REVENUE: MUNICIPALITIES WITH 900,000 AND COUNCIL-MANAGER GOVERNMENT. (a) A municipality that has a population of 900,000 or more and that has adopted a council-manager form of government shall use the amount of revenue from the tax that is derived from the application of the tax at a rate of more than four percent of the cost of a room as follows:

(1) no more than 65 percent to:

(A) constructing, improving, enlarging, equipping, and repairing the municipality's convention center complex; or

(B) pledging payment of revenue bonds and revenue refunding bonds issued under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), for the municipality's convention center complex; and

(2) at least 35 percent for the purposes provided by Section 351.101(a)(3).

(b) Revenue received by a municipality described by Subsection (a) from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101. (V.A.C.S. Art. 1269j-4.1, Secs. 3g(a)(1), (c), (d), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

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CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 352.001. DEFINITION. In this chapter, "hotel" has the meaning assigned by Section 156.001(1). (V.A.C.S. Art. 2352i, Sec. 1(1); Art. 2372d-8, Sec. 7(1).)

Sec. 352.002. TAX AUTHORIZED. (a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, 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 sleeping:

(1) a county that has a population of two million or more;

(2) a county that has a population of 90,000 or more, borders on the Republic of Mexico, and does not have three or more cities that each have a population of more than 17,500; and

(3) a county in which there is no municipality.

(b) The price of a room in a hotel 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.

(c) The tax does not apply to a person who has the right to use or possess a room in a hotel for 30 or more days. (V.A.C.S. Art. 2352i, Secs. 1(2), (3), (4); Sec. 2 (part); Art. 2372d-8, Sec. 1; Sec. 4(a) (part); Secs. 7(2), (3), (4).)

Sec. 352.003. TAX RATES. (a) Except as provided by this section the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The county tax rate in a municipality that has a population of 1,200,000 or more may not exceed one percent of the price paid for a room in a hotel.

(c) The rate in a county that does not have a municipality may not exceed four percent of the price paid for a room in a hotel. (V.A.C.S. Art. 2352i, Sec. 2 (part); Art. 2372d-8, Secs. 4(a) (part), (b).)

Sec. 352.004. TAX COLLECTION; PENALTY. (a) The owner or operator of a hotel shall report and send the taxes collected under this chapter to the county as provided by the resolution or order imposing the tax.

(b) If the owner fails to report when required or pay the tax when due, the owner shall pay a penalty of five percent of the amount of the tax due. If the owner fails to file the report or pay the tax before the 31st day after the date that the report or tax payment was due, he shall pay an additional penalty of five percent of the amount of the tax due.

(c) Delinquent taxes and accrued penalties draw interest at the rate of 10 percent a year beginning 60 days after the date on which the tax was due. (V.A.C.S. Art. 2352i, Sec. 2A; Art. 2372d-8, Sec. 4A.)

Sec. 352.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) A county may permit a person who is required to collect and pay over to the county the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

(b) This section does not apply to a county that has no municipality. (V.A.C.S. Art. 2372d-8, Sec. 15.)

[Sections 352.006-352.100 reserved for expansion]

SUBCHAPTER B. USE OF REVENUE

Sec. 352.101. USE OF REVENUE: COUNTIES OF TWO MILLION OR MORE. The revenue from a tax imposed under this chapter by a

county having a population of two million or more may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities that serve the purpose of attracting visitors and tourists to the county, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities; and

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants. (V.A.C.S. Art. 2372d-8, Sec. 6(a) (part).)

Sec. 352.102. USE OF REVENUE: COUNTIES BORDERING MEXICO. The revenue from a tax imposed under this chapter by a county that borders the Republic of Mexico and that is further described by Section 352.002(a) may only be used for the purposes listed in Section 352.101 and for advertising for general promotion and tourist advertising of the county and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the county. (V.A.C.S. Art. 2372d-8, Sec. 6(a).)

Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY. The revenue from a tax imposed under this chapter by

a county that has no municipality may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities including civic center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising for general promotional and tourist advertising of the county and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the commissioners court;

(4) the encouragement, promotion, improvement, and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms; and

(5) historical preservation and restoration. (V.A.C.S. Art. 2352i, Sec. 3.)

Sec. 352.104. PLEDGE FOR BONDS. A county may pledge the

revenue derived from the tax imposed under this chapter for the payment of bonds that are issued by the county under Section 3, Article I, Chapter 796, Acts of the 67th Legislature, Regular Session, 1981 (Article 2372d-8, Vernon's Texas Civil Statutes), for one or more of the purposes provided by Section 352.101. (V.A.C.S. Art. 2372d-8, Sec. 6(b).)

SECTION 2. CONFORMING AMENDMENT. Section 11.28, Tax Code, is amended to read as follows:

Sec. 11.28. PROPERTY EXEMPTED FROM CITY TAXATION BY AGREEMENT. The owner of property to which an agreement made under the Property Redevelopment and Tax Abatement Act <u>(Chapter 312 of this code)</u> applies is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

SECTION 3. CONFORMING AMENDMENT. Section 11.86(a), Education Code, is amended to read as follows:

(a) The board shall conduct an annual study using comparable sales and other generally accepted techniques to determine the total value of all taxable property in each school district. The study shall determine the taxable value of all property and of each class of property within the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. In conducting the studies, the board shall use appropriate standard valuation, statistical compilation, and analysis techniques. For the purposes of this

section, "taxable value" means market value less:

(1) the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study;

(2) the total dollar amount of any exemptions granted within a reinvestment zone under agreements authorized by the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]);

(3) the total dollar amount of any captured appraised value of property that is located in a reinvestment zone and that is eligible for tax increment financing under the [~~Texas~~] Tax Increment Financing Act [~~of 1981~~] (Chapter 311, Tax Code [~~Article 1066e, Vernon's Texas Civil Statutes~~]);

(4) the difference between the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value may not exceed the fair market value of the land;

(5) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(6) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the Texas Constitution that, if the

tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property; and

(7) the market value of all automobiles owned by a family or individual and not held or used for the production of income.

SECTION 4. CONFORMING AMENDMENT. Section 5(b), Article 1, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015o, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The municipality, acting pursuant to the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]), may abate municipal property taxes that otherwise would be owed by the owner of a sign that is required to be relocated or reconstructed. The abated taxes may be on any real or personal property owned by the owner of the sign except residential property. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right to abatement with respect to taxes on any nonresidential property in the same taxing jurisdiction. In any municipality where tax abatement is utilized in order to pay compensable costs, such costs shall include reasonable interest and such abatement period shall not exceed five years.

SECTION 5. CONFORMING AMENDMENT. Section 12, Texas

Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. REINVESTMENT ZONE. A local or state-federal enterprise zone may be designated a reinvestment zone for tax increment financing or tax abatement purposes as provided by the [~~Texas~~] Tax Increment Financing Act [~~of 1981~~] (Chapter 311, Tax Code [~~Article 1066e, Vernon's Texas Civil Statutes~~]) or the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]).

SECTION 6. CONFORMING AMENDMENT. Section 5(b), Chapter 658, Acts of the 69th Legislature, Regular Session, 1985 (Article 6674v-4, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The governing body of a toll road authority, with the approval of the commissioners court and in accordance with the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]), may abate county property taxes that otherwise would be owed by the owner of a sign to be removed. The governing body may declare an area to be a reinvestment zone for purposes of abating property taxes under this subsection if the area encompasses signs designated by the governing body for removal. The abated taxes may be on any real or personal property in the county, other than residential property, owned by the owner of the sign. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right of abatement with respect to taxes on any nonresidential

property in the same county. In a county in which tax abatement is used in order to pay compensation, the compensation shall include reasonable interest and the abatement period may not exceed five years.

SECTION 7. CONFORMING AMENDMENT. Subsection (A), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(A) Subject [~~subject~~] to approval at a tax election in accordance with this Act, the board of an authority shall be authorized to levy, collect and impose a local sales and use tax for the benefit of the authority[~~, the sales tax portion of which shall not exceed one percent on receipts from the sale of all taxable items within the authority area which are subject to taxation under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted and as heretofore or hereafter amended~~]. The provisions of Chapter 322, Tax Code, [~~this section~~] shall be applicable to the levy, imposition and collection of such tax. The permissible rates for a local sales and use tax levied under this Act are:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; and

(4) one percent.

SECTION 8. CONFORMING AMENDMENT. Subsection (a), Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session,

1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Subject to approval at a confirmation election in accordance with this Act, the executive committee is authorized to levy, collect, and impose a local sales and use tax for the benefit of the authority[~~, the sales tax portion of which shall not exceed one percent of receipts from the sale at retail of all taxable items within the authority area which are subject to taxation under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted and as heretofore or hereafter amended~~]. The tax rate may be levied or collected only as a quarter of one percent, a half of one percent, three-quarters of one percent, or one percent. The provisions of Chapter 322, Tax Code, [~~this section~~] shall be applicable to the levy, imposition, and collection of the tax.

SECTION 9. CONFORMING AMENDMENT. Section 8, Article 1118z, Revised Statutes, is amended to read as follows:

Sec. 8. LOCAL SALES AND USE TAX. (a) Subject to approval at a tax election in accordance with this article, the board may levy and collect a local sales and use tax for financing of the system, the sales tax portion of which applies to receipts from the sale of all taxable items within the city or town that are subject to taxation under the Limited Sales, Excise, and Use Tax Act, Chapter 151, Tax Code. The effective date of a local sales and use tax is the first day of the second calendar quarter that begins after the date the comptroller receives, under Subsection (f) of Section 5 of this article, notice of an order except as provided by

Subsection (e) [~~(w)~~] of this section. The permissible rates for a local sales and use tax levied under this article are:

(1) one-quarter of one percent; and

(2) one-half of one percent.

(b) Chapter 322, Tax Code, applies to the application and collection of the tax imposed under this article. [~~Every--retailer within--the--city--or-town-shall-add-the-tax-imposed-by-the-Limited Sales,-Excise,-and-Use-Tax-Act,-any-applicable-local-sales-and--use tax,--and-the-tax-imposed-under-this-section-to-the-retailer's-sale price,-and-when-added,-the-combined-tax-is-a-part-of-the-price,--is a--debt--of--the--purchaser--to--the--retailer--until--paid,-and-is recoverable-at-law-in-the-same-manner-as-the-purchase--price.---The combined-taxes-on-the-transaction-are-determined-by-multiplying-the amount--of--the--sale--by--the-total-of-the-combined-applicable-tax rates.--Any-fraction-of-one-cent-less-than-one-half-of-one-cent--of tax-may-not-be-collected.--Any-fraction-of-one-cent-of-tax-equal-to one-half--of-one-cent-or-more-shall-be-collected-by-the-retailer-as a-whole-cent-of-tax.--After-receiving--written--approval--from--the comptroller,--a--retailer--who-can-establish-to-the-satisfaction-of the-comptroller-that-50-percent-or-more-of-the-retailer's--receipts from--the--sale-of-taxable-items-arise-from-individual-transactions in-which-the-total-sales-price--when--multiplied--by--the--combined rates-of-the-taxes-imposed-under-the-Limited-Sales,-Excise,-and-Use Tax--Act,--any--applicable--local--sales--and--use-tax,-and-the-tax imposed-under-this-section-equals--an--amount--that--is--less--than one-half--of--one--cent--may--exclude--the-receipts-from-sales-when~~

~~reporting-and-paying-the-taxes-imposed-under-this-section--and--the Limited--Sales,--Excise,--and--Use-Tax-Act-and-any-applicable-local sales-and-use-tax.--Any-attempt-on-the--part--of--any--retailer--to exercise--this--provision--without--prior--written--approval-of-the comptroller-is-a-refusal-to-pay-the-taxes-imposed-by--this--section and--the--Limited-Sales,-Excise,-and-Use-Tax-Act-and-any-applicable local-sales-and-use-tax,-and-the-retailer-is-subject-to--assessment for--taxes,-penalties,-and-interest-as-provided-by-this-section-and the-Limited-Sales,-Excise,-and-Use-Tax-Act-and-under-any-applicable law-providing-for-a-local-sales-and-use-tax.~~

~~[(b-1)(1)--There-are-exempted-from-the--taxes--imposed--under the-authority-of-this-article-the-receipts-from-the-sale-within-the city---of---telecommunications---services--except--as--provided--by Subdivision-(2)-of-this-subsection.~~

~~[(2)--The-board-that-has-adopted-the-tax-authorized--by--this article--may-adopt-an-order-by-a-majority-vote-of-the-board,-in-the manner-otherwise-required-for-the--adoption--by--the--board--of--an order,--repealing-the-application-of-the-exemption-provided-by-this section-for-telecommunications-services-sold-within--the--city.---A department--that--has-repealed-the-application-of-the-exemption-may in-the-same-manner-exempt-from-the-tax-the-receipts-from--the--sale within--the-city-or-town-of-telecommunications-services.--A-vote-of the-board-repealing-the-application-of-the-exemption--or--exempting the--receipts--from-the-sale-of-telecommunications-services-must-be entered-in-the-minutes-of-the-board.--If--an--order--repealing--the application--of--the--exemption--or-exempting-the-receipts-from-the~~

1 sale-of-telecommunications-services-is-adopted,-the-board--chairman
2 or--secretary--to--the--board--shall--forward-to-the-comptroller-by
3 United-States-registered-mail-or--certified--mail--a--copy--of--the
4 order.---On--receipt--of--the--notification-by-the-comptroller,-one
5 whole-calendar-quarter--shall--elapse--before--the--repeal--of--the
6 application--of--the--exemption-or-the-exemption-becomes-effective.
7 The-imposition-of-the-tax-or-the-exemption-then-takes-effect-on-the
8 first-day-of-the--calendar--quarter--next--succeeding--the--elapsed
9 quarter.
10 [(3)--Notwithstanding--Subdivision-(2)-of-this-subsection,-no
11 order-repealing--the--application--of--the--exemption--provided--by
12 Subdivision--(1)-of-this-subsection-may-take-effect-or-be-effective
13 before-October-1,-1987.]
14 (c) [In-every-city-or-town-in-which-a-local--sales--and--use
15 tax--has--been-adopted-under-this-section,-there-is-imposed-by-this
16 section-an-excise-tax-on-the-storage,--use,--or--other--consumption
17 within--the--city--or--town--of-taxable-items-purchased,-leased,-or
18 rented-from-any--retailer--on--or--after--the--effective--date--for
19 collection--of--the--sales-tax-portion-of-the-sales-and-use-tax-for
20 storage,-use,-or-other-consumption-in-the-city-or-town-at-the--same
21 rate--as-the-sales-tax-levied-under-this-section-on-the-sales-price
22 of-the-taxable-item-or,-in-the-case-of-leases-or--rentals,--on--the
23 lease--or--rental--price.---Except-as-provided-by-Subsection-(f)-of
24 this-section,-the-use-tax-imposed-by-this-section-is--not--owed--to
25 and--may--not-be-collected-by,-for,-or-on-behalf-of-a-department-if
26 no-excise-tax-on-the-storage,-use,-or-other-consumption-of-an--item

~~of--tangible-personal-property-is-owed-to-or-collected-by-the-state under-the-Limited-Sales,--Excise,--and--Use--Tax--Act,--or--if--the tangible--personal--property--is--first--stored,--used,-or-consumed within-a-city-or-town-that-does-not-have-a-department-for-which-the sales-and-use-tax-authorized-by-this-section-has-been-adopted.~~

~~[(d)--In-each-city-or-town-in-which--the--tax--authorized--by this--section--has--been--imposed,-the-excise-tax-imposed-under-the Limited-Sales,-Excise,-and-Use-Tax-Act,-any-applicable--excise--tax under--the--Local--Sales--and--Use-Tax-Act-(Article-1066c,-Vernon's Texas-Civil-Statutes)-on-the-storage,-use,-or-other-consumption--of taxable--items,-and-the-excise-tax-imposed-by-this-section-shall-be added-together-to-form-a-combined-rate-of-excise-tax-equal--to--the sum--of-the-applicable-taxes.--The-tax-imposed-by-Subsection-(c)-of this-section-shall-be-collected-by-the-comptroller-on-behalf-of-and for-the-benefit-of--the--department.---The--formula--prescribed--by Subsection--(b)--of-this-section-is-applicable-to-the-collection-of the-excise-tax-imposed-under-Subsection-(c)-of-this-section.~~

~~[(e)--The--Limited--Sales,--Excise,--and--Use--Tax---Act---is applicable--to--the-collection-of-the-tax-imposed-by-Subsection-(c) of-this-section,-except-that-in--Subchapter--D,--Chapter--151,--Tax Code,--the--name--of-the-department-for-which-the-sales-and-use-tax authorized-by-this-section-has-been-adopted--shall--be--substituted for--that--of--the--state--where-the-words-"this-state"-are-used-to designate-the-taxing-authority-or-to-delimit-the-tax-imposed.~~

~~[(f)--If-a-sale-of-tangible-personal-property-is--consummated within--the-state-but-not-within-a-city-or-town-having-a-department~~

~~for-which-the-taxes-imposed-by-this-section-have--been--adopted--or within--a--city-that-has-adopted-the-tax-authorized-by-Section-11B, Chapter-141,-Acts-of-the-63rd-Legislature,--Regular--Session,--1973 (Article--1118x,--Vernon's--Texas--Civil--Statutes),-or-Section-16, Chapter-683,-Acts-of-the-66th-Legislature,--Regular--Session,--1979 (Article--1118y,--Vernon's--Texas-Civil-Statutes),-and-the-tangible personal-property-is--shipped--directly--into--or--brought--by--the purchaser--or--lessee--directly--into--a--city--or--town--having--a department-for-which-the-taxes-imposed-by-this--section--have--been adopted,--the--tangible-personal-property-is-subject-to-the-use-tax imposed--under--Subsection--(c)--of--this--section.---The--use---is considered--consummated--at--the--location--where-the-item-is-first stored,-used,-or-otherwise-consumed-after--the--intrastate--transit has-ceased.~~

[~~(g)(1)--If--the--tangible--personal-property-is-shipped-from outside-this-state-to-a-customer-within-this--state,--the--tangible personal--property--is-subject-to-the-use-tax-imposed-by-Subsection (c)-of-this-section-and-not-the-sales-tax-imposed-under--Subsection (a)--of-this-section.--The-use-is-consummated-at-the-first-point-in this-state--where--the--property--is--stored,--used,--or--otherwise consumed--after--interstate--transit-has-ceased.--Tangible-personal property-delivered-to-a-point-in-this-state-is-presumed-to--be--for storage,-use,-or-other-consumption-at-that-point-until-the-contrary is-established.~~

[~~(2)--There-are-exempted-from-the-sales-taxes-imposed-by-this section-receipts-from-any-sale-of-tangible-personal-property-which,~~

pursuant-to-the-contract-of-sale,-is-shipped-to-a-point-outside-the city-or-town-by-the-retailer-by-means-of:

[(A)--facilities-operated-by-the-retailer;

[(B)--delivery-by-the-retailer-to-a-carrier-for-shipment-to-a consignee-at-such-point;-or

[(C)--delivery--by--the--retailer--to--a--customs--broker--or forwarding-agent-for-shipment-outside-the-city-or-town.

[(3)--If--the--tangible--personal--property--exempted---under Subdivision--(2)--of--this--section--or--under--Paragraph-(c)(6)-of Subsection--(B),--Section--11B,--Chapter--141,--Acts--of--the--63rd Legislature,--Regular--Session,-1973-(Article-1118x,-Vernon's-Texas Civil-Statutes),-or-Paragraph-(F)-of-Section--16(f)(2)--of--Chapter 683,--Acts--of-the-66th-Legislature,-Regular-Session,-1979-(Article 1118y,-Vernon's-Texas-Civil--Statutes),--is--shipped--or--delivered directly--to--a--purchaser-in-another-city,-town,-or-authority-that has-adopted-the-taxes-imposed-under-any-of-these-laws,-the-tangible personal-property-is-subject-to-the-use-tax-imposed--by--Subsection (a)-of-this-section.

[(4)--For--the--purpose-of-determining-the-proper-local-sales and-use-tax,-the-sale-of-telecommunications-services-is-consummated at-the-location-of-the-telephone-or-other-telecommunications-device from-which-the-call-or-other-transmission-originates.--If-the-point of-origin-cannot-be-determined,-the--sale--is--consummated--at--the address-to-which-the-call-is-billed.

[(5)--Tax--due--on--the--sale--of--an--amusement--service--is allocated-to-the-city-or-town-in-which--the--performance--or--other

~~delivery of the service takes place.~~

~~[(h) On and after the effective date of any tax imposed under this section, the comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the comptroller shall collect, in addition to the taxes imposed by the Limited Sales, Excise, and Use Tax Act, an additional tax under the authority of this section at a permissible rate specified by the department on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within the city or town, which items are subject to the Limited Sales, Excise, and Use Tax Act. The tax imposed under this section and the tax imposed under the Limited Sales, Excise, and Use Tax Act and any applicable local sales and use tax shall be collected together and reported on such forms and under such administrative rules as may be prescribed by the comptroller.~~

~~[(i) The comptroller shall make to a department substantially the same reports as to taxes within the city or town collected for the department as are made to cities under Subsections (b), (c), and (d) of Section 5 of the Local Sales and Use Tax Act.~~

~~[(j) The following provisions govern the collection by the comptroller of the tax imposed under this section:~~

~~[(1) all applicable provisions contained in Title 2, Tax Code;~~

~~[(2) Section 6, Local Sales and Use Tax Act, and~~

[~~(3)--the-penalties--provided--in--Title--2,--Tax--Code,--for violations-of-that-title.~~

[~~(k)--The--sales--and--use--tax--collected-by-the-comptroller under-this-section-shall-be-deposited,--held,--accounted--for,--and transmitted--for--the--department--as--if--it--were-an-authority-as provided--by--Subdivision--(4),--Subsection--(B)(e),--Section--11B, Chapter--141,--Acts--of-the-63rd-Legislature,-Regular-Session,-1973 (Article-1118x,-Vernon's-Texas-Civil-Statutes).~~

[~~(l)--Each-department's-share-of--all--sales--and--use--taxes collected---under---this---section--by--the--comptroller--shall--be transmitted-periodically-and-as-promptly-as-feasible--to--the--city treasurer--by--the--comptroller.---Transmittals-required-under-this section-shall-be-made-at-least-twice-in--each--state--fiscal--year. Before-transmitting-funds,-the-comptroller-shall-deduct-two-percent of--the-sum-collected-from-each-city-or-town-during-the-period-as-a charge-by-the-state-for-its-services-specified-in-this-section,-and the-amounts-so-deducted-shall-be-deposited-by--the--comptroller--in the--state-treasury-to-the-credit-of-the-general-revenue-fund.--The comptroller-may-retain-in-the-suspense-account-of-any-department--a portion-of-the-department's-share-of-the-taxes-collected-under-this section.---The--balance-so-retained-in-the-suspense-account-may-not exceed-five-percent-of-the-amount-remitted-to-the-department.---The comptroller-is-authorized-to-make-refunds-from-the-suspense-account of--any--department--for--overpayments--made--to--the--department's accounts-and-to-redeem-dishonored-checks-and--drafts--deposited--to the-credit-of-the-suspense-account-of-the-department.~~

[~~(m)--The--comptroller--may-adopt-rules-not-inconsistent-with this-article-to--implement--the--enforcement,--administration,--and collection-of-the-taxes-authorized-by-this-section.~~

[~~(n)--In--any--city--or--town--in-which-the-sales-and-use-tax authorized-by-this-section-has--been--imposed,--if--any--person--is delinquent--in--the-payment-of-the-amount-required-to-be-paid-under this-section-or-if-a-determination-has-been-made--against--him--for taxes-and-a-penalty-under-this-section,-the-limitation-for-bringing suit--for--the--collection-of-the-delinquent-tax-and-penalty-is-the same-as-that-provided-by-the-Limited-Sales,--Excise,--and--Use--Tax Act.---If--any--person-is-delinquent-in-payment-of-taxes-under-this section,-the-comptroller--shall--notify--the--department--to--which delinquent--taxes-are-due-by-United-States-certified-mail-and-shall send-a-copy-of-the-notice-to-the-attorney-general.--The-department, acting-through-the-city-attorney,-may-join-in-any-suit--brought--by the--attorney--general--as-a-party-plaintiff-to-seek-a-judgment-for the-delinquent-taxes-and-penalty-due-the--department.---The--notice sent--by--the-comptroller-to-the-department-showing-the-delinquency of-a-taxpayer-constitutes-a-certification-of-the-amount-owed-and-is prima-facie-evidence-of-the-determination-of-the--tax--and--of--the delinquency--of-the-amounts-of-sales-and-use-taxes-set-forth-in-the notice.~~

[~~(o)--If-property-is-seized-by-the-comptroller-under-any--law authorizing-seizure-of-the-property-of-a-taxpayer-who-is-delinquent in-payment-of-the-tax-imposed-by-the-Limited-Sales,-Excise,-and-Use Tax--Act--and--if-the-taxpayer-is-also-delinquent-in-payment-of-any~~

~~tax--imposed--under--this--section,--the--comptroller--shall---sell sufficient-property-to-pay-the-delinquent-taxes-and-penalty-due-any department--under--this-section-in-addition-to-that-required-to-pay any-amount-due-the-state-under-the-Limited-Sales,-Excise,--and--Use Tax--Act--and--due--any-city-under-the-Local-Sales-and-Use-Tax-Act. The-proceeds-from-the-sale-shall-first-be-applied-to-all--sums--due the-state,-then-all-sums-due-any-city-under-the-Local-Sales-and-Use Tax--Act,--and--the-remainder,-if-any,-shall-be-applied-to-all-sums due-the-department.~~

[~~(p)--A-city-or-town-having-a-department-for--which--the--tax authorized--by-this-section-has-been-adopted-may-bring-suit-for-the collection-of-sales,--excise,--or--use--taxes--imposed--under--this section--that--have-been-certified-as-provided-by-Subsection-(n)-of this-section-and-are-owed-to-the-department-under-this-section--if, at--least--60--days--before--the-day-of-filing-of-the-suit,-written notice-by--certified--mail--of--the--tax--delinquency--and--of--the intention--to--file-suit-is-given-to-the-taxpayer,-the-comptroller, and-the-attorney-general,-and-if-neither-the--comptroller--nor--the attorney--general--disapproves--the--suit--by-written-notice-to-the department.~~

[~~(q)--The-comptroller-or-attorney-general-may-disapprove--the institution-of-tax-suit-under-this-section-by-a-city-or-town-if:~~

[~~(1)--negotiations--between--the--state--and-the-taxpayer-are being-conducted-for-the-purpose-of--the--collection--of--delinquent taxes--owed--to-the-state-and-the-department-seeking-to-bring-suit;~~

[~~(2)--the-taxpayer-owes-substantial-taxes-to--the--state--and~~

~~there--is--a-reasonable-possibility-that-the-taxpayer-may-be-unable to-pay-the-total-amount-owed-in-full;~~

~~[(3)--the-state-will-bring-suit-against-the-taxpayer-for--the collection--of--all--sales,--excise,--and--use--taxes-due-under-the Limited-Sales,-Excise,-and-Use-Tax-Act-and-this-section,-or~~

~~[(4)--the-suit-involves-a-critical-legal-question-relating-to the-interpretation-of--state--law--or--a--provision--of--the--Texas Constitution--or--United-States-Constitution-in-which-the-state-has an-overriding-interest.~~

~~[(r)--A-notice-of-disapproval-to-a-city-or-town-must-give-the reason--for--the--determination--of--the--comptroller--or--attorney general.--A-disapproval-is-final-and-not-subject-to-review.--A-city or---town,---after--the--first--anniversary--of--the--date--of--the disapproval,-may-proceed-again-as-provided--in--Subsection--(p)--of this--section--even--though--the-liability-of-the-taxpayer-includes taxes-for-which-the-city-or-town-has-previously--given--notice--and the--comptroller-or-attorney-general-has-previously-disapproved-the suit.~~

~~[(s)--In-any-suit-under-Subsection-(n)-of--this--section--for the--collection--of--the--tax--for--a-department,-a-judgment-for-or against-the-taxpayer-does-not-affect-any-claim-against-the-taxpayer by-the-state,-or-a-claim-arising-under-the-Local-Sales-and-Use--Tax Act-by-a-city,-unless-the-state-is-a-party-to-the-action.~~

~~[(t)--A-copy-of-the-final-judgment-in-favor-of-a-city-or-town acting--under--this--section--in-a-case-in-which-the-state-is-not-a party-shall-be-abstracted-by-the-city-or-town-and--a--copy--of--the~~

~~judgment--together-with-a-copy-of-the-abstract-shall-be-sent-to-the comptroller.--The-city-or-town-shall-collect-taxes-awarded--to--the city--or--town-for-the-department-under-the-judgment-as-provided-by Subsection-(e),-Section-151.608,-Tax-Code,-and-is--responsible--for the--renewal--of--the-judgment-before-the-expiration-of-the-10-year period.--If-a-collection-is-made-by-a-city-or-town--on--a--judgment regarding--a-claim-arising-under-this-section,-the-department-shall send-notice-of-the--amount--collected--by--certified--mail--to--the comptroller.---The--comptroller-may-prescribe-a-form-for-the-notice to-be-used-by-departments.~~

[~~(u)~~] The board by order may decrease the local sales and use tax rate or may call an election to increase or decrease the local sales and use tax rate.

(d) [~~(v)~~] At the election, the ballots shall be prepared to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate of (name of department) to (percentage)." The increase or decrease in the tax rate is effective if it is approved by a majority of the votes cast. A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation and the comptroller and filed in the deed records of the county in the same manner as provided for a tax election by Section 5 of this article.

(e) [~~(w)~~] An increase or decrease in the rate of a local sales and use tax already levied takes effect on the first day of the next calendar quarter after actual notification to the

comptroller, except that if the comptroller notifies the presiding officer of the board in writing before the 11th day after the day of receipt of the notification that he requires more time to implement collection and reporting procedures, the comptroller may delay implementation for one whole calendar quarter. Thereafter, the new tax rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

(f) [~~(k)~~] The board shall deposit taxes remitted to the department under this section as provided by Subsection (c) of Section 4 of this article in an account separate from an account for funds as provided by Subsection (e) of Section 4 of this article. Taxes collected under this section may be used only for mass transit purposes.

SECTION 10. CONFORMING AMENDMENT. Section 3f, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended, if the Local Government Code is not adopted by the 70th Legislature, Regular Session, 1987, to read as follows:

Sec. 3f. (a) In this section, "eligible coastal city" means a home-rule city that borders on the Gulf of Mexico and that has a population of less than 80,000, according to the most recent federal census. [~~The definitions contained in Section 3d of this Act apply to this section.~~]

(b) [~~In lieu of the taxes authorized by Section 3a of this Act, an eligible coastal city may levy by ordinance on the cost of occupancy of any sleeping room furnished by any hotel, in which the~~

~~cost--of--occupancy--is-$2-or-more-a-day,-a-tax-not-to-exceed-seven percent-of-the-consideration-paid-by-the-occupant-of--the--sleeping room-to-the-hotel.~~

[~~(e)--A--city--that--levies--and--collects--an--occupancy-tax authorized-by-this-section-at-a-rate-of-seven-percent-or-more--must pledge--a--portion--of-the-revenue-equal-to-at-least-one-percent-of the-cost-of-the-occupancy-of-hotel-rooms-to-either-or-both--of--the following-purposes:~~

[~~(1)--the--payment-of-the-bonds-that-the-city-or-a-Park-Board of-Trustees-may-issue-under-Section-3-of-this-Act-or-under--Chapter 33,-Acts-of-the-57th-Legislature,-3rd-Called-Session,-1962-(Article 6081g-1,-Vernon's-Texas-Civil-Statutes),-in-order-to-provide-all-or part--of--the--funds--for-the-establishment,-acquisition,-purchase, construction,-improvement,-enlargement,-equipment,-or-repair-of-any or-all-public-improvements,-including-but--not--limited--to--parks, civic--centers,--civic--center--buildings,--auditoriums,-exhibition halls,-coliseums,-marinas,-cruise-ship-terminal-facilities,-hotels, motels,--parking--facilities,--golf--courses,--trolley--or--trolley transportation--systems,--and-other-facilities-as-may-be-considered advisable-in--connection--with--these--facilities--that--serve--the purpose-of-attracting-visitors-and-tourists-to-the-city,-or~~

[~~(2)--the--maintenance,--improvement,--or--operation--of--the parks,--civic--centers,--civic---center---buildings,---auditoriums, exhibition---halls,---coliseums,---marinas,--cruise--ship--terminal facilities,--hotels,--motels,--parking--facilities,--golf--courses, trolley--or-trolley-transportation-systems,-and-other-facilities-as~~

~~may-be-considered-advisable-in--connection--with--these--facilities that--serve--the-purpose-of-attracting-visitors-and-tourists-to-the city.~~]

<u>An eligible coastal</u> [~~The~~] city and/or Park Board of Trustees, is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the city and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease under this subsection shall be on the terms and conditions the city and/or Park Board of Trustees deems appropriate.

[~~(d)--If--the-tax-authorized-by-this-section-is-levied-by-the city-at-a-rate-of-four-percent-or-more,-an-amount-of-revenue--equal to--at--least--three--percent-of-the-cost-of-the-occupancy-of-hotel rooms--shall--be--reserved--for--the--purpose--of--advertising--and conducting--solicitation--programs-to-acquaint-potential-users-with~~

~~public-meeting-and--convention--facilities--and--for--promotion--of tourism--and-advertising-of-the-city-and-its-vicinity-either-by-the city-or-through-contract-with-persons-or-organizations-selected--by the-city.~~

[~~(e)--If--the-tax-authorized-by-this-section-is-levied-by-the city-at-a-rate-of-five-percent-or-more,-an-amount-of-revenue--equal to-at-least-one-percent-of-the-cost-of-the-occupancy-of-hotel-rooms shall--be--reserved--for--beach--patrol,-lifeguard-services,-marine water-safety,-and-park-law-enforcement.~~

[~~(f)--If-the-tax-authorized-by-this-section-is-levied-by--the city--at--a-rate-of-six-percent-or-more,-an-amount-of-revenue-equal to-at-least-one-percent-of-the-cost-of--occupancy--of--hotel--rooms shall-be-reserved-for-public-beach-cleaning-funds-including-but-not limited-to-use-as-matching-funds-state-funds-available-to-clean-and maintain-public-beaches.~~

[~~(g)--This--section--does--not--permit--the-impairment-of-any bonds-issued-under-the-provisions--of--this--Act--and--all--revenue previously--pledged-to-the-payment-of-these-bonds-shall-continue-to be-reserved-for-the-payment-of-the-principal-and-interest-on--these bonds.~~]

SECTION 11. CONTINGENT AMENDMENT. (a) If the Local Government Code is not enacted by the 70th Legislature, Regular Session, 1987, or does not become law, Sections 302.001, 302.101, and 302.102, Tax Code, as added by Section 1 of this Act, read as follows and not as provided by Section 1 of this Act:

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES. (a) A

city or town operating under Chapters 1-10, Title 28, Revised Statutes, may levy property taxes for current expenses, for the construction or purchase of public buildings, water works, sewers, and other permanent improvements in the municipality, including municipal schools and school sites, and for the construction and improvement of municipal roads, streets, and bridges in the municipality.

(b) A town or village operating under Chapter 11, Title 28, Revised Statutes, may levy property taxes at an annual rate not to exceed 25 cents for each $100 of property valuation.

(c) A home-rule municipality may levy special or general property taxes for lawful purposes. (V.A.C.S. Arts. 1026 (part); 1027 (part); 1028 (part); 1146, Subdiv. 1 (part); 1175, Subdiv. (7).)

Sec. 302.101. OCCUPATION TAXES. (a) The governing body of a municipality, other than a city, town, or village operating under Chapter 12, Title 28, Revised Statutes, and having 200 or fewer inhabitants, may impose and collect occupation taxes.

(b) A license required by a city or town operating under Chapters 1-10, Title 28, Revised Statutes, may not extend to more than one establishment or apply to more than one occupation, business, or calling and may not be imposed except by a vote of two-thirds of the elected aldermen. (V.A.C.S. Art. 1015, Subdiv. 35; Arts. 1031, 1032 (part), 1033 (part), 1146 (part).)

Sec. 302.102. TAX COLLECTION POWERS. (a) The governing body of a city or town operating under Chapters 1-10, Title 28,

Revised Statutes, may adopt ordinances and make rules relating to the imposition, assessment, and collection of taxes, except ad valorem taxes, authorized by this subchapter. An ordinance may provide for the sale of real and personal property for the collection of a tax authorized by this subchapter.

(b) A home-rule municipality may collect taxes that are authorized by the charter of the municipality or by law and may impose penalties for delinquent taxes. This subsection does not apply to property taxes. (V.A.C.S. Arts. 1041, 1175, Subdiv. 9.)

(b) If the Local Government Code is enacted by the 70th Legislature and becomes law, this section has no effect.

SECTION 12. REPEALER. The following statutes as compiled in Vernon's Texas Civil Statutes are repealed:

Article 1015, Subdivisions (34) and (35); Article 1026; Article 1027; Article 1028; Article 1029; Article 1031; Article 1032; Article 1033; Article 1034; Article 1039; Article 1040; Article 1041; Article 1066a; Article 1066c; Article 1066e; Article 1066f; Article 1118x, Section 11B, Subsection (B); Article 1118y, Section 16, Subsections (b) and (f); Article 1146, Subdivision (1); Article 1175, Subdivisions (7), (8), and (9); Article 1182f; Article 1269j-4.1, Sections 3a, 3b, 3c, 3d, 3e, and 3g as added by Chapters 879 and 1009, Acts of the 68th Legislature, Regular Session, 1983; Article 2352; Article 2352i; Article 2353; Article 2353e; Article 2372d-8, Sections 4, 4A, 6, 7 and 15; and Article 7057h.

SECTION 13. LEGISLATIVE INTENT. This Act is enacted

pursuant to Article III, Section 43, of the Texas Constitution. This Act is intended as a recodification only, and no substantive change in the law is intended by this Act.

SECTION 14. EFFECTIVE DATE. This Act takes effect September 1, 1987.

SECTION 15. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 888 as follows:

(1) On page 98, line 11, strike "tax collector" and substitute "attorney".

(2) On page 98, strike line 26 and substitute the following: "resale certificate may be required.

"(c) The comptroller may prescribe the form of an exemption certificate for a prior contract exemption under this chapter. (V.A.C.S. Art. 2353e, Sec.".

(3) On page 67, line 19, and on page 105, line 11, between "a" and "copy" insert at each location "certified".

Guerrero

COMMITTEE REPORT

04/06/87
(date)

The Honorable Gib Lewis
Speaker of the House of Representatives

Sir:

We, your COMMITTEE ON STATE AFFAIRS,

to whom was referred SB 888 (measure) have had the same under consideration and beg to report back with the recommendation that it

( ) do pass, without amendment.
(✓) do pass, with amendment(s).
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (✓) yes ( ) no An actuarial analysis was requested. ( ) yes (✓) no

An author's fiscal statement was requested. ( ) yes (✓) no

~~The Committee recommends that this measure be placed on the (Local) or (Consent) Calendar.~~

This measure ( ) proposes new law. (✓) amends existing law.

House Sponsor of Senate Measure Saunders

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Laney, Ch.	✓			
Hill, P., V.C.	✓			
Tallas, C.B.O.	✓			
Cain				✓
Danburg	✓			
Gavin	✓			
Gibson	✓			
Guerrero	✓			
Haley				✓
Leonard	✓			
Perez				✓
Riley				✓
Saunders				✓

Total
8 aye
0 nay
0 present, not voting
5 absent

[signature]
CHAIRMAN

[signature]
COMMITTEE COORDINATOR

B.. , ANALYSIS S.B. 888

COMMITTEE ON STATE AFFAIRS AUTHOR: MCFARLAND

BACKGROUND INFORMATION

The Texas Legislative Council is required by law (Section 323.007, Government Code) to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law if practicable--all toward promoting the stated purpose of making the statutes "more accessible, understandable and usable" without altering the sense, meaning, or effect of the law.

Title 3 of the Tax Code includes law relating to local taxation. The scope of the title generally includes municipal, county, and transportation authority sales and use taxes, local hotel occupancy taxes, local tax increment and tax abatement statutes, and general city taxation provisions.

Copies of the revisor's report to Title 3, Tax Code, have been sent to a wide range of state and local officials and to interested groups and associations for comment and review.

PURPOSE OF BILL

Title 3 of the Tax Code is a nonsubstantive revision of the Texas statutes relating to local taxes.

The code is divided into titles, chapters, subchapters, and sections. Sections are numbered decimally, and the number to the left of the decimal point is the same as the chapter number. Gaps in chapter and section numbering are for future expansion.

SECTION-BY-SECTION ANALYSIS

Section 1: Adopts Title 3, Tax Code, a nonsubstantive revision of the statutes relating to local taxation and codifies existing law and arranges it into an organized format.

Section 2: Conforming amendment to Section 11.28, Tax Code.

Section 3: Conforming amendment to Section 11.86(a), Education Code.

Section 4: Conforming amendment to Section 5(b), Article 1, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015o, Vernon's Texas Civil Statutes).

Section 5: Conforming amendment to Section 12, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

Section 6: Conforming amendment to Section 5(b), Chapter 658, Acts of the 69th Legislature, Regular Session, 1985 (Article 6674v-4, Vernon's Texas Civil Statutes).

Section 7: Conforming amendment to Subsection (A), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes).

Section 8: Conforming amendment to Subsection (a), Section 16, Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

Section 9: Conforming amendment to Section 8, Article 1118z, Revised Statutes.

Section 10: Conforming amendment to Section 3f, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes).

Section 11: Amendment to this title contingent on the failure of adoption of the Local Government Code.

Section 12: Repealer.

Section 13: Legislative intent to recodify only.

Section 14: Effective date.

Section 15: Emergency Clause.

RULEMAKING AUTHORITY

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state officer, agency, department, or institution.

Summary of Committee Action

S.B. 888 was considered in a public hearing on 30 March 1987. Testifying on the bill was Steve Collins, representing the Texas Legislative Council. Not testifying but appearing to register support for the bill was Mr. Ken King, representing the Texas Association of Counties. S.B. 888 was left pending before the Committee. S.B. 888 was taken back up at a public hearing on 6 April 1987. Testifying as resource witnesses on the bill were Mr. Steve Collins and Mr. James Nance, both of the Texas Legislative Council. Ms. Guerrero offered an amendment which was adopted. The motion to report the bill favorably as amended carried with a vote of 8 Ayes, 0 Nays, 0 PNV, and 5 Absent.

S.B. 888 was amended as follows: on page 98, line 11, "tax collector" was deleted and "attorney" substituted; on page 98, line 26 was deleted and the following substituted: "resale certificate may be required.

"(c) The comptroller may prescribe the form of an exemption certificate for a prior contract exemption under this chapter. (V.A.C.S. Art. 2353e, Sec."; and on page 67, line 19, and on page 105, line 11, between "a" and "copy" the word "certified" was inserted.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 26, 1987

TO: Honorable Pete Laney, Chair
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: Senate Bill No. 888,
as engrossed
By: McFarland

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 888, as engrossed (relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, HES, JWH, AL, PA

70FSB888ae

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 13, 1987

TO: Honorable Ray Farabee, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 888
By: McFarland

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 888 (relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, HES, JWH, AL, AF

MAR 18 3 04 AM '87
RECEIVED
SECRETARY OF SENATE

70FSB888

ADOPTED

APR 29 1987

Betty Murray
Chief Clerk
House of Representatives

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 888 as follows:

(1) On page 98, line 11, strike "tax collector" and substitute "attorney".

(2) On page 98, strike line 26 and substitute the following: "resale certificate may be required.

"(c) The comptroller may prescribe the form of an exemption certificate for a prior contract exemption under this chapter. (V.A.C.S. Art. 2353e, Sec. 26, Subsecs. (B)(part), (D).)

(3) On page 67, line 19, and on page 105, line 11, between "a" and "copy" insert at each location "certified".

House Am. #1
5/18/87

Enrolled May 1, 1987
Patsy Spaw
Enrolling Clerk

S.B. No. 888

AN ACT

relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ADOPTION OF TITLE. The Tax Code is amended by adding Title 3 to read as follows:

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

Chapter 301. General Provisions

Chapter 302. Taxation Powers of Municipalities

[Chapters 303-310 reserved for expansion]

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

Chapter 311. Tax Increment Financing Act

Chapter 312. Property Redevelopment and Tax Abatement Act

[Chapters 313-320 reserved for expansion]

SUBTITLE C. LOCAL SALES AND USE TAXES

Chapter 321. Municipal Sales and Use Tax Act

Chapter 322. Sales and Use Taxes for Special Purpose Taxing Authorities

Chapter 323. County Sales and Use Tax Act

[Chapters 324-350 reserved for expansion]

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

Chapter 351. Municipal Hotel Occupancy Taxes

Chapter 352. County Hotel Occupancy Taxes

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

CHAPTER 301. GENERAL PROVISIONS

Sec. 301.001. PURPOSE OF TITLE

Sec. 301.002. CONSTRUCTION OF CODE

Sec. 301.003. INTERNAL REFERENCES

TITLE 3. LOCAL TAXATION

SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS

CHAPTER 301. GENERAL PROVISIONS

Sec. 301.001. PURPOSE OF TITLE. (a) This title is enacted as a part of the state's continuing statutory revision program, conducted by the Texas Legislative Council as directed by Section 323.007, Government Code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this title is to make the general and permanent state tax laws more accessible and understandable by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible. (New.)

Sec. 301.002. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this title, except as specifically provided by this title. (New.)

Sec. 301.003. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears. (New.)

CHAPTER 302. TAXATION POWERS OF MUNICIPALITIES

SUBCHAPTER A. PROPERTY TAXES

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES

Sec. 302.002. OTHER TAXES NOT CONSIDERED: CERTAIN HOME-RULE MUNICIPALITIES

[Sections 302.003-302.100 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO EXCISE TAXES

Sec. 302.101. OCCUPATION TAXES

Sec. 302.102. TAX COLLECTION POWERS

CHAPTER 302. TAXATION POWERS OF MUNICIPALITIES

SUBCHAPTER A. PROPERTY TAXES

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES. (a) A Type A general-law municipality may levy property taxes for current expenses, for the construction or purchase of public buildings, water works, sewers, and other permanent improvements in the municipality, including municipal schools and school sites, and for the construction and improvement of municipal roads, streets, and bridges in the municipality.

(b) A Type B general-law municipality may levy property taxes at an annual rate not to exceed 25 cents for each $100 of property valuation.

(c) A home-rule municipality may levy special or general property taxes for lawful purposes. (V.A.C.S. Arts. 1026 (part); 1027 (part); 1028 (part); 1146, Subdiv. 1 (part); 1175, Subdiv. (7).)

Sec. 302.002. OTHER TAXES NOT CONSIDERED: CERTAIN HOME-RULE MUNICIPALITIES. (a) In determining the power of certain home-rule municipalities to levy taxes, the taxes levied by a county, a political subdivision of a county, or a district under Article III, Section 52, of the Texas Constitution are not considered.

(b) This section prevails over a provision of a municipal charter to the extent of a conflict.

(c) This section applies only to a municipality that attempted to amend its charter before June 30, 1939, and at the time of the election to amend the charter did not own a water

system, sanitary sewer system, electric light system, or natural gas system from which it could derive revenue. (V.A.C.S. Art. 1066a, Secs. 1, 2, 3.)

[Sections 302.003-302.100 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO EXCISE TAXES

Sec. 302.101. OCCUPATION TAXES. (a) The governing body of a municipality, other than a Type C general-law municipality having 200 or fewer inhabitants, may impose and collect occupation taxes.

(b) A license required by a Type A general-law municipality may not extend to more than one establishment or apply to more than one occupation, business, or calling and may not be imposed except by a vote of two-thirds of the elected aldermen. (V.A.C.S. Art. 1015, Subdiv. 35; Arts. 1031, 1032 (part), 1033 (part), 1146 (part).)

Sec. 302.102. TAX COLLECTION POWERS. (a) The governing body of a Type A general-law municipality may adopt ordinances and make rules relating to the imposition, assessment, and collection of taxes, except ad valorem taxes, authorized by this subchapter. An ordinance may provide for the sale of real and personal property for the collection of a tax authorized by this subchapter.

(b) A home-rule municipality may collect taxes that are authorized by the charter of the municipality or by law and may impose penalties for delinquent taxes. This subsection does not apply to property taxes. (V.A.C.S. Arts. 1041, 1175, Subdiv. 9.)

[Chapters 303-310 reserved for expansion]

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 311. TAX INCREMENT FINANCING ACT

Sec. 311.001. SHORT TITLE
Sec. 311.002. DEFINITIONS
Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE
Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE
Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE
Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE
Sec. 311.007. CHANGING BOUNDARIES OF EXISTING ZONE
Sec. 311.008. POWERS OF MUNICIPALITY
Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS
Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS
Sec. 311.011. PROJECT AND FINANCING PLANS
Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT
Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS
Sec. 311.014. TAX INCREMENT FUND
Sec. 311.015. TAX INCREMENT BONDS AND NOTES
Sec. 311.016. ANNUAL REPORT
Sec. 311.017. TERMINATION OF REINVESTMENT ZONE

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 311. TAX INCREMENT FINANCING ACT

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Tax Increment Financing Act. (V.A.C.S. Art. 1066e, Sec. 1.)

Sec. 311.002. DEFINITIONS. In this chapter:

(1) "Project costs" means the expenditures made or

estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality establishing a reinvestment zone that are listed in the project plan as costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations. "Project costs" include:

(A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;

(B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;

(C) real property assembly costs;

(D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;

(E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality in connection with the implementation of a project plan;

(F) relocation costs;

(G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;

(H) interest before and during construction and for one year after completion of construction, whether or not capitalized;

(I) the cost of operating the reinvestment zone and project facilities;

(J) the amount of any contributions made by the municipality from general revenue for the implementation of the project plan; and

(K) payments made at the discretion of the governing body of the municipality that the municipality finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.

(2) "Project plan" means the project plan for the development or redevelopment of a reinvestment zone approved under this chapter, including all amendments of the plan approved as provided by this chapter.

(3) "Reinvestment zone financing plan" means the financing plan for a reinvestment zone described by this chapter.

(4) "Taxing unit" has the meaning assigned by Section 1.04. (V.A.C.S. Art. 1066e, Sec. 2 (part).)

Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE. (a) The governing body of a municipality by ordinance may designate a

contiguous geographic area in the jurisdiction of the municipality to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.

(b) Before adopting an ordinance providing for a reinvestment zone, the governing body of the municipality must prepare a preliminary reinvestment zone financing plan. As soon as the plan is completed, a copy of the plan must be sent to the governing body of each taxing unit that levies taxes on real property in the proposed zone.

(c) Before adopting an ordinance providing for a reinvestment zone, the municipality must hold a public hearing on the creation of the zone and its benefits to the municipality and to property in the proposed zone. At the hearing an interested person may speak for or against the creation of the zone, its boundaries, or the concept of tax increment financing. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the municipality.

(d) A municipality must provide a reasonable opportunity for the owner of property to protest the inclusion of the property in a proposed reinvestment zone.

(e) Not later than the 60th day before the date of the public hearing required by Subsection (c), the governing body of the municipality must notify in writing the governing body of each

taxing unit that levies real property taxes in the proposed reinvestment zone that it intends to establish the zone. The notice must contain a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The notice may be given later than the 60th day before the date of the public hearing if the governing body of each county and school district that levies real property taxes in the proposed zone agrees to waive the requirement.

(f) A taxing unit may request additional information from the governing body of the municipality. The governing body of the municipality shall provide the information requested to the extent practicable. In addition to the notice required by Subsection (e), the governing body of the municipality shall make a formal presentation to the governing body of each county or school district that levies real property taxes in the proposed reinvestment zone. The presentation must include a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The governing body of the municipality shall notify each taxing unit that levies real property taxes in the proposed zone of each presentation to be made to a county or school district under this subsection. Members of the governing body of each taxing unit that levies real property taxes in the proposed zone may attend a

presentation under this subsection. If agreed to by the county or school districts involved, the governing body of the municipality may make a single presentation to more than one county or school district governing body.

(g) Not later than the 15th day after the date on which the notice required by Subsection (e) is given, each taxing unit that levies real property taxes in the proposed reinvestment zone shall designate a representative to meet with the governing body of the municipality to discuss the project plan and the reinvestment zone financing plan and shall notify the governing body of the municipality of its designation. At any time after the 15th day after the date on which the notice required by Subsection (e) has been given to every taxing unit, the governing body of the municipality may call a meeting of the representatives of the taxing units. The governing body of the municipality may call as many meetings as it considers necessary. Each representative shall be notified of each meeting in advance. At the meetings the governing body of the municipality and the representatives of the other taxing units may discuss the boundaries of the zone, development in the zone, the tax increment that each taxing unit will contribute to the tax increment fund, the retention by a taxing unit of a portion of its tax increment as permitted by Section 311.013, the exclusion of particular parcels of property from the zone, the board of directors for the zone, and tax collection for the zone. On the motion of the governing body of the municipality calling the meeting, any other matter relevant to

the proposed reinvestment zone may be discussed. (V.A.C.S. Art. 1066e, Secs. 3(a); 4(a), (b), (c), (d), (e), (f); 9 (part).)

Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE. (a) The ordinance designating an area as a reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) create a board of directors for the zone and specify the number of directors of the board as provided by Section 311.009;

(3) provide that the zone take effect on January 1 of the year following the year in which the ordinance is adopted;

(4) provide a date for termination of the zone;

(5) assign a name to the zone for identification, with the first zone created by a municipality designated as "Reinvestment Zone Number One, City (or Town, as applicable) of (name of municipality)" and subsequently created zones assigned names in the same form numbered consecutively in the order of their creation;

(6) establish a tax increment fund for the zone; and

(7) contain findings that:

(A) improvements in the zone will significantly enhance the value of all the taxable real property in the zone and will be of general benefit to the municipality; and

(B) the area meets the requirements of Section 311.005.

(b) For purposes of complying with Subsection (a)(7)(A), the ordinance is not required to identify the specific parcels of real property to be enhanced in value. (V.A.C.S. Art. 1066e, Sec. 4(g).)

Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title; or

(H) conditions that endanger life or property by fire or other cause;

(2) be predominantly open and, because of obsolete

platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in the municipality or in an area immediately adjacent to a federally assisted new community; or

(4) be designated as a local or state-federal enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

(b) In this section, "federally assisted new community" means a federally assisted area that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act, if a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974. (V.A.C.S. Art. 1066e, Secs. 2 (part); 3(b) (part) as amd. Acts 68th Legis., R.S., Ch. 841, 1983.)

Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE. (a) A municipality may not create a reinvestment zone if:

(1) more than 10 percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the

municipality.

(b) A municipality may not change the boundaries of an existing reinvestment zone to include property more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes or to include more than 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality.

(c) A municipality may not create a reinvestment zone or change the boundaries of an existing reinvestment zone if the proposed zone or proposed boundaries of the zone contain more than 15 percent of the total appraised value of real property taxable by a county or school district.

(d) For purposes of this section, property is used for residential purposes if it is occupied by a house having fewer than five living units, and the appraised value is determined according to the most recent appraisal rolls of the municipality. (V.A.C.S. Art. 1066e, Secs. 5(a), (b) (part), (c), (d).)

Sec. 311.007. CHANGING BOUNDARIES OF EXISTING ZONE. Subject to the limitations provided by Section 311.006, the boundaries of an existing reinvestment zone may be reduced or enlarged by ordinance or resolution of the governing body of the municipality that created the zone. (V.A.C.S. Art. 1066e, Sec. 5(b) (part).)

Sec. 311.008. POWERS OF MUNICIPALITY. A municipality may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and

implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase, condemnation, or other means to implement project plans and sell that property on the terms and conditions it considers advisable;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed real property or other property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes; or

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, educational facilities, or parking facilities. (V.A.C.S. Art. 1066e, Sec. 9 (part).)

Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS. (a) The

board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of Subsection (b).

(b) Each taxing unit other than a municipality that levies taxes on real property in the zone may appoint one member of the board. A unit may waive its right to appoint a director. The governing body of the municipality that created the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the municipality, the governing body of the municipality may appoint more than 10 members as long as the total membership of the board does not exceed 15.

(c) Members of the board are appointed for terms of two years unless longer terms are provided under Article XI, Section 11, of the Texas Constitution. Terms of members may be staggered.

(d) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

(e) To be eligible for appointment to the board by the governing body of the municipality, an individual must:

(1) be a qualified voter of the municipality; or

(2) be at least 18 years of age and own real property in the zone, whether or not the individual resides in the municipality.

(f) Each year the governing body of the municipality shall appoint one member of the board to serve as chairman for a term of

one year that begins on January 1 of the following year. The board of directors may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The board may elect other officers as it considers appropriate. (V.A.C.S. Art. 1066e, Sec. 6.)

Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS. The board of directors of a reinvestment zone shall make recommendations to the governing body of the municipality that created the zone concerning the administration of this chapter in the zone. In addition to the powers granted to the board under this chapter, the governing body of the municipality by ordinance may delegate to the board any powers and duties relating to the implementation of the project plan for the zone that the governing body considers advisable. (V.A.C.S. Art. 1066e, Sec. 7.)

Sec. 311.011. PROJECT AND FINANCING PLANS. (a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality that created the zone. The plans must be as consistent as possible with the preliminary plans developed for the zone before the creation of the board.

(b) The project plan must include:

(1) a map showing existing uses and conditions of real property in the zone and a map showing proposed improvements to and proposed uses of that property;

(2) proposed changes of zoning ordinances, the master

plan of the municipality, building codes, and other municipal ordinances;

(3) a list of estimated nonproject costs; and

(4) a statement of a method of relocating persons to be displaced as a result of implementing the plan.

(c) The reinvestment zone financing plan must include:

(1) a detailed list describing the estimated project costs of the zone, including administrative expenses;

(2) a statement listing the kind, number, and location of all proposed public works or public improvements in the zone;

(3) an economic feasibility study;

(4) the estimated amount of bonded indebtedness to be incurred;

(5) the time when related costs or monetary obligations are to be incurred;

(6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit that levies taxes on real property in the zone;

(7) the current total appraised value of taxable real property in the zone;

(8) the estimated captured appraised value of the zone during each year of its existence; and

(9) the duration of the zone.

(d) The governing body of the municipality must approve a

project plan or reinvestment zone financing plan after its adoption by the board. The approval must be by ordinance that finds that the plan is feasible and conforms to the master plan, if any, of the municipality.

(e) The board of directors of the zone at any time may adopt an amendment to the project plan consistent with the requirements and limitations of this chapter. The amendment takes effect on approval by the governing body of the municipality. That approval must be by ordinance. If an amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, increases or decreases the percentage of a tax increment to be contributed by a taxing unit, increases the total estimated project costs, or designates additional property in the zone to be acquired by the municipality, the approval must be by ordinance adopted after a public hearing that satisfies the procedural requirements of Sections 311.003(c) and (d). (V.A.C.S. Art. 1066e, Secs. 2 (part); 8.)

Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT. (a) The amount of a taxing unit's tax increment for a year is the amount of property taxes levied by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone.

(b) The captured appraised value of real property taxable by a taxing unit for a year is the total appraised value of the property for that year less the tax increment base of the unit.

(c) The tax increment base of a taxing unit is the total

appraised value of all real property taxable by the unit and located in a reinvestment zone for the year in which the zone was designated under this chapter. (V.A.C.S. Art. 1066e, Sec. 2 (part).)

Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS. (a) Each taxing unit that taxes real property located in a reinvestment zone shall provide for the collection of its taxes in the zone as for any other property taxed by the unit.

(b) Each taxing unit shall pay into the tax increment fund for the zone an amount equal to the tax increment produced by the unit, less the sum of:

(1) property taxes produced from the tax increments that are, by contract executed before the designation of the area as a reinvestment zone, required to be paid by the unit to another political subdivision; and

(2) a portion, not to exceed 15 percent, of the tax increment produced by the unit as provided by the reinvestment zone financing plan.

(c) A taxing unit shall make a payment required by Subsection (b) not later than the 90th day after the delinquency date for the unit's property taxes. A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 percent.

(d) If the reinvestment zone is created on or after August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after three years from the date

the zone is created unless the following conditions exist or have been met within the three-year period:

(1) bonds have been issued for the zone under Section 311.015;

(2) the municipality has acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone.

(e) If the reinvestment zone was created before August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after September 1, 1986, unless the following conditions existed or were met before September 1, 1986:

(1) bonds were issued for the zone under Section 311.015;

(2) the municipality acquired property in the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has begun in the zone. (V.A.C.S. Art. 1066e, Secs. 9 (part); 10.)

Sec. 311.014. TAX INCREMENT FUND. (a) In addition to the deposits required by Section 311.013, all revenues from the sale of tax increment bonds or notes, revenues from the sale of any property acquired as part of the tax increment financing plan, and other revenues to be used in the reinvestment zone shall be deposited in the tax increment fund for the zone.

(b) Money may be disbursed from the fund only to satisfy

claims of holders of tax increment bonds or notes issued for the zone or to pay project costs for the zone.

(c) Subject to an agreement with the holders of tax increment bonds or notes, money in a tax increment fund may be temporarily invested in the same manner as other funds of the municipality.

(d) After all project costs and all tax increment bonds or notes issued for a reinvestment zone have been paid, and subject to any agreement with bondholders, any money remaining in the tax increment fund shall be paid to the municipality and other taxing units levying taxes on property in the zone in proportion to the municipality's and each unit's respective share of the total amount of tax increments derived from taxable real property in the zone that were deposited in the fund during the fund's existence. (V.A.C.S. Art. 1066e, Secs. 2 (part); 14.)

Sec. 311.015. TAX INCREMENT BONDS AND NOTES. (a) A municipality creating a reinvestment zone may issue tax increment bonds or notes, the proceeds of which may be used to pay project costs for the reinvestment zone on behalf of which the bonds or notes were issued or to satisfy claims of holders of the bonds or notes. The municipality may issue refunding bonds or notes for the payment or retirement of tax increment bonds or notes previously issued by it.

(b) Tax increment bonds and notes are payable, as to both principal and interest, solely from the tax increment fund established for the reinvestment zone. The governing body of the

1 municipality may pledge irrevocably all or part of the fund for
2 payment of tax increment bonds or notes. The part of the fund
3 pledged in payment may be used only for the payment of the bonds or
4 notes or interest on the bonds or notes until the bonds or notes
5 have been fully paid. A holder of the bonds or notes or of coupons
6 issued on the bonds has a lien against the fund for payment of the
7 bonds or notes and interest on the bonds or notes and may protect
8 or enforce the lien at law or in equity.
9 (c) Tax increment bonds are issued by ordinance of the
10 municipality without any additional approval other than that of the
11 attorney general.
12 (d) Tax increment bonds or notes, together with the interest
13 on and income from those bonds or notes, are exempt from all taxes.
14 (e) The issuing municipality may provide in the contract
15 with the owners or holders of tax increment bonds that it will pay
16 into the tax increment fund all or any part of the revenue produced
17 or received from the operation or sale of a facility acquired,
18 improved, or constructed pursuant to a project plan, to be used to
19 pay principal and interest on the bonds. If the municipality
20 agrees, the owners or holders of tax increment bonds may have a
21 lien or mortgage on a facility acquired, improved, or constructed
22 with the proceeds of the bonds.
23 (f) Tax increment bonds may be issued in one or more series.
24 The ordinance approving a tax increment bond or note, or the trust
25 indenture or mortgage issued in connection with the bond or note,
26 shall provide:

(1) the date that the bond or note bears;

(2) that the bond or note is payable on demand or at a specified time;

(3) the interest rate that the bond or note bears;

(4) the denomination of the bond or note;

(5) whether the bond or note is in coupon or registered form;

(6) the conversion or registration privileges of the bond or note;

(7) the rank or priority of the bond or note;

(8) the manner of execution of the bond or note;

(9) the medium of payment in which and the place or places at which the bond or note is payable;

(10) the terms of redemption, with or without premium, to which the bond or note is subject;

(11) the manner in which the bond or note is secured; and

(12) any other characteristic of the bond or note.

(g) A bond or note issued under this chapter is fully negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued under this chapter or the security of a bond or note issued under this chapter, if the bond or note recites in substance that it was issued by the municipality for a reinvestment zone, the bond or note is conclusively deemed to have been issued for that purpose, and the development or redevelopment of the zone is conclusively

deemed to have been planned, located, and carried out as provided by this chapter.

(h) A bank, trust company, savings bank or institution, savings and loan association, investment company or other person carrying on a banking or investment business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, curator, trustee, or other fiduciary may invest any sinking funds, money, or other funds belonging to it or in its control in tax increment bonds or notes issued under this chapter. Tax increment bonds or notes are authorized security for all public deposits. A person, political subdivision, or public or private officer may use funds owned or controlled by the person, political subdivision, or officer to purchase tax increment bonds or notes. This chapter does not relieve any person of the duty to exercise reasonable care in selecting securities.

(i) A tax increment bond or note is not a general obligation of the municipality issuing the bond or note. A tax increment bond or note does not give rise to a charge against the general credit or taxing powers of the municipality and is not payable except as provided by this chapter. A tax increment bond or note issued under this chapter must state the restrictions of this subsection on its face.

(j) A tax increment bond or note may not be included in any computation of the debt of the issuing municipality.

(k) A municipality may not issue tax increment bonds or

notes in an amount that exceeds the total cost of implementing the project plan for the reinvestment zone for which the bonds or notes are issued.

(l) A tax increment bond or note must mature within 20 years of the date of issue. (V.A.C.S. Art. 1066e, Secs. 9 (part); 11.)

Sec. 311.016. ANNUAL REPORT. (a) On or before July 1 of each year, the governing body of a municipality shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality a report on the status of the zone. The report must include:

(1) the amount and source of revenue in the tax increment fund established for the zone;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on outstanding bonded indebtedness;

(4) the tax increment base and current captured appraised value retained by the zone; and

(5) the captured appraised value shared by the municipality and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality.

(b) A copy of a report made under this section shall be sent to the attorney general. (V.A.C.S. Art. 1066e, Sec. 12.)

Sec. 311.017. TERMINATION OF REINVESTMENT ZONE. (a) A reinvestment zone terminates on the earlier of:

(1) the termination date designated in the ordinance creating the zone or an earlier termination date designated by an ordinance adopted subsequent to the ordinance creating the zone; or

(2) the date on which all project costs, tax increment bonds, and interest on those bonds have been paid in full.

(b) The tax increment pledged to the payment of bonds and interest on the bonds may be discharged and the reinvestment zone may be terminated if the municipality that created the zone deposits or causes to be deposited with a trustee or other escrow agent authorized by law funds in an amount that, together with the interest on the investment of the funds in direct obligations of the United States, will be sufficient to pay the principal of, premium, if any, and interest on all bonds issued on behalf of the reinvestment zone at maturity or at the date fixed for redemption of the bonds, and to pay any other amounts that may become due, including compensation due or to become due to the trustee or escrow agent. (V.A.C.S. Art. 1066e, Sec. 13.)

CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.001. SHORT TITLE

[Sections 312.002-312.200 reserved for expansion]

SUBCHAPTER B. MUNICIPAL TAX ABATEMENT

Sec. 312.201. DESIGNATION OF REINVESTMENT ZONE

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT

Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT

Sec. 312.206. TAX ABATEMENT BY OTHER TAXING UNITS

Sec. 312.207. APPROVAL BY GOVERNING BODY

Sec. 312.208. MODIFICATION OR TERMINATION OF AGREEMENT

Sec. 312.209. APPLICATION OF NONSEVERABILITY PROVISION

[Sections 312.210-312.400 reserved for expansion]

SUBCHAPTER C. COUNTY TAX ABATEMENT

Sec. 312.401. DESIGNATION OF REINVESTMENT ZONE

Sec. 312.402. COUNTY TAX ABATEMENT AGREEMENT

CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.001. SHORT TITLE. This chapter may be cited as the Property Redevelopment and Tax Abatement Act. (V.A.C.S. Art. 1066f, Sec. 1.)

[Sections 312.002-312.200 reserved for expansion]

SUBCHAPTER B. MUNICIPAL TAX ABATEMENT

Sec. 312.201. DESIGNATION OF REINVESTMENT ZONE. (a) The governing body of a municipality by ordinance may designate as a reinvestment zone an area, or real or personal property the use of which is directly related to outdoor advertising, in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the requirements of Section 312.202.

(b) The ordinance must describe the boundaries of the zone

and the eligibility of the zone for residential tax abatement or commercial-industrial tax abatement or tax increment financing as provided for in Chapter 311.

(c) Area of a reinvestment zone designated for residential tax abatement or commercial-industrial tax abatement may be included in an overlapping or coincidental residential or commercial-industrial zone. In that event, the zone in which the property is considered to be located for purposes of executing an agreement under Section 312.204 is determined by the comprehensive zoning ordinance, if any, of the municipality.

(d) The governing body may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be published in a newspaper having general circulation in the municipality not later than the seventh day before the date of the hearing. (V.A.C.S. Art. 1066f, Secs. 3(c), 4(a), 5(a), (b).)

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone under this subchapter, an area must:

(1) substantially arrest or impair the sound growth of

the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalks or streets;

(C) faulty size, adequacy, accessibility, or usefulness of lots;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) any combination of these factors;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule

municipality;

(4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

(5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or

(6) be designated as a local or state-federal enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

(b) For purposes of this section, a federally assisted new community is a federally assisted area:

(1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and

(2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority created by that section for grants in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.). (V.A.C.S. Art.

1066f, Secs. 3(a), (b).)

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE. The designation of a reinvestment zone for residential or commercial-industrial tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect an existing tax abatement agreement made under this subchapter. (V.A.C.S. Art. 1066f, Sec. 4(b).)

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The governing body of a municipality shall agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation all or part of the value of the property for a period not to exceed 15 years, subject to the rights of holders of outstanding bonds of the municipality, on the condition that the owner of the property make specific improvements or repairs to the property. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

(b) The agreements made with the owners of property in a reinvestment zone must contain identical terms for the portion of the value of the property that is to be exempt and the duration of the exemption.

(c) The property subject to an agreement made under this section may be located in the extraterritorial jurisdiction of the

municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.

(d) Property that is in a reinvestment zone and that is owned or leased by a member of the governing body of the municipality or by a member of a zoning or planning board or commission of the municipality is excluded from property tax abatement or tax increment financing. (V.A.C.S. Art. 1066f, Secs. 2(a), 4(c), (d).)

Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT. (a) An agreement made under Section 312.204 must:

(1) list the kind, number, and location of all proposed improvements of the property;

(2) provide access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;

(3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

(4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

(b) An agreement made under Section 312.204 may include, at the option of the governing body of the municipality, provisions

for:

(1) improvements or repairs by the municipality to streets, sidewalks, and utility services or facilities associated with the property, except that the agreement may not provide for lower charges or rates than are made for other services or properties of a similar character;

(2) an economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when related costs or monetary obligations are to be incurred;

(3) a map showing existing uses and conditions of real property in the reinvestment zone;

(4) a map showing proposed improvements and uses in the reinvestment zone; and

(5) proposed changes of zoning ordinances, the master plan, the map, building codes, and city ordinances. (V.A.C.S. Art. 1066f, Secs. 2(b), (c).)

Sec. 312.206. TAX ABATEMENT BY OTHER TAXING UNITS. (a) If property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement made under Section 312.204, the governing body of any other taxing unit in which the property is located may execute a written agreement with the owner of the property. The agreement by the taxing unit must contain terms identical to those contained in the agreement with the municipality providing for the portion of the property that is to be exempt from taxation under the agreement, the duration of the

agreement, and the provisions included in the agreement under Section 312.205.

(b) If the governing body of a taxing unit does not execute an agreement as provided by Subsection (a) applicable to property subject to a municipal agreement, the taxing unit may not tax the property at a value greater than the value at which the property was taxed in the year preceding the execution of the agreement with the municipality. This limitation extends for a period equal to twice the duration of the municipal agreement.

(c) If the governing body of a municipality designates a reinvestment zone that includes property in the extraterritorial jurisdiction of the municipality, the governing body of any other taxing unit in which the property is located may execute a written agreement with the owner of the property to exempt from its property taxes all or part of the value of the property in the same manner as provided by Section 312.204 for a municipality. The taxing unit may execute an agreement even if the municipality does not execute an agreement for the property, and the terms of the agreement are not required to be identical to the terms of a municipal agreement. (V.A.C.S. Art. 1066f, Secs. 2(d), (e).)

Sec. 312.207. APPROVAL BY GOVERNING BODY. (a) To be effective, an agreement made under this subchapter must be approved by the affirmative vote of a majority of the members of the governing body of the municipality or other taxing unit at a regularly scheduled meeting of the governing body.

(b) On approval by the governing body, an agreement may be

executed in the same manner as other contracts made by the municipality or other taxing unit. (V.A.C.S. Art. 1066f, Sec. 5(c).)

Sec. 312.208. MODIFICATION OR TERMINATION OF AGREEMENT. (a) At any time before the expiration of an agreement made under this subchapter, the agreement may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 15 years from the date of the original agreement.

(b) An agreement made under this subchapter may be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed. (V.A.C.S. Art. 1066f, Sec. 6.)

Sec. 312.209. APPLICATION OF NONSEVERABILITY PROVISION. Section 2, Article 5, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985, applies to the provisions of this subchapter that are derived from amendments to the Property Redevelopment and Tax Abatement Act made by Chapter 221, Acts of the 69th Legislature, Regular Session, 1985. (New.)

[Sections 312.210-312.400 reserved for expansion]

SUBCHAPTER C. COUNTY TAX ABATEMENT

Sec. 312.401. DESIGNATION OF REINVESTMENT ZONE. (a) The commissioners court of a county by order may designate as a

reinvestment zone an area of the county that does not include area in the taxing jurisdiction of a municipality.

(b) The commissioners court may not designate an area as a reinvestment zone until it holds a public hearing on the designation and finds that the designation would be a benefit to the property to be included in the zone and would contribute to the economic development of the county. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be given in the same manner as provided for notice of a hearing to be held by a municipality under Section 312.201.

(c) The designation of a reinvestment zone under this section expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect existing agreements made under this subchapter.

(d) Property may be located both in a reinvestment zone designated by a county under this subchapter and in a reinvestment zone designated by a municipality under Subchapter B. (V.A.C.S. Art. 1066f, Secs. 7A(a), (d), (f).)

Sec. 312.402. COUNTY TAX ABATEMENT AGREEMENT. (a) The commissioners court may execute a tax abatement agreement with the owner of taxable real property located in a reinvestment zone designated under this subchapter. The execution, duration, and other terms of an agreement made under this section are governed by the provisions of Sections 312.204 and 312.205 applicable to a

municipality.

(b) A tax abatement agreement made under this section has the same effect on the other taxing units in which the property subject to the agreement is located as is provided by Section 312.206 for an agreement made by a municipality under Section 312.204 to abate taxes on property located in the taxing jurisdiction of the municipality.

(c) If property subject to an agreement with a county under this section is annexed by a municipality during the existence of the agreement, the governing body of the municipality must enter into an agreement in the same manner as any other taxing unit until the termination of the county agreement, or the municipality is limited to taxing the property subject to the agreement at the taxable value of the property in the year preceding the year the county agreement was executed until the termination of the county agreement plus a period of additional years immediately following the termination of the county agreement equal to the number of years in which the county agreement was in effect.

(d) Property that is located in a reinvestment zone designated by a county under this subchapter and that is owned or leased by a member of the commissioners court may not be subject to a tax abatement agreement made under this section.

(e) An agreement made under this section by a county or other taxing unit may be modified or terminated in the same manner and subject to the same limitations as provided by Section 312.208 for an agreement made under Subchapter B. (V.A.C.S. Art. 1066f,

Secs. 7A(c), (e), (g).)

[Chapters 313-320 reserved for expansion]

SUBTITLE C. LOCAL SALES AND USE TAXES

CHAPTER 321. MUNICIPAL SALES AND USE TAX ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 321.001. SHORT TITLE

Sec. 321.002. DEFINITIONS

Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE

Sec. 321.004. REFERENCES TO SALES OR USE TAX

[Sections 321.005-321.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY MUNICIPALITIES

Sec. 321.101. TAX AUTHORIZED

Sec. 321.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE

Sec. 321.103. SALES TAX

Sec. 321.104. USE TAX

Sec. 321.105. RESIDENTIAL USE OF GAS AND ELECTRICITY

[Sections 321.106-321.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 321.201. COMPUTATION OF SALES TAXES

Sec. 321.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT

Sec. 321.203. CONSUMMATION OF SALE

Sec. 321.204. COMPUTATION OF USE TAX

Sec. 321.205. USE TAX: MUNICIPALITY IN WHICH USE OCCURS

Sec. 321.206. INCIDENCE OF ADDITIONAL MUNICIPAL SALES AND USE TAX

Sec. 321.207. LOCAL TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS

Sec. 321.208. STATE EXEMPTIONS APPLICABLE

Sec. 321.209. TRANSITION EXEMPTION

Sec. 321.210. TELECOMMUNICATIONS EXEMPTION

[Sections 321.211-321.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

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CHAPTER 321. MUNICIPAL SALES AND USE TAX ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 321.001. SHORT TITLE. This chapter may be cited as the Municipal Sales and Use Tax Act. (V.A.C.S. Art. 1066c, Sec. 1 (part).)

Sec. 321.002. DEFINITIONS. (a) In this chapter:

(1) "Additional municipal sales and use tax" means only the additional tax authorized by Section 321.101(b).

(2) "Municipality" includes any incorporated city, town, or village.

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant.

(b) Words used in this chapter and defined by Chapter 151 have the meanings assigned by Chapter 151. (V.A.C.S. Art. 1066c, Sec. 1 (part); Sec. 6, Subsec. B(1) (part); New.)

Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B and Chapter 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes, unless modified by this chapter. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 4, Subsec. C (part); Sec. 6, Subsec. A.)

Sec. 321.004. REFERENCES TO SALES OR USE TAX. A reference to a sales tax or a use tax imposed or authorized by this chapter is a reference to both the taxes imposed under Sections 321.101(a) and (b) unless otherwise provided. (New.)

[Sections 321.005-321.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY MUNICIPALITIES

Sec. 321.101. TAX AUTHORIZED. (a) A municipality may adopt or repeal a sales and use tax authorized by this chapter, other than the additional municipal sales and use tax, at an election in which a majority of the qualified voters of the municipality approve the adoption or repeal of the tax.

(b) A municipality that is not disqualified may, by a majority vote of the qualified voters of the municipality voting at an election held for that purpose, adopt an additional sales and use tax for the benefit of the municipality in accordance with this chapter. A municipality is disqualified from adopting the additional sales and use tax if the municipality:

(1) is included within the boundaries of a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes);

(2) is included within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), by a principal city having a population of less than 800,000;

(3) is wholly or partly located in a county that contains territory within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's

Texas Civil Statutes), by a principal city having a population in excess of 800,000, unless the city is a contiguous city; or

(4) imposes a tax authorized by Article 1118z, Revised Statutes.

(c) For the purposes of Subsection (b), "principal city" and "contiguous city" have the meanings assigned by Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

(d) In any municipality in which an additional sales and use tax has been imposed, in the same manner and by the same procedure the municipality by majority vote of the qualified voters of the municipality voting at an election held for that purpose may abolish the additional sales and use tax. The governing body of a municipality that has adopted the additional sales and use tax shall call an election on the question of the abolition of the additional tax not later than 10 years after the date of the last preceding election on the adoption or abolition of the additional tax.

(e) An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts if within the boundaries of the authority there is a municipality that has adopted the additional sales and use tax provided for in this section. (V.A.C.S. Art. 1066c, Sec. 2,

Subsecs. A, H (part); Sec. 2A, Subsecs. A, G (part).)

Sec. 321.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE. (a) A tax imposed under this chapter or the repeal of a tax abolished under this chapter takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 321.405(b). This subsection does not apply to the additional municipal sales and use tax.

(b) The additional municipal sales and use tax takes effect or is repealed in the municipality on the first day of the first calendar year occurring after the expiration of the first complete calendar quarter after the date on which the comptroller receives notice from the municipality of the adoption or repeal of the additional municipal sales and use tax.

(c) If a municipality in which the tax imposed under this chapter is in effect changes its boundaries, the municipal secretary shall send by United States registered or certified mail to the comptroller a certified copy of the ordinance that adds or detaches municipal territory and that shows the effective date of the boundary change. The ordinance must be accompanied by a map clearly showing the added or detached territory. Except as provided by Subsection (d), the tax takes effect in the added territory or is inapplicable to the detached territory on the first day of the first calendar quarter after the comptroller receives the ordinance and map.

(d) If, within 10 days after the receipt of an ordinance and map sent under Subsection (c), the comptroller notifies the secretary of the municipality that more time is required, the effective date of the application of the tax in the added or detached area is the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives the ordinance and map. (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. G (part), H (part), J; Sec. 2A, Subsecs. F (part), G (part), K.)

Sec. 321.103. SALES TAX. (a) In a municipality that has adopted the tax authorized by Section 321.101(a), there is imposed a tax on the receipts from the sale at retail of taxable items within the municipality at the rate of one percent and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use.

(b) In a municipality that has adopted the additional municipal sales and use tax, the tax is imposed at the rate of one-half of one percent on the receipts from the sale at retail of all taxable items within the municipality and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use unless the residential use of gas and electricity is exempted from the tax imposed under Section 321.101(a), in which case the residential use of gas and electricity is exempted under this subsection also. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 2A, Subsec. B.)

Sec. 321.104. USE TAX. (a) In a municipality that has

adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the muncipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the tangible personal property.

(b) In a municipality that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption of gas or electricity for residential purposes and purchased from any retailer during the period that the tax is effective within the municipality. The tax is imposed at the same rate as the tax provided by Subsection (a). (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. A (part), D (part).)

Sec. 321.105. RESIDENTIAL USE OF GAS AND ELECTRICITY. (a) There are exempted from the taxes imposed by a municipality under this chapter the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption within the municipality of gas and electricity for residential use in any municipality that:

(1) adopted the tax on or after October 1, 1979; or

(2) adopted the tax before that time but:

(A) failed to exempt the residential use of gas and electricity before May 1, 1979; and

(B) has not reimposed the tax as provided by Subsection (c).

(b) A governing body of a municipality that adopted the taxes under this chapter before October 1, 1979, may, by ordinance adopted by a vote of a majority of the membership of the governing body and recorded in the municipal minutes, exempt from the taxes authorized by this chapter the receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption of gas and electricity for residential use.

(c) A governing body of a municipality that has adopted the taxes authorized by this chapter before May 1, 1979, and in which residential use of gas and electricity is exempted within the municipality, may reimpose the taxes on gas and electricity for residential use by ordinance adopted by a vote of the majority of the membership of the governing body and entered in the municipal minutes.

(d) The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of an ordinance exempting or imposing the taxes on residential use of gas and electricity.

(e) The exemption or reimposition of taxes on residential use of gas and electricity takes effect within the municipality as provided by Section 321.104(a) after receipt of a copy of the ordinance. (V.A.C.S. Art. 1066c, Sec. 4A.)

[Sections 321.106-321.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 321.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a municipality that has adopted a tax authorized by

this chapter shall add each sales tax imposed by the municipality under this chapter and by Chapter 151 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price. If the municipality imposes the tax on gas and electricity for residential use, only the municipal tax is added to the sales price of sales of gas and electricity for residential use.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates, or the rate of the municipal tax only for sales of gas and electricity for residential use in a municipality that imposes the tax on gas and electricity for residential use, by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The comptroller may publish schedules and brackets of amounts of taxes based on the formula provided by Subsection (b) for use in municipalities that have adopted the taxes authorized by this chapter. (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. K (part), L; Sec. 2A, Subsecs. I (part), J.)

Sec. 321.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual

transactions in which the sales price is an amount on which no tax is produced from the combined state and local taxes. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. K (part); Sec. 2A, Subsec. I (part).)

Sec. 321.203. CONSUMMATION OF SALE. (a) A sale of a taxable item occurs within the municipality in which the sale is consummated. A sale is consummated as provided by this section regardless of the place where transfer of title or possession or segregation in contemplation of a transfer of title or possession occurs.

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, a sale of an item of tangible personal property by the retailer is consummated at the retailer's place of business:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(d) If neither the possession of tangible personal property is taken at nor shipment or delivery of the property is made from the retailer's place of business in this state, the sale is consummated at:

(1) the retailer's place of business in this state

where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale is consummated at the location in this state to which tangible personal property is shipped or delivered or at which possession is taken by the customer if transfer of possession of tangible personal property occurs at, or shipment or delivery of the property originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order operates is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other transmission originates, unless the point of origin cannot be determined, in which case the sale is at the address to which the call is billed.

(h) The sale of an amusement service is consummated in the

municipality in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any use of tangible personal property that subjects the property to the sales tax under the provisions of Section 151.154, the use or other consumption of the property that subjected the property to the tax is consummated at the place where the property is stored or kept at the time of or just before the use or consumption. (V.A.C.S. Art. 1066c, Sec. 6, Subsecs. B(1) (part), (2).)

Sec. 321.204. COMPUTATION OF USE TAX. (a) In each municipality that has adopted the taxes authorized by this chapter, the taxes imposed by Section 321.104(a) and the tax imposed by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except:

(1) in a municipality that imposes the tax on gas and electricity for residential use only the rate of the municipal tax is used to determine the amount of tax on the use, storage, or other consumption of gas and electricity for residential use; and

(2) only the rate of the municipal tax is used in a situation described by Section 321.205(b).

(b) The formula prescribed by Section 321.201(b) applies to the computation of the amount of use taxes under this chapter. (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. B (part), D (part).)

Sec. 321.205. USE TAX: MUNICIPALITY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter the name of the municipality adopting the tax is

substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of tangible personal property does not apply if the property is first used, stored, or consumed in a municipality or area that has not adopted the taxes authorized by this chapter.

(b) If a sale of tangible personal property is consummated in this state but not within a municipality that has adopted the taxes authorized by this chapter and the property is shipped directly, or brought by the purchaser or lessee directly, into a municipality that has adopted the taxes authorized by this chapter, the property is subject to the municipality's use tax. The use is considered to be consummated at the location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state and the use of the property is consummated within a municipality that has adopted the tax authorized by this chapter, the property is subject to the municipality's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the municipality in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation or further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a municipality that has adopted the tax under this chapter shall be subject to the municipal use tax. (V.A.C.S. Art. 1066c, Sec. 4, Subsecs. A (part), C (part), E, F; Sec. 6, Subsec. B(3).)

Sec. 321.206. INCIDENCE OF ADDITIONAL MUNICIPAL SALES AND USE TAX. For the purpose of determining the proper sales tax under this chapter and the proper excise tax on the use, storage, or other consumption of taxable items under Section 321.101(b):

(1) if a taxable item is used, stored, or otherwise consumed in a municipality that has adopted the additional municipal sales and use tax, Sections 321.203(b), (c), (d), and (e) apply; and

(2) if the sales tax applies in a municipality that has not adopted the municipal sales and use tax, the excise tax on

the use, storage, or other consumption of the taxable item does not apply. (V.A.C.S. Art. 1066c, Sec. 4, Subsec. A (part).)

Sec. 321.207. LOCAL TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 321.205(b). (V.A.C.S. Art. 1066c, Sec. 2, Subsec. B (part); Sec. 4, Subsec. A (part).)

Sec. 321.208. STATE EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Section 151.317(b). (V.A.C.S. Art. 1066c, Sec. 6, Subsec. C(1).)

Sec. 321.209. TRANSITION EXEMPTION. (a) For a period of three years only after the effective date of the tax authorized by Section 321.101(a) in a municipality, the receipts from the sale of, and the use, storage, and consumption of, taxable items are

exempt from the tax imposed by the municipality under Section 321.101(a) if the notice required by Subsection (b) is given and if:

(1) the items are used for the performance of a written contract entered into before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the contract may not be modified because of the tax; or

(2) the items are used under the obligation of a bid submitted before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the bid may not be withdrawn or modified because of the tax.

(b) The taxpayer must give the comptroller notice of the contract or bid on which an exemption is to be claimed within 60 days after the effective date of the tax imposed under Section 321.101(a) in the municipality. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. C(2).)

Sec. 321.210. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed under this chapter the sales within the municipality of telecommunications services unless the application of the exemption is repealed under this section.

(b) The governing body of a municipality by ordinance adopted by a majority vote of the governing body in the manner required for the adoption of other ordinances may repeal the application of the exemption provided by Subsection (a) for

telecommunications services sold within the municipality.

(c) A municipality that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the governing body of a municipality repealing the application of or reinstating the exemption must be entered in the minutes of the municipality. The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of each ordinance adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the municipality as provided by Section 321.102(a) after receipt of a copy of the ordinance. (V.A.C.S. Art. 1066c, Secs. 4B(a), (b).)

[Sections 321.211-321.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 321.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax imposed by a municipality under this chapter. The taxes imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed. (V.A.C.S. Art. 1066c, Sec. 4, Subsec. B (part); Sec. 5(a) (part).)

Sec. 321.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a municipality that has adopted the taxes authorized by this chapter if the municipality requests the reports. A report must include the name, address, and account number of each person in the municipality that has remitted to the comptroller a tax payment during the quarter covered by the

report.

(b) If a municipality requests an additional report, the comptroller shall make an additional quarterly report to the municipality including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the municipality who has failed to pay the tax under this chapter to the municipality or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a municipality determines that a person doing business in the municipality is not included in a comptroller's report, the municipality shall report to the comptroller the name and address of the person. Within 90 days after receiving the report from a municipality, the comptroller shall send to the municipality:

(1) an explanation as to why the person is not obligated for the municipal tax;

(2) a statement that the person is obligated for the municipal tax and the tax is delinquent; or

(3) a certification that the person is obligated for the municipal tax and that the full amount of the tax due has been

credited to the municipality's account.

(d) The comptroller shall send by United States certified or registered mail to the municipal tax collector a notice of each person who is delinquent in the payment to the municipality of the taxes authorized by this chapter and shall send a copy of the notice to the attorney general. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 1066c, Secs. 5(b), (c), (d); Sec. 12, Subsec. A (part).)

Sec. 321.303. SALES TAX PERMITS AND EXEMPTION AND RESALE CERTIFICATES. (a) Each place of business of a retailer must have a permit issued by the comptroller under Subchapter F, Chapter 151.

(b) The same sales tax permit, exemption certificate, and resale certificate required by Chapter 151 for the administration and collection of the taxes imposed by that chapter satisfy the requirements of this chapter. No additional permit or exemption or resale certificate may be required except that the comptroller may prescribe a separate exemption certificate form for the transition exemption for prior contracts and bids under Section 321.209. (V.A.C.S. Art. 1066c, Sec. 6, Subsecs. B(1) (part), D.)

Sec. 321.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION. All discounts allowed a retailer under Chapter 151 for the collection and prepayment of the taxes under that chapter are allowed and applicable to the taxes collected under this chapter. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. E.)

Sec. 321.305. PENALTIES. The penalties provided by Chapter 151 for violations of that chapter apply to violations of this chapter. (V.A.C.S. Art. 1066c, Sec. 6, Subsec. F.)

Sec. 321.306. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, reporting, and enforcement of this chapter. (V.A.C.S. Art. 1066c, Sec. 5(a) (part); Sec. 11; Sec. 12, Subsec. C(5) (part).)

Sec. 321.307. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a tax imposed or a penalty due under this chapter after the tax and penalty are delinquent or after a determination against the taxpayer are the same as limitations provided by Chapter 151. (V.A.C.S. Art. 1066c, Sec. 12, Subsec. A (part).)

Sec. 321.308. SEIZURE AND SALE OF PROPERTY. If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties of both taxes. The proceeds of a sale of seized property shall first be applied to the payment of amounts due the state and the remainder, if any, to the amounts due to the municipality to which the taxes are due. (V.A.C.S. Art. 1066c, Sec. 12, Subsec. B.)

Sec. 321.309. SUIT FOR TAX COLLECTION. (a) A municipality acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent

taxes and penalties due to the municipality under this chapter.

(b) A municipality may bring suit for the collection of taxes owed to the municipality under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 321.302(d);

(2) a written notice of the tax delinquency and the municipality's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. A (part), C(1).)

Sec. 321.310. DISAPPROVAL OF MUNICIPAL SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a municipality under Section 321.309(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the municipality seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the

Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a municipality must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a municipal collection suit, the municipality may again proceed as provided by Section 321.309(b) even though the liability of the taxpayer includes taxes for which the municipality has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. C(2), (3).)

Sec. 321.311. JUDGMENTS IN MUNICIPAL SUIT. (a) A judgment in a suit under Section 321.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another municipality or the state unless the state is party to the suit.

(b) A municipality shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A municipality shall by execution collect the taxes awarded to it in each judgment received by the municipality and is responsible for the renewal of the judgment before its expiration.

(d) The municipality shall notify the comptroller by certified mail of the amount of any taxes collected on the

judgment. (V.A.C.S. Art. 1066c, Sec. 12, Subsecs. C(4), (5) (part).)

[Sections 321.312-321.400 reserved for expansion]

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 321.401. CALLING OF ELECTION. (a) An election under this chapter is called by the adoption of an ordinance by the governing body of a municipality.

(b) The governing body may call the election by a vote of a majority of its members.

(c) The governing body shall call the election if a number of qualified voters of the municipality equal to at least 20 percent of the number of votes cast in the most recent regular municipal election petitions the governing body for a vote on the question.

(d) The governing body of any municipality that has not adopted the additional sales and use tax shall, on petition of qualified voters of the municipality equal in number to at least five percent of the number of voters registered in the municipality, provide by ordinance for the calling and holding of an election on the question of adopting the additional sales and use tax. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. C; Sec. 2A, Subsec. C.)

Sec. 321.402. DEADLINES AFTER PETITION. (a) After the receipt of a petition for an election under this chapter, the governing body of a municipality shall determine the sufficiency of the petition within 30 days.

(b) If the petition is sufficient, the governing body shall pass the ordinance calling the election within 60 days after receiving the petition. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. D.)

Sec. 321.403. TIME OF ELECTION. (a) An election under this chapter to adopt the tax authorized under Section 321.101(a) must be held on the first succeeding uniform election date for which sufficient time elapses for the holding of an election.

(b) An election on the approval of the additional sales and use tax must be held on the next succeeding uniform election date not less than 30 days after the passage of the ordinance calling the election. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. E; Sec. 2A, Subsec. D.)

Sec. 321.404. BALLOT WORDING. (a) In an election to adopt the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "A one percent sales and use tax is adopted within the city" or "The adoption of an additional one-half of one percent sales and use tax within the city to be used to reduce the property tax rate."

(b) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "The local sales and use tax within the city is abolished" or "The abolition of the additional sales and use tax within the city." (V.A.C.S. Art. 1066c, Sec. 2, Subsecs. G (part), H (part); Sec. 2A, Subsecs. F (part), G (part).)

Sec. 321.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters approve of the adoption

or abolition of a tax authorized by this chapter, the governing body of the municipality shall by resolution or ordinance entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the municipal secretary shall send to the comptroller by United States certified or registered mail a certified copy of the resolution or the ordinance along with a map of the municipality clearly showing its boundaries.

(c) Not later than the 30th day after the date the comptroller receives a certified copy of an ordinance or resolution showing the adoption of the additional municipal sales and use tax, the comptroller shall notify the municipal secretary that he is prepared for the administration of the tax. (V.A.C.S. Art. 1066c, Sec. 2, Subsec. I; Sec. 2A, Subsec. H.)

Sec. 321.406. FREQUENCY OF ELECTION. An election under this chapter in a municipality may not be held earlier than one year after the date of any previous election under this chapter in the

municipality. (V.A.C.S. Art. 1066c, Sec. 3.)

Sec. 321.407. ELECTION CONTEST: NOTICE. (a) If an election held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending.

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section. (V.A.C.S. Art. 1066c, Sec. 13, Subsec. A.)

Sec. 321.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the municipal secretary shall notify the comptroller by United States certified or registered mail and enclose a certified copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the municipality under this chapter, the tax or the abolition of the tax takes effect as provided by Section 321.102 except that the notice of the final judgment is substituted for the notice of election results prescribed by Section 321.405. (V.A.C.S. Art. 1066c, Sec. 13, Subsec. B.)

[Sections 321.409-321.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 321.501. TRUST ACCOUNT. (a) The comptroller shall deposit the taxes collected by the comptroller under this chapter with the state treasurer. The treasurer shall keep the deposits in trust in the separate suspense account of the municipality from which the taxes were collected.

(b) The comptroller and each employee of the comptroller who has any duty or responsibility in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of the funds that are acquired by the comptroller under this chapter shall enter into one or more surety bonds in the amount of $100,000 payable to any and all municipalities from which the funds are collected. The comptroller may enter into a blanket bond or bonds covering the comptroller and the comptroller's employees.

(c) The premiums for the bonds required by this section shall be paid when due from the state's share of money collected and held by the comptroller under this chapter before its deposit in the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 7.)

Sec. 321.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as feasible, the comptroller shall send to the municipal treasurer or to the person who performs the office of the municipal treasurer payable to the municipality the municipality's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art.

1066c, Sec. 8(a) (part).)

Sec. 321.503. STATE'S SHARE. Before sending any money to a municipality under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the municipality during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to premiums payments under Section 321.501(c), credit the money deducted to the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 8(a) (part).)

Sec. 321.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a municipality a portion of the municipality's share of the tax collected for the municipality under this chapter, not to exceed five percent of the amount remitted to the municipality. If the municipality has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the municipality at the time of the termination of the collection of the tax.

(b) From the amounts retained in a municipality's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a municipality's tax under this chapter the comptroller shall send to the municipality the remainder of the money in the municipality's account and shall close the account. (V.A.C.S. Art. 1066c, Sec. 8(a) (part).)

Sec. 321.505. INTEREST ON TRUST ACCOUNT. Interest earned on all deposits made with the state treasurer under Section 321.501, including interest earned from retained suspense accounts, shall be credited to the general revenue fund. (V.A.C.S. Art. 1066c, Sec. 8, Subsec. (a) (part).)

Sec. 321.506. USE OF TAX REVENUE BY MUNICIPALITY. Except as provided by Section 321.507, the money received by a municipality under this chapter is for the use and benefit of the municipality and may be used for any purpose for which the general funds of the municipality may be used, except that a municipality may not pledge the revenue received under this chapter to the payment of bonds or other indebtedness. (V.A.C.S. Art. 1066c, Secs. 8(a) (part), 9(a).)

Sec. 321.507. USE OF ADDITIONAL MUNICIPAL SALES AND USE TAX. In each year in which a municipality imposes an additional municipal sales and use tax, if the revenue from the collection of the additional tax exceeds the amount of taxes computed for the municipality under Section 26.04(c), the excess shall be deposited in an account to be called the municipal sales tax debt service fund. Revenue deposited in the municipal sales tax debt service fund may be spent only for the reduction of lawful debts of the municipality, except that deposits that exceed the amount of revenue needed to pay the debt service needs of the municipality in the current year may be used for any municipal purpose consistent with the municipal budget. (V.A.C.S. Art. 1066c, Sec. 9(b).)

Sec. 321.508. ENTERPRISE ZONE REFUNDS. (a) A municipality

may establish a program to refund to a qualified business under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) the amount of tax paid under this chapter by the business and remitted to the comptroller.

(b) The refund must be conditioned on the qualified business having purchased or leased equipment or machinery for use in the local enterprise zone or having purchased material for use in remodeling, rehabilitating, or constructing a structure in the zone. (V.A.C.S. Art. 1066c, Sec. 8(b).)

Sec. 321.509. TAX POWERS OF MUNICIPALITY NOT LIMITED. This chapter does not abolish or limit the tax powers of a municipality. (V.A.C.S. Art. 1066c, Sec. 10.)

CHAPTER 322. SALES AND USE TAXES FOR SPECIAL PURPOSE TAXING AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 322.001. APPLICATION OF CHAPTER

Sec. 322.002. DEFINITIONS

[Sections 322.003-322.100 reserved for expansion]

SUBCHAPTER B. ASSESSMENT AND COMPUTATION OF TAXES

Sec. 322.101. SALES TAX

Sec. 322.102. USE TAX

Sec. 322.103. COMPUTATION OF SALES TAXES

Sec. 322.104. COMPUTATION OF USE TAX

Sec. 322.105. USE TAX: WHERE USE OCCURS

Sec. 322.106. TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS

Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING ENTITY

Sec. 322.108. CERTAIN PROVISIONS OF MUNICIPAL SALES AND USE TAX APPLICABLE

Sec. 322.109. TELECOMMUNICATIONS EXEMPTION

[Sections 322.110-322.200 reserved for expansion]

SUBCHAPTER C. ADMINISTRATION OF TAXES

Sec. 322.201. COMPTROLLER TO COLLECT AND ADMINISTER TAXES

Sec. 322.202. COMPTROLLER'S REPORTING DUTIES

Sec. 322.203. COMPTROLLER'S RULES

Sec. 322.204. DELINQUENT TAXES: LIMITATIONS

Sec. 322.205. SEIZURE AND SALE OF PROPERTY

Sec. 322.206. SUITS FOR TAX COLLECTION

Sec. 322.207. DISAPPROVAL OF SUIT

Sec. 322.208. JUDGMENTS IN SUIT

[Sections 322.209-322.300 reserved for expansion]

SUBCHAPTER D. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 322.301. COLLECTIONS HELD BY COMPTROLLER

Sec. 322.302. DISTRIBUTION OF TRUST FUNDS

Sec. 322.303. STATE'S SHARE

Sec. 322.304. AMOUNTS RETAINED IN TRUST ACCOUNT

Sec. 322.305. INTEREST ON TRUST ACCOUNTS

1 CHAPTER 322. SALES AND USE TAXES FOR SPECIAL PURPOSE TAXING
2 AUTHORITIES
3 SUBCHAPTER A. GENERAL PROVISIONS
4 Sec. 322.001. APPLICATION OF CHAPTER. (a) This chapter
5 applies to the imposition, assessment, collection, administration,
6 and enforcement of a sales and use tax imposed under the authority
7 of Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973
8 (Article 1118x, Vernon's Texas Civil Statutes), Chapter 683, Acts
9 of the 66th Legislature, Regular Session, 1979 (Article 1118y,
10 Vernon's Texas Civil Statutes), or Article 1118z, Revised Statutes.
11 (b) The effective dates and rates of the taxes imposed by a
12 taxing entity are determined under the laws authorizing the
13 adoption of the taxes. (New.)
14 Sec. 322.002. DEFINITIONS. In this chapter:
15 (1) "Taxing entity" means a rapid transit authority, a
16 regional transit authority, including a subregional transportation
17 authority, or a municipal mass transit department created under
18 Article 1118z, Revised Statutes, that has adopted a sales and use
19 tax under the law authorizing the creation of the entity.
20 (2) "Entity area" means the geographical limits of a
21 taxing entity.
22 (3) "Municipal sales and use tax" means a sales and
23 use tax imposed by a municipality under the Municipal Sales and Use
24 Tax Act (Chapter 321) within an entity area. (V.A.C.S. Art. 1118x,
25 Sec. 11B(B)(a); Art. 1118y, Sec. 16(b); New.)
26 [Sections 322.003-322.100 reserved for expansion]

SUBCHAPTER B. ASSESSMENT AND COMPUTATION OF TAXES

Sec. 322.101. SALES TAX. There is imposed in a taxing entity a sales tax at the rate authorized and set as provided by the law authorizing the creation of the taxing entity and applied to the receipts from the sale within the entity area of all taxable items that are subject to the sales tax under Chapter 151. (V.A.C.S. Art. 1118x, Sec. 11B(A) (part); Art. 1118y, Sec. 16(a) (part); Art. 1118z, Sec. 8(a) (part).)

Sec. 322.102. USE TAX. In a taxing entity, there is imposed an excise tax on the use, storage, and other consumption within the entity area of taxable items purchased, leased, or rented from a retailer during the period that the sales tax is effective within the entity area. The rate of the excise tax is the same rate as the rate of the sales tax imposed by the taxing entity and is applied to the sales price of the taxable item. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(1) (part); Art. 1118y, Sec. 16(f)(2)(A) (part); Art. 1118z, Sec. 8(c) (part).)

Sec. 322.103. COMPUTATION OF SALES TAXES. (a) Each retailer in an entity area shall add the sales tax imposed under this chapter, the sales taxes imposed under Chapter 151, and, if applicable, any sales taxes imposed under Chapter 321 or 323 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price.

If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined applicable tax rates. (V.A.C.S. Art. 1118x, Sec. 11B(B)(b); Art. 1118y, Sec. 16(f)(1); Art. 1118z, Sec. 8(b).)

Sec. 322.104. COMPUTATION OF USE TAX. (a) In each taxing entity the tax imposed by Subchapter D, Chapter 151, the tax imposed under Section 321.104(a), if applicable, and the tax imposed under Section 322.102 are added together to form a single combined tax rate, except in a situation described by Section 322.105(b).

(b) The formula prescribed by Section 322.103(b) applies to the computation of the amount of the tax under this section. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(2) (part); Art. 1118y, Sec. 16(f)(2)(B) (part); Art. 1118z, Sec. 8(d) (part).)

Sec. 322.105. USE TAX: WHERE USE OCCURS. (a) In determining the incidence of the use tax of a taxing entity, the name of the taxing entity is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax of a taxing entity on the use, storage, or other consumption of

tangible personal property does not apply if the property is first used, stored, or consumed in an area other than an entity area.

(b) If a sale of tangible personal property is consummated within this state but not within an entity area and the property is shipped directly or brought by the purchaser or lessee directly into an entity area, the property is subject to the entity's use tax. The use is considered to be consummated at the location where the item is first used, stored, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state, the property is subject to the use tax of the taxing entity and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) If tangible personal property that is exempt under Section 322.107 is shipped or delivered directly to a purchaser in an entity, the property is subject to the use tax of the entity in which the purchaser takes delivery or shipment. (V.A.C.S. Art. 1118x, Secs. 11B(B)(c)(1) (part), (3), (4), (5), (6) (part); Art. 1118y, Secs. 16(f)(2)(A) (part), (C), (D), (E), (F) (part); Art. 1118z, Secs. 8(c) (part), (e), (f), (g)(1), (g)(3).)

Sec. 322.106. TAX INAPPLICABLE WHEN NO STATE TAX;

EXCEPTIONS. (a) The sales tax of a taxing entity does not apply to the sale of a taxable item unless the sales tax imposed under Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax of a taxing entity on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption of the item.

(c) Subsection (b) does not apply to the application of the tax in a situation described by Section 322.105(b). (V.A.C.S. Art. 1118x, Secs. 11B(A) (part), (B)(c)(1) (part), (d)(1) (part); Art. 1118y, Secs. 16(a) (part), (f)(2)(A) (part), (3)(A) (part); Art. 1118z, Secs. 8(a) (part), (c) (part), (h) (part).)

Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING ENTITY. There are exempted from the sales tax of a taxing entity the receipts of the sale of tangible personal property that, under a sales contract, is shipped to a point outside the entity by means of:

(1) facilities operated by the retailer;

(2) delivery by the retailer to a carrier for shipment to a consignee at that point; or

(3) delivery by the retailer to a customs broker or a forwarding agent for shipment outside the entity. (V.A.C.S. Art. 1118x, Sec. 11B(B)(c)(6) (part); Art. 1118y, Sec. 16(f)(2)(F) (part); Art. 1118z, Sec. 8(g)(2).)

Sec. 322.108. CERTAIN PROVISIONS OF MUNICIPAL SALES AND USE

TAX APPLICABLE. The following apply to the taxes imposed by this chapter in the same manner as applicable to a municipality under Chapter 321:

(1) Section 321.002(a)(3);

(2) Section 321.003;

(3) Section 321.203;

(4) Section 321.205(d);

(5) Section 321.208;

(6) Section 321.209;

(7) Section 321.303;

(8) Section 321.304; and

(9) Section 321.305. (V.A.C.S. Art. 1118x, Sec. 11B(B)(e) (part); Art. 1118y, Sec. 16(f)(4) (part); Art. 1118z, Sec. 8(j) (part).)

Sec. 322.109. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed by a taxing entity under this chapter the sales within the entity area of telecommunications services unless the application of the exemption is repealed under this section.

(b) The board of a taxing entity may, by a majority vote of the board in the manner required for the adoption of other orders, repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the city.

(c) A taxing entity board that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of a taxing entity board repealing the

application of or reinstating the exemption must be entered in the minutes of the entity. The entity board chairman or secretary shall send to the comptroller by United States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the entity on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives a copy of the order. (V.A.C.S. Art. 1118x, Secs. 11B(B)(b-1)(1), (2); Art. 1118y, Secs. 16(f)(1-A)(A), (B); Art. 1118z, Secs. 8(b-1)(1), (2).)

[Sections 322.110-322.200 reserved for expansion]

SUBCHAPTER C. ADMINISTRATION OF TAXES

Sec. 322.201. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. (a) The comptroller shall administer, collect, and enforce the sales and use tax of a taxing entity.

(b) The sales and use taxes imposed under this chapter, the taxes imposed under Chapters 321 and 323, and the taxes imposed under Chapter 151 shall be collected together to the extent that each is imposed in an entity area. (V.A.C.S. Art. 1118x, Secs. 11B(B)(c)(2) (part), (d)(1) (part); Art. 1118y, Secs. 16(f)(2)(B) (part), (3)(A) (part); Art. 1118z, Secs. 8(d) (part), (h) (part).)

Sec. 322.202. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall report to a taxing entity on the entity's sales and use taxes by making substantially the same reports that are required to be made by the comptroller to a municipality under

Sections 321.302(a), (b), and (c).

(b) The comptroller shall send to a taxing entity by United States certified or registered mail a notice of each person who is delinquent in the payment of the entity's sales and use taxes and shall send to the attorney general a copy of the notice. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 1118x, Secs. 11B(B)(d)(2), (h)(1) (part); Art. 1118y, Secs. 16(f)(3)(B), (7)(A) (part); Art. 1118z, Secs. (i), (n) (part).)

Sec. 322.203. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, and enforcement of this chapter and for the reporting of the taxes imposed under this chapter. (V.A.C.S. Art. 1118x, Secs. 11B(B)(d)(1) (part), (g), (h)(7) (part); Art. 1118y, Secs. 16(f)(3)(A) (part), (6), (7)(G) (part); Art. 1118z, Secs. 8(h) (part), (m), (t) (part).)

Sec. 322.204. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a sales and use tax imposed by a taxing entity or a penalty due on the tax after the tax and penalty are delinquent or after a determination against a taxpayer are the same as the limitations provided by Chapter 151. (V.A.C.S. Art. 1118x, Sec. 11B(B)(h)(1) (part); Art. 1118y, Sec. 16(f)(7)(A) (part); Art. 1118z, Sec. 8(n) (part).)

Sec. 322.205. SEIZURE AND SALE OF PROPERTY. (a) If the

comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties under this chapter, Chapter 151, and Chapter 321.

(b) The proceeds of the sale of seized property shall first be applied to the payment of amounts due the state, then to the payments of amounts due a municipality under Chapter 321, and the remainder, if any, to the payment of amounts due to the taxing entity to which the taxes are due. (V.A.C.S. Art. 1118x, Sec. 11B(B)(h)(2); Art. 1118y, Sec. 16(f)(7)(B); Art. 1118z, Sec. 8(o).)

Sec. 322.206. SUITS FOR TAX COLLECTION. (a) A taxing entity acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the taxing entity under this chapter.

(b) A taxing entity may bring suit for the collection of taxes owed to the taxing entity under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 322.202(b);

(2) a written notice of the tax delinquency and the entity's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(1)

(part), (3) (part); Art. 1118y, Secs. 16(f)(7)(A) (part), (C) (part); Art. 1118z, Secs. 8(n) (part), (p) (part).)

Sec. 322.207. DISAPPROVAL OF SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a taxing entity under Section 322.206(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the taxing entity seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a taxing entity must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a taxing entity collection suit, the taxing entity may again proceed as provided by Section 322.206(b) even though the liability of the taxpayer includes taxes

for which the entity has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(3) (part), (4), (5); Art. 1118y, Secs. 16(f)(7)(C) (part), (D), (E); Art. 1118z, Secs. 8(p) (part), (q), (r).)

Sec. 322.208. JUDGMENTS IN SUIT. (a) A judgment in a suit under Section 322.206(b) for or against a taxpayer does not affect a claim against the taxpayer by a municipality or the state unless the state is party to the suit.

(b) A taxing entity shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A taxing entity shall by execution collect the taxes awarded to it in each judgment received by it and is responsible for the renewal of the judgment before its expiration.

(d) The taxing entity shall notify the comptroller by certified mail of the amount of any taxes collected on the judgment. (V.A.C.S. Art. 1118x, Secs. 11B(B)(h)(6), (7) (part); Art. 1118y, Secs. 16(f)(7)(F), (G) (part); Art. 1118z, Secs. 8(s), (t) (part).)

[Sections 322.209-322.300 reserved for expansion]

SUBCHAPTER D. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 322.301. COLLECTIONS HELD BY COMPTROLLER. The comptroller shall deposit, hold, account for, and transmit sales and use taxes collected under this chapter for each taxing entity

in the same manner as required under Section 321.501 for each municipality. (V.A.C.S. Art. 1118x, Sec. 11B(B)(e) (part); Art. 1118y, Sec. 16(f)(4) (part); Art. 1118z, Sec. 8(k) (part).)

Sec. 322.302. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and as often as feasible, the comptroller shall send to the person at each taxing entity who performs the function of entity treasurer, payable to the taxing entity, the entity's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.303. STATE'S SHARE. Before sending any money to a taxing entity under this subchapter, the comptroller shall deduct two percent of the amount of the taxes collected within the entity area during the period for which a distribution is made as the state's charge for its services under this chapter and shall credit the money deducted to the general revenue fund. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.304. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a taxing entity a portion of the entity's share of the tax collected for the entity under this chapter, not to exceed five percent of the amount remitted to the entity. If the entity has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the entity at the time of the termination of

the collection of the tax.

(b) From the amounts retained in an entity's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of an entity's tax under this chapter other than a department under Article 1118z, Revised Statutes, the comptroller shall send to the entity the remainder of the money in the entity's account and shall close the account. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part); Art. 1118z, Sec. 8(l) (part).)

Sec. 322.305. INTEREST ON TRUST ACCOUNTS. Interest earned on all deposits made with the state treasurer under this chapter, including interest earned on retained accounts, shall be credited to the general revenue fund. (V.A.C.S. Art. 1118x, Sec. 11B(B)(f) (part); Art. 1118y, Sec. 16(f)(5) (part).)

CHAPTER 323. COUNTY SALES AND USE TAX ACT

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16 SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE
17 Sec. 323.501. TRUST ACCOUNT
18 Sec. 323.502. DISTRIBUTION OF TRUST FUNDS
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21 Sec. 323.505. USE OF TAX REVENUE
22 CHAPTER 323. COUNTY SALES AND USE TAX ACT
23 SUBCHAPTER A. GENERAL PROVISIONS
24 Sec. 323.001. SHORT TITLE. This chapter may be cited as the
25 County Sales and Use Tax Act. (V.A.C.S. Art. 2353e, Sec. 20
26 (part).)

Sec. 323.002. DEFINITIONS. The words used in this chapter and defined by Chapters 151 and 321 have the meanings assigned by Chapters 151 and 321. (V.A.C.S. Art. 2353e, Sec. 20 (part).)

Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B and Chapter 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes unless modified by this chapter. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part); Sec. 23, Subsec. (C) (part); Sec. 26, Subsec. (A).)

[Sections 323.004-323.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY COUNTIES

Sec. 323.101. TAX AUTHORIZED. (a) A qualified county may adopt or repeal the county sales and use tax authorized by this chapter at an election in which a majority of the qualified voters of the county approve the adoption or repeal of the tax, as applicable.

(b) A county is qualified to adopt the tax only if no part of the county is located in a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

(c) An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature,

Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts in a county in which the county sales and use tax provided for in this section is in effect or is scheduled to take effect. For the purposes of this section, an authority is not considered to be located in any county in which fewer than 250 persons are both residents of the authority and the county. (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (A), (H) (part).)

Sec. 323.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE. (a) A tax imposed under this chapter takes effect on the first day of the first calendar year occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

(b) The repeal of a tax abolished under this chapter takes effect on the first day of the first calendar year that begins on or after the first day of the first county fiscal year that begins at least 30 days after the date on which the comptroller receives a notice of the action as required by Section 323.405(b). (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (G) (part), (H) (part).)

Sec. 323.103. SALES TAX. In a county that has adopted the tax authorized by this chapter, there is imposed a tax on the receipts from the sale at retail of taxable items within the county at the rate of one-half of one percent, or in a county that includes no territory within the limits of a municipality, one percent. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part).)

Sec. 323.104. USE TAX. In a county that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the county of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the county. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the tangible personal property. (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (A) (part).)

[Sections 323.105-323.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 323.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a county that has adopted the tax authorized by this chapter shall add the sales tax imposed by this chapter and by Chapter 151, plus any other applicable sales tax, to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (J) (part).)

Sec. 323.202. METHOD OF REPORTING: RETAILERS HAVING SALES

BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined state and local taxes. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (J) (part).)

Sec. 323.203. CONSUMMATION OF SALE. (a) A sale of a taxable item occurs within the county in which the sale is consummated. A sale is consummated as provided by this section regardless of the place where transfer of title or possession occurs.

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, a sale of an item of tangible personal property by the retailer is consummated at the retailer's place of business:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(d) If neither the possession of tangible personal property is taken at nor shipment or delivery of the property is made from the retailer's place of business in this state, the sale is

consummated at:

(1) the retailer's place of business in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale is consummated at the location in this state to which tangible personal property is shipped or delivered or at which possession is taken by the customer if transfer of possession of tangible personal property occurs at, or shipment or delivery of the property originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order operates is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other transmission originates, unless the point of origin cannot be determined, in which case the sale is at

the address to which the call is billed.

(h) The sale of an amusement service is consummated in the county in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any use of tangible personal property that subjects the property to the sales tax under the provisions of Section 151.154, the use or other consumption of the property that subjected the property to the tax is consummated at the place where the property is stored or kept at the time of or just before the use or consumption. (V.A.C.S. Art. 2353e, Sec. 26, Subsecs. (B)(1) (part), (2).)

Sec. 323.204. COMPUTATION OF USE TAX. In each county that has adopted the taxes authorized by this chapter, the tax imposed by Section 323.104, by other applicable local taxes, and by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except only the rate of the county tax is used in a situation described by Section 323.205(b). (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (B) (part).)

Sec. 323.205. USE TAX: COUNTY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter, the name of the county adopting the tax is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of tangible personal property does not apply if the property is first used, stored, or consumed in a

county that has not adopted the taxes authorized by this chapter.

(b) If a sale of tangible personal property is consummated in this state but not within a county that has adopted the taxes authorized by this chapter and the property is shipped directly, or brought by the purchaser or lessee directly, into a county that has adopted the taxes authorized by this chapter, the property is subject to the county's use tax. The use is considered to be consummated at the location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If tangible personal property is shipped from outside this state to a customer within this state and the use of the property is consummated within a county that has adopted the tax authorized by this chapter, the property is subject to a county's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the property is stored, used, or consumed after the interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the county in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by

the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation or further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a county that has adopted the tax under this chapter shall be subject to the county use tax. (V.A.C.S. Art. 2353e, Sec. 23, Subsecs. (A) (part), (C) (part), (D), (E); Sec. 26, Subsec. (B)(3).)

Sec. 323.206. COUNTY TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of an item of tangible personal property does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 323.205(b). (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (B) (part); Sec. 23, Subsec. (A) (part).)

Sec. 323.207. STATE EXEMPTIONS APPLICABLE. The exemptions

provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Section 151.317(b). (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (C).)

Sec. 323.208. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed under this chapter the sale within the county of telecommunications services unless the application of the exemption is repealed under this section.

(b) The commissioners court of a county by a majority vote may repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the county.

(c) A county that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the commissioners court repealing the application of or reinstating the exemption must be entered in the minutes of the court. The county judge shall send to the comptroller by United States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the county on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives notification of the order. (V.A.C.S. Art. 2353e, Secs. 24(A), (B).)

[Sections 323.209-323.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 323.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax

imposed by a county under this chapter. The tax imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed. (V.A.C.S. Art. 2353e, Sec. 23, Subsec. (B) (part); Sec. 25(A) (part).)

Sec. 323.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a county that has adopted the taxes authorized by this chapter if the county requests the reports. A report must include the name, address, and account number of each person in the county that has remitted to the comptroller a tax payment during the quarter covered by the report.

(b) If a county requests an additional report, the comptroller shall make an additional quarterly report to the county including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the county who has failed to pay the tax under this chapter to the county or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a county determines that a person doing business in the county is not included in a comptroller's report, the county shall report to the comptroller the name and address of the person.

Within 90 days after receiving the report from a county, the comptroller shall send to the county:

(1) an explanation as to why the person is not obligated for the county tax;

(2) a statement that the person is obligated for the county tax and the tax is delinquent; or

(3) a certification that the person is obligated for the county tax and that the full amount of the tax due has been credited to the county's account.

(d) The comptroller shall send by United States certified or registered mail to the county attorney a notice of each person who is delinquent in the payment to the county of the taxes authorized by this chapter and shall send a copy of the notice to the attorney general. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency. (V.A.C.S. Art. 2353e, Secs. 25(B), (C), (D); Sec. 31, Subsec. (A) (part).)

Sec. 323.303. SALES TAX PERMITS AND EXEMPTION AND RESALE CERTIFICATES. (a) Each place of business of a retailer must have a permit issued by the comptroller under Subchapter F, Chapter 151.

(b) The same sales tax permit, exemption certificate, and resale certificate required by Chapter 151 for the administration and collection of the taxes imposed by that chapter satisfy the requirements of this chapter. No additional permit or exemption or resale certificate may be required.

(c) The comptroller may prescribe the form of an exemption

1 certificate for a prior contract exemption under this chapter.
2 (V.A.C.S. Art. 2353e, Sec. 26, Subsecs. (B) (part), (D).)
3 Sec. 323.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION.
4 All discounts allowed a retailer under Chapter 151 for the
5 collection and prepayment of the taxes under that chapter are
6 allowed and applicable to the taxes collected under this chapter.
7 (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (E).)
8 Sec. 323.305. PENALTIES. The penalties provided by Chapter
9 151 for violations of that chapter apply to violations of this
10 chapter. (V.A.C.S. Art. 2353e, Sec. 26, Subsec. (F).)
11 Sec. 323.306. COMPTROLLER'S RULES. The comptroller may
12 adopt reasonable rules and prescribe forms that are consistent with
13 this chapter for the administration, collection, reporting, and
14 enforcement of this chapter. (V.A.C.S. Art. 2353e, Sec. 25(A)
15 (part); Sec. 30.)
16 Sec. 323.307. DELINQUENT TAXES: LIMITATIONS. The
17 limitations for the bringing of a suit for the collection of a tax
18 imposed or a penalty due under this chapter after the tax and
19 penalty are delinquent or after a determination against the
20 taxpayer are the same as limitations provided by Chapter 151.
21 (V.A.C.S. Art. 2353e, Sec. 31, Subsec. (A) (part).)
22 Sec. 323.308. SEIZURE AND SALE OF PROPERTY. If the
23 comptroller lawfully seizes property for the payment of the taxes
24 imposed under Chapter 151 and the property owner is delinquent in
25 the payment of taxes under this chapter, the comptroller shall sell
26 sufficient property to pay the delinquent taxes and penalties of
27 both taxes. The proceeds of a sale of seized property shall first

be applied to the payment of amounts due the state, any remainder to the amounts due to a municipality to which the taxes are due under Chapter 321, and any remainder to the amounts due to a county to which taxes are due. (V.A.C.S. Art. 2353e, Sec. 31, Subsec. (B).)

Sec. 323.309. SUIT FOR TAX COLLECTION. (a) A county acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the county under this chapter.

(b) A county may bring suit for the collection of taxes owed to the county under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 323.302(d);

(2) a written notice of the tax delinquency and the county's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (A) (part), (C)(1).)

Sec. 323.310. DISAPPROVAL OF COUNTY SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a county under Section 323.309(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the county seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a county must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a county collection suit, the county may again proceed as provided by Section 323.309(b) even though the liability of the taxpayer includes taxes for which the county has previously given notice and the comptroller or attorney general has disapproved of the suit. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (C)(2), (3).)

Sec. 323.311. JUDGMENTS IN COUNTY SUIT. (a) A judgment in a suit under Section 323.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another county, a municipality, or the state unless the state is party to the suit.

(b) A county shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state

is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A county shall by execution collect the taxes awarded to it in each judgment received by the county and is responsible for the renewal of the judgment before its expiration.

(d) The county shall send to the comptroller for deposit in the county's suspense account the amount of any taxes collected on the judgment. (V.A.C.S. Art. 2353e, Sec. 31, Subsecs. (C)(4), (5).)

[Sections 323.312-323.400 reserved for expansion]

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 323.401. CALLING OF ELECTION. (a) An election under this chapter is called by the adoption of an order by the commissioners court of a county.

(b) The commissioners court may call the election by a vote of a majority of its members.

(c) The commissioners court shall call the election if a number of qualified voters of the county equal to at least five percent of the number of registered voters in the county petitions for a vote on the question. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (C).)

Sec. 323.402. DEADLINES AFTER PETITION. (a) After the receipt of a petition for an election under this chapter, the commissioners court shall determine the sufficiency of the petition within 30 days.

(b) If the petition is sufficient, the commissioners court

shall pass the ordinance calling the election within 60 days after receiving the petition. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (D).)

Sec. 323.403. TIME OF ELECTION. An election under this chapter must be held on the next uniform election day not less than 30 days after the day on which the order calling the election was passed. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (E).)

Sec. 323.404. BALLOT WORDING. (a) Except as provided by Subsection (b), in an election to adopt the tax, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one-half percent county sales and use tax within the county to be used to reduce the county property tax rate."

(b) In an election in a county that includes no territory within the limits of a municipality, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one percent county sales and use tax within the county to be used to reduce the county property tax rate."

(c) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the proposition: "Abolition of the county sales and use tax within the county." (V.A.C.S. Art. 2353e, Sec. 21, Subsecs. (G) (part), (H) (part).)

Sec. 323.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters of a county approve of the adoption or abolition of the tax authorized by this chapter,

the commissioners court of the county shall, by resolution entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the county judge shall send to the comptroller by United States certified or registered mail a certified copy of the resolution. (V.A.C.S. Art. 2353e, Sec. 21, Subsec. (I).)

Sec. 323.406. FREQUENCY OF ELECTION. An election under this chapter in a county may not be held earlier than one year after the date of any previous election under this chapter in the county. (V.A.C.S. Art. 2353e, Sec. 22.)

Sec. 323.407. ELECTION CONTEST: NOTICE. (a) If an election held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending.

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section. (V.A.C.S. Art. 2353e, Sec. 32, Subsec. (A).)

Sec. 323.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the county judge shall notify the comptroller by United States certified or registered mail and enclose a certified copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the county under this chapter, the tax or the abolition of the tax takes effect as provided by Section 323.102 except that the notice of the final judgment is substituted for the notice of election results prescribed by Section 323.405. (V.A.C.S. Art. 2353e, Sec. 32, Subsec. (B).)

[Sections 323.409-323.500 reserved for expansion]

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 323.501. TRUST ACCOUNT. (a) The comptroller shall deposit the taxes collected by the comptroller under this chapter with the state treasurer. The treasurer shall keep the deposits in trust in the separate suspense account of the county from which the taxes were collected.

(b) The comptroller and each employee of the comptroller who

has any duty or responsibility in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of the funds that are acquired by the comptroller under this chapter shall enter into one or more surety bonds in the amount of $100,000 payable to any and all counties from which the funds are collected. The comptroller may enter into a blanket bond or bonds covering the comptroller and the comptroller's employees.

(c) The premiums for the bonds required by this section shall be paid when due from the state's share of money collected and held by the comptroller under this chapter before its deposit in the general revenue fund.

(d) If municipalities and counties are protected under a single bond, separate bonds are not required for compliance with this section and Section 321.501. (V.A.C.S. Art. 2353e, Sec. 27.)

Sec. 323.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as feasible, the comptroller shall send to the county treasurer payable to the county the county's share of the taxes collected by the comptroller under this chapter. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.503. STATE'S SHARE. Before sending any money to a county under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the county during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to

premiums payments under Section 323.501(c), credit the money deducted to the general revenue fund. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a county a portion of the county's share of the tax collected for the county under this chapter, not to exceed five percent of the amount remitted to the county. If the county has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the county at the time of the termination of the collection of the tax.

(b) From the amounts retained in a county's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a county's tax under this chapter the comptroller shall send to the county the remainder of the money in the county's account and shall close the account. (V.A.C.S. Art. 2353e, Sec. 28 (part).)

Sec. 323.505. USE OF TAX REVENUE. The money received by a county under this chapter is for the use and benefit of the county and shall be used for the replacement of property tax revenue lost as a result of the adoption of the taxes authorized by this chapter. The revenue in excess of the revenue used to replace those property taxes shall be used for the reduction of

indebtedness of the county. After all indebtedness is paid, the excess may be used for any purpose for which county general revenue may be used. A county may not pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness for a period longer than one year. (V.A.C.S. Art. 2353e, Sec. 29.)

[Chapters 324-350 reserved for expansion]

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 351.001. DEFINITIONS

Sec. 351.002. TAX AUTHORIZED

Sec. 351.003. TAX RATES

Sec. 351.004. TAX COLLECTION

Sec. 351.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES

[Sections 351.006-351.100 reserved for expansion]

SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

Sec. 351.101. USE OF TAX REVENUE

Sec. 351.102. PLEDGE FOR BONDS

Sec. 351.103. ALLOCATION OF REVENUE: GENERAL RULE

Sec. 351.104. ALLOCATION OF REVENUE: ELIGIBLE MUNICIPALITIES

Sec. 351.105. ALLOCATION OF REVENUE: ELIGIBLE COASTAL MUNICIPALITIES

Sec. 351.106. ALLOCATION OF REVENUE: MUNICIPALITIES WITH POPULATION OF 900,000 AND COUNCIL-MANAGER GOVERNMENT

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 351.001. DEFINITIONS. In this chapter:

(1) "Municipality" includes any incorporated city, town, or village.

(2) "Convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and other municipal buildings that are suitable for use as convention and exposition facilities. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the immediate vicinity of other convention center facilities.

(3) "Eligible municipality" means a municipality that has a population of at least 1,200,000 and that has adopted by ordinance a capital improvement plan for convention and exposition facilities for the municipality.

(4) "Eligible coastal municipality" means a home-rule municipality that borders on the Gulf of Mexico and has a population of less than 80,000.

(5) "Hotel" has the meaning assigned by Section 156.001(1). (V.A.C.S. Art. 1269j-4.1, Sec. 3c(a)(1) (part); Sec. 3d(a); Secs. 3e(a)(1), (2); Sec. 3f(a); Sec. 3g(a)(2), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.002. TAX AUTHORIZED. (a) A municipality by ordinance may impose a tax on a person who, under a lease,

concession, permit, right of access, license, contract, or agreement, 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 sleeping.

(b) The price of a room in a hotel 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.

(c) The tax does not apply to a person who has the right to use or possess a room in a hotel for 30 or more days. (V.A.C.S. Art. 1269j-4.1, Sec. 3a(a) (part); Secs. 3d(b), (c), (d); Sec. 3e(b)(1) (part); Sec. 3f(b) (part); Sec. 3g(b) (part), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.003. TAX RATES. (a) Except as provided by this section, the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The rate in an eligible municipality may not exceed six percent of the price paid for a room in a hotel.

(c) The rate in a municipality having a population of 900,000 or more and a council-manager form of government may not exceed five percent of the price paid for a room in a hotel. (V.A.C.S. Art. 1269j-4.1, Secs. 3a(a) (part), 3e(b)(1) (part), 3f(b) (part), 3g(b) (part), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

Sec. 351.004. TAX COLLECTION. (a) The municipal attorney

or other attorney acting for the municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality and who has failed to file a tax report or pay the tax when due to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order.

(b) The remedy provided by this section is in addition to other available remedies. (V.A.C.S. Art. 1269j-4.1, Sec. 3g, as added by Ch. 1009, Acts 68th Leg., R.S., 1983.)

Sec. 351.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) A municipality may permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

(b) The municipality may provide that the reimbursement provided by this section be forfeited because of a failure to pay the tax or to file a report as required by the municipality. (V.A.C.S. Art. 1269j-4.1, Secs. 3a(b), 3e(f).)

[Sections 351.006-351.100 reserved for expansion]

SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

Sec. 351.101. USE OF TAX REVENUE. (a) Revenue from the municipal hotel occupancy tax may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and

maintenance of convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising for general promotional and tourist advertising of the municipality and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the municipality or through contracts with persons or organizations selected by the municipality;

(4) 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; and

(5) historical restoration and preservation projects or activities:

(A) at or in the immediate vicinity of convention center facilities; or

(B) that would be frequented by tourists and visitors to the municipality.

(b) It is the intent of the legislature that revenues derived from the tax authorized by this chapter are to be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry. (V.A.C.S. Art. 1269j-4.1, Secs.

3c(a) (part), (c).)

Sec. 351.102. PLEDGE FOR BONDS. (a) Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), for one or more of the purposes provided by Section 351.101.

(b) Before an eligible municipality may issue bonds secured in whole or part by the revenue received from the tax imposed under this chapter, the municipality must certify that the average annual debt service on outstanding bonds and bonds in the process of issuance that are secured in whole or part by the tax authorized by this chapter and that were issued for purposes other than convention and exposition facilities does not exceed the maximum annual revenues that the municipality could receive from the tax imposed under this section in the absence of special provisions under this chapter that apply solely to eligible municipalities, plus any other revenue pledged to the payment of the bonds. (V.A.C.S. Art. 1269j-4.1, Secs. 3c(b) (part), 3e(c).)

Sec. 351.103. ALLOCATION OF REVENUE: GENERAL RULE. (a) The following amount of municipal hotel occupancy tax revenue must be allocated for the use provided by Section 351.101(a)(3):

(1) if the tax rate in a municipality is not more than three percent of the cost paid for a room, not less than the amount of revenue received by the municipality from the tax at a rate of

one-half of one percent of the cost of the room; or

(2) if the tax rate in a municipality exceeds three percent of the cost of a room, not less than the amount of revenue received by the municipality from the tax at a rate of one percent of the cost of a room.

(b) No more municipal hotel occupancy revenue than the amount of tax received by the municipality at the rate of one percent of the cost of a room may be used for the purpose provided by Section 351.101(a)(4).

(c) All municipal hotel occupancy tax revenue that is derived from the application of the tax at a rate in excess of four percent of the cost of a room may only be used for the purposes provided by Sections 351.101(a)(1), (2), and (3). (V.A.C.S. Art. 1269j-4.1, Secs. 3a(a) (part), 3c(b) (part).)

Sec. 351.104. ALLOCATION OF REVENUE: ELIGIBLE MUNICIPALITIES. (a) Subject to the limitation provided by Subsection (b) and Section 351.102, an eligible municipality may pledge to the payment of revenue bonds and revenue refunding bonds issued under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, all or any portion of the revenue derived from the municipality hotel occupancy tax and all or any portion of any other revenue of the municipality as the governing body may determine in the ordinance authorizing the issuance of the bonds.

(b) Consistent with the provisions of Section 351.103(a), an eligible municipality shall reserve that portion of the municipal hotel occupancy tax revenue derived from the application of the tax

at a rate in excess of four percent of the cost of a room solely for the purposes provided by Section 351.101(a)(1) and for the purpose of securing refunding bonds in connection therewith.

(c) Revenue received by an eligible municipality from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101. (V.A.C.S. Art. 1269j-4.1, Secs. 3e(b) (part), (d), (g).)

Sec. 351.105. ALLOCATION OF REVENUE: ELIGIBLE COASTAL MUNICIPALITIES. (a) An eligible coastal municipality that levies and collects an occupancy tax authorized by this chapter at a rate of seven percent or more shall pledge a portion of the revenue equal to at least one percent of the cost of a room to either or both of the following purposes:

(1) the payment of the bonds that the municipality or a park board of trustees may issue under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), or under Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6081g-1, Vernon's Texas Civil Statutes), in order to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair of public improvements, including parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in

connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality; or

(2) the maintenance, improvement, or operation of the parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality.

(b) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of four or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of three percent of the cost of a room shall be used for the purpose provided by Section 351.101(a)(3).

(c) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of five or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent shall be used for beach patrol, lifeguard services, marine water safety, and park law enforcement.

(d) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of six or more percent, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent of the cost of a

room shall be used as matching funds for state funds available to clean and maintain public beaches and for other public beach-cleaning funds. (V.A.C.S. Art. 1269j-4.1, Secs. 3f(c) (part), (d), (e), (f).)

Sec. 351.106. ALLOCATION OF REVENUE: MUNICIPALITIES WITH POPULATION OF 900,000 AND COUNCIL-MANAGER GOVERNMENT. (a) A municipality that has a population of 900,000 or more and that has adopted a council-manager form of government shall use the amount of revenue from the tax that is derived from the application of the tax at a rate of more than four percent of the cost of a room as follows:

(1) no more than 65 percent to:

(A) constructing, improving, enlarging, equipping, and repairing the municipality's convention center complex; or

(B) pledging payment of revenue bonds and revenue refunding bonds issued under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), for the municipality's convention center complex; and

(2) at least 35 percent for the purposes provided by Section 351.101(a)(3).

(b) Revenue received by a municipality described by Subsection (a) from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101. (V.A.C.S. Art. 1269j-4.1, Secs. 3g(a)(1), (c), (d), as added by Ch. 879, Acts 68th Leg., R.S., 1983.)

CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 352.001. DEFINITION
Sec. 352.002. TAX AUTHORIZED
Sec. 352.003. TAX RATES
Sec. 352.004. TAX COLLECTION; PENALTY
Sec. 352.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES
[Sections 352.006-352.100 reserved for expansion]

SUBCHAPTER B. USE OF REVENUE

Sec. 352.101. USE OF REVENUE: COUNTIES OF TWO MILLION PERSONS OR MORE
Sec. 352.102. USE OF REVENUE: COUNTIES BORDERING MEXICO
Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY
Sec. 352.104. PLEDGE FOR BONDS

CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 352.001. DEFINITION. In this chapter, "hotel" has the meaning assigned by Section 156.001(1). (V.A.C.S. Art. 2352i, Sec. 1(1); Art. 2372d-8, Sec. 7(1).)

Sec. 352.002. TAX AUTHORIZED. (a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, 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 sleeping:

(1) a county that has a population of two million or more;

(2) a county that has a population of 90,000 or more, borders on the Republic of Mexico, and does not have three or more cities that each have a population of more than 17,500; and

(3) a county in which there is no municipality.

(b) The price of a room in a hotel 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.

(c) The tax does not apply to a person who has the right to use or possess a room in a hotel for 30 or more days. (V.A.C.S. Art. 2352i, Secs. 1(2), (3), (4); Sec. 2 (part); Art. 2372d-8, Sec. 1; Sec. 4(a) (part); Secs. 7(2), (3), (4).)

Sec. 352.003. TAX RATES. (a) Except as provided by this section the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The county tax rate in a municipality that has a population of 1,200,000 or more may not exceed one percent of the price paid for a room in a hotel.

(c) The rate in a county that does not have a municipality may not exceed four percent of the price paid for a room in a hotel. (V.A.C.S. Art. 2352i, Sec. 2 (part); Art. 2372d-8, Secs. 4(a) (part), (b).)

Sec. 352.004. TAX COLLECTION; PENALTY. (a) The owner or operator of a hotel shall report and send the taxes collected under this chapter to the county as provided by the resolution or order imposing the tax.

(b) If the owner fails to report when required or pay the tax when due, the owner shall pay a penalty of five percent of the amount of the tax due. If the owner fails to file the report or pay the tax before the 31st day after the date that the report or tax payment was due, he shall pay an additional penalty of five percent of the amount of the tax due.

(c) Delinquent taxes and accrued penalties draw interest at the rate of 10 percent a year beginning 60 days after the date on which the tax was due. (V.A.C.S. Art. 2352i, Sec. 2A; Art. 2372d-8, Sec. 4A.)

Sec. 352.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) A county may permit a person who is required to collect and pay over to the county the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

(b) This section does not apply to a county that has no municipality. (V.A.C.S. Art. 2372d-8, Sec. 15.)

[Sections 352.006-352.100 reserved for expansion]

SUBCHAPTER B. USE OF REVENUE

Sec. 352.101. USE OF REVENUE: COUNTIES OF TWO MILLION PERSONS OR MORE. The revenue from a tax imposed under this chapter

by a county having a population of two million or more may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities that serve the purpose of attracting visitors and tourists to the county, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities; and

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants. (V.A.C.S. Art. 2372d-8, Sec. 6(a) (part).)

Sec. 352.102. USE OF REVENUE: COUNTIES BORDERING MEXICO. The revenue from a tax imposed under this chapter by a county that borders the Republic of Mexico and that is further described by Section 352.002(a)(2) may only be used for the purposes listed in Section 352.101 and for advertising for general promotion and tourist advertising of the county and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the county. (V.A.C.S. Art. 2372d-8, Sec. 6(a).)

Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY. The revenue from a tax imposed under this chapter by

a county that has no municipality may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities including civic center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising for general promotional and tourist advertising of the county and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the commissioners court;

(4) the encouragement, promotion, improvement, and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms; and

(5) historical preservation and restoration. (V.A.C.S. Art. 2352i, Sec. 3.)

Sec. 352.104. PLEDGE FOR BONDS. A county may pledge the

revenue derived from the tax imposed under this chapter for the payment of bonds that are issued by the county under Section 3, Article I, Chapter 796, Acts of the 67th Legislature, Regular Session, 1981 (Article 2372d-8, Vernon's Texas Civil Statutes), for one or more of the purposes provided by Section 352.101. (V.A.C.S. Art. 2372d-8, Sec. 6(b).)

SECTION 2. CONFORMING AMENDMENT. Section 11.28, Tax Code, is amended to read as follows:

Sec. 11.28. PROPERTY EXEMPTED FROM CITY TAXATION BY AGREEMENT. The owner of property to which an agreement made under the Property Redevelopment and Tax Abatement Act <u>(Chapter 312 of this code)</u> applies is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

SECTION 3. CONFORMING AMENDMENT. Section 11.86(a), Education Code, is amended to read as follows:

(a) The board shall conduct an annual study using comparable sales and other generally accepted techniques to determine the total value of all taxable property in each school district. The study shall determine the taxable value of all property and of each class of property within the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. In conducting the studies, the board shall use appropriate standard valuation, statistical compilation, and analysis techniques. For the purposes of this

section, "taxable value" means market value less:

(1) the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study;

(2) the total dollar amount of any exemptions granted within a reinvestment zone under agreements authorized by the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]);

(3) the total dollar amount of any captured appraised value of property that is located in a reinvestment zone and that is eligible for tax increment financing under the [~~Texas~~] Tax Increment Financing Act [~~of 1981~~] (Chapter 311, Tax Code [~~Article 1066e, Vernon's Texas Civil Statutes~~]);

(4) the difference between the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value may not exceed the fair market value of the land;

(5) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(6) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the Texas Constitution that, if the

tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property; and

(7) the market value of all automobiles owned by a family or individual and not held or used for the production of income.

SECTION 4. CONFORMING AMENDMENT. Section 5(b), Article 1, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015o, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The municipality, acting pursuant to the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]), may abate municipal property taxes that otherwise would be owed by the owner of a sign that is required to be relocated or reconstructed. The abated taxes may be on any real or personal property owned by the owner of the sign except residential property. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right to abatement with respect to taxes on any nonresidential property in the same taxing jurisdiction. In any municipality where tax abatement is utilized in order to pay compensable costs, such costs shall include reasonable interest and such abatement period shall not exceed five years.

SECTION 5. CONFORMING AMENDMENT. Section 12, Texas

Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. REINVESTMENT ZONE. A local or state-federal enterprise zone may be designated a reinvestment zone for tax increment financing or tax abatement purposes as provided by the [~~Texas~~] Tax Increment Financing Act [~~of 1981~~] (Chapter 311, Tax Code [~~Article 1066e, Vernon's Texas Civil Statutes~~]) or the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]).

SECTION 6. CONFORMING AMENDMENT. Section 5(b), Chapter 658, Acts of the 69th Legislature, Regular Session, 1985 (Article 6674v-4, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The governing body of a toll road authority, with the approval of the commissioners court and in accordance with the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code [~~Article 1066f, Vernon's Texas Civil Statutes~~]), may abate county property taxes that otherwise would be owed by the owner of a sign to be removed. The governing body may declare an area to be a reinvestment zone for purposes of abating property taxes under this subsection if the area encompasses signs designated by the governing body for removal. The abated taxes may be on any real or personal property in the county, other than residential property, owned by the owner of the sign. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right of abatement with respect to taxes on any nonresidential

property in the same county. In a county in which tax abatement is used in order to pay compensation, the compensation shall include reasonable interest and the abatement period may not exceed five years.

SECTION 7. CONFORMING AMENDMENT. Subsection (A), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(A) Subject [~~subject~~] to approval at a tax election in accordance with this Act, the board of an authority shall be authorized to levy, collect and impose a local sales and use tax for the benefit of the authority[~~,-the-sales-tax-portion-of-which shall-not-exceed-one-percent-on--receipts--from--the--sale--of--all taxable--items--within--the--authority--area--which--are-subject-to taxation-under-the-provisions-of-the-Limited-Sales,-Excise-and--Use Tax--Act,--as-enacted-and-as-heretofore-or-hereafter-amended~~]. The provisions of Chapter 322, Tax Code, [~~this--section~~] shall be applicable to the levy, imposition and collection of such tax. The permissible rates for a local sales and use tax levied under this Act are:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; and

(4) one percent.

SECTION 8. CONFORMING AMENDMENT. Subsection (a), Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session,

1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Subject to approval at a confirmation election in accordance with this Act, the executive committee is authorized to levy, collect, and impose a local sales and use tax for the benefit of the authority[~~, the sales tax portion of which shall not exceed one percent of receipts from the sale at retail of all taxable items within the authority area which are subject to taxation under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted and as heretofore or hereafter amended~~]. The tax rate may be levied or collected only as a quarter of one percent, a half of one percent, three-quarters of one percent, or one percent. The provisions of Chapter 322, Tax Code, [~~this section~~] shall be applicable to the levy, imposition, and collection of the tax.

SECTION 9. CONFORMING AMENDMENT. Section 8, Article 1118z, Revised Statutes, is amended to read as follows:

Sec. 8. LOCAL SALES AND USE TAX. (a) Subject to approval at a tax election in accordance with this article, the board may levy and collect a local sales and use tax for financing of the system, the sales tax portion of which applies to receipts from the sale of all taxable items within the city or town that are subject to taxation under the Limited Sales, Excise, and Use Tax Act, Chapter 151, Tax Code. The effective date of a local sales and use tax is the first day of the second calendar quarter that begins after the date the comptroller receives, under Subsection (f) of Section 5 of this article, notice of an order except as provided by

Subsection (e) [~~(w)~~] of this section. The permissible rates for a local sales and use tax levied under this article are:

(1) one-quarter of one percent; and

(2) one-half of one percent.

(b) Chapter 322, Tax Code, applies to the application and collection of the tax imposed under this article. [~~Every--retailer within--the--city--or-town-shall-add-the-tax-imposed-by-the-Limited Sales,-Excise,-and-Use-Tax-Act,-any-applicable-local-sales-and--use tax,--and-the-tax-imposed-under-this-section-to-the-retailer's-sale price,-and-when-added,-the-combined-tax-is-a-part-of-the-price,--is a--debt--of--the--purchaser--to--the--retailer--until--paid,-and-is recoverable-at-law-in-the-same-manner-as-the-purchase--price.---The combined-taxes-on-the-transaction-are-determined-by-multiplying-the amount--of--the--sale--by--the-total-of-the-combined-applicable-tax rates.--Any-fraction-of-one-cent-less-than-one-half-of-one-cent--of tax-may-not-be-collected.--Any-fraction-of-one-cent-of-tax-equal-to one-half--of-one-cent-or-more-shall-be-collected-by-the-retailer-as a-whole-cent-of-tax.--After-receiving--written--approval--from--the comptroller,--a--retailer--who-can-establish-to-the-satisfaction-of the-comptroller-that-50-percent-or-more-of-the-retailer's--receipts from--the--sale-of-taxable-items-arise-from-individual-transactions in-which-the-total-sales-price--when--multiplied--by--the--combined rates-of-the-taxes-imposed-under-the-Limited-Sales,-Excise,-and-Use Tax--Act,--any--applicable--local--sales--and--use-tax,-and-the-tax imposed-under-this-section-equals--an--amount--that--is--less--than one-half--of--one--cent--may--exclude--the-receipts-from-sales-when~~

~~reporting-and-paying-the-taxes-imposed-under-this-section--and--the Limited--Sales,--Excise,--and--Use-Tax-Act-and-any-applicable-local sales-and-use-tax.--Any-attempt-on-the--part--of--any--retailer--to exercise--this--provision--without--prior--written--approval-of-the comptroller-is-a-refusal-to-pay-the-taxes-imposed-by--this--section and--the--Limited-Sales,-Excise,-and-Use-Tax-Act-and-any-applicable local-sales-and-use-tax,-and-the-retailer-is-subject-to--assessment for--taxes,-penalties,-and-interest-as-provided-by-this-section-and the-Limited-Sales,-Excise,-and-Use-Tax-Act-and-under-any-applicable law-providing-for-a-local-sales-and-use-tax.~~

~~[(b-1)(1)--There-are-exempted-from-the--taxes--imposed--under the-authority-of-this-article-the-receipts-from-the-sale-within-the city---of---telecommunications---services--except--as--provided--by Subdivision-(2)-of-this-subsection.~~

~~[(2)--The-board-that-has-adopted-the-tax-authorized--by--this article--may-adopt-an-order-by-a-majority-vote-of-the-board,-in-the manner-otherwise-required-for-the--adoption--by--the--board--of--an order,--repealing-the-application-of-the-exemption-provided-by-this section-for-telecommunications-services-sold-within--the--city.---A department--that--has-repealed-the-application-of-the-exemption-may in-the-same-manner-exempt-from-the-tax-the-receipts-from--the--sale within--the-city-or-town-of-telecommunications-services.--A-vote-of the-board-repealing-the-application-of-the-exemption--or--exempting the--receipts--from-the-sale-of-telecommunications-services-must-be entered-in-the-minutes-of-the-board.--If--an--order--repealing--the application--of--the--exemption--or-exempting-the-receipts-from-the~~

~~sale-of-telecommunications-services-is-adopted,-the-board--chairman or--secretary--to--the--board--shall--forward-to-the-comptroller-by United-States-registered-mail-or--certified--mail--a--copy--of--the order.---On--receipt--of--the--notification-by-the-comptroller,-one whole-calendar-quarter--shall--elapse--before--the--repeal--of--the application--of--the--exemption-or-the-exemption-becomes-effective. The-imposition-of-the-tax-or-the-exemption-then-takes-effect-on-the first-day-of-the--calendar--quarter--next--succeeding--the--elapsed quarter.~~

[~~(3)--Notwithstanding--Subdivision-(2)-of-this-subsection,-no order-repealing--the--application--of--the--exemption--provided--by Subdivision--(1)-of-this-subsection-may-take-effect-or-be-effective before-October-1,-1987.~~]

(c) [~~In-every-city-or-town-in-which-a-local--sales--and--use tax--has--been-adopted-under-this-section,-there-is-imposed-by-this section-an-excise-tax-on-the-storage,--use,--or--other--consumption within--the--city--or--town--of-taxable-items-purchased,-leased,-or rented-from-any--retailer--on--or--after--the--effective--date--for collection--of--the--sales-tax-portion-of-the-sales-and-use-tax-for storage,-use,-or-other-consumption-in-the-city-or-town-at-the--same rate--as-the-sales-tax-levied-under-this-section-on-the-sales-price of-the-taxable-item-or,-in-the-case-of-leases-or--rentals,--on--the lease--or--rental--price.---Except-as-provided-by-Subsection-(f)-of this-section,-the-use-tax-imposed-by-this-section-is--not--owed--to and--may--not-be-collected-by,-for,-or-on-behalf-of-a-department-if no-excise-tax-on-the-storage,-use,-or-other-consumption-of-an--item~~

~~of--tangible-personal-property-is-owed-to-or-collected-by-the-state under-the-Limited-Sales,--Excise,--and--Use--Tax--Act,--or--if--the tangible--personal--property--is--first--stored,--used,-or-consumed within-a-city-or-town-that-does-not-have-a-department-for-which-the sales-and-use-tax-authorized-by-this-section-has-been-adopted.~~

~~[(d)--In-each-city-or-town-in-which--the--tax--authorized--by this--section--has--been--imposed,-the-excise-tax-imposed-under-the Limited-Sales,-Excise,-and-Use-Tax-Act,-any-applicable--excise--tax under--the--Local--Sales--and--Use-Tax-Act-(Article-1066c,-Vernon's Texas-Civil-Statutes)-on-the-storage,-use,-or-other-consumption--of taxable--items,-and-the-excise-tax-imposed-by-this-section-shall-be added-together-to-form-a-combined-rate-of-excise-tax-equal--to--the sum--of-the-applicable-taxes.--The-tax-imposed-by-Subsection-(c)-of this-section-shall-be-collected-by-the-comptroller-on-behalf-of-and for-the-benefit-of--the--department.---The--formula--prescribed--by Subsection--(b)--of-this-section-is-applicable-to-the-collection-of the-excise-tax-imposed-under-Subsection-(c)-of-this-section.~~

~~[(e)--The--Limited--Sales,--Excise,--and--Use--Tax---Act---is applicable--to--the-collection-of-the-tax-imposed-by-Subsection-(c) of-this-section,-except-that-in--Subchapter--D,--Chapter--151,--Tax Code,--the--name--of-the-department-for-which-the-sales-and-use-tax authorized-by-this-section-has-been-adopted--shall--be--substituted for--that--of--the--state--where-the-words-"this-state"-are-used-to designate-the-taxing-authority-or-to-delimit-the-tax-imposed.~~

~~[(f)--If-a-sale-of-tangible-personal-property-is--consummated within--the-state-but-not-within-a-city-or-town-having-a-department~~

~~for-which-the-taxes-imposed-by-this-section-have--been--adopted--or within--a--city-that-has-adopted-the-tax-authorized-by-Section-11B, Chapter-141,-Acts-of-the-63rd-Legislature,--Regular--Session,--1973 (Article--1118x,--Vernon's--Texas--Civil--Statutes),-or-Section-16, Chapter-683,-Acts-of-the-66th-Legislature,--Regular--Session,--1979 (Article--1118y,--Vernon's--Texas-Civil-Statutes),-and-the-tangible personal-property-is--shipped--directly--into--or--brought--by--the purchaser--or--lessee--directly--into--a--city--or--town--having--a department-for-which-the-taxes-imposed-by-this--section--have--been adopted,--the--tangible-personal-property-is-subject-to-the-use-tax imposed--under--Subsection--(e)--of--this--section.---The--use---is considered--consummated--at--the--location--where-the-item-is-first stored,-used,-or-otherwise-consumed-after--the--intrastate--transit has-ceased.~~

~~[(g)(1)--If--the--tangible--personal-property-is-shipped-from outside-this-state-to-a-customer-within-this--state,--the--tangible personal--property--is-subject-to-the-use-tax-imposed-by-Subsection (e)-of-this-section-and-not-the-sales-tax-imposed-under--Subsection (a)--of-this-section.--The-use-is-consummated-at-the-first-point-in this-state--where--the--property--is--stored,--used,--or--otherwise consumed--after--interstate--transit-has-ceased.--Tangible-personal property-delivered-to-a-point-in-this-state-is-presumed-to--be--for storage,-use,-or-other-consumption-at-that-point-until-the-contrary is-established.~~

~~[(2)--There-are-exempted-from-the-sales-taxes-imposed-by-this section-receipts-from-any-sale-of-tangible-personal-property-which,~~

~~pursuant-to-the-contract-of-sale,-is-shipped-to-a-point-outside-the city-or-town-by-the-retailer-by-means-of:~~

~~[(A)--facilities-operated-by-the-retailer;~~

~~[(B)--delivery-by-the-retailer-to-a-carrier-for-shipment-to-a consignee-at-such-point;-or~~

~~[(C)--delivery--by--the--retailer--to--a--customs--broker--or forwarding-agent-for-shipment-outside-the-city-or-town.~~

~~[(3)--If--the--tangible--personal--property--exempted---under Subdivision--(2)--of--this--section--or--under--Paragraph-(c)(6)-of Subsection--(B),--Section--11B,--Chapter--141,--Acts--of--the--63rd Legislature,--Regular--Session,-1973-(Article-1118x,-Vernon's-Texas Civil-Statutes),-or-Paragraph-(F)-of-Section--16(f)(2)--of--Chapter 683,--Acts--of-the-66th-Legislature,-Regular-Session,-1979-(Article 1118y,-Vernon's-Texas-Civil--Statutes),--is--shipped--or--delivered directly--to--a--purchaser-in-another-city,-town,-or-authority-that has-adopted-the-taxes-imposed-under-any-of-these-laws,-the-tangible personal-property-is-subject-to-the-use-tax-imposed--by--Subsection (a)-of-this-section.~~

~~[(4)--For--the--purpose-of-determining-the-proper-local-sales and-use-tax,-the-sale-of-telecommunications-services-is-consummated at-the-location-of-the-telephone-or-other-telecommunications-device from-which-the-call-or-other-transmission-originates.--If-the-point of-origin-cannot-be-determined,-the--sale--is--consummated--at--the address-to-which-the-call-is-billed.~~

~~[(5)--Tax--due--on--the--sale--of--an--amusement--service--is allocated-to-the-city-or-town-in-which--the--performance--or--other~~

~~delivery of the service takes place.~~

~~[(h) On and after the effective date of any tax imposed under this section, the comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the comptroller shall collect, in addition to the taxes imposed by the Limited Sales, Excise, and Use Tax Act, an additional tax under the authority of this section at a permissible rate specified by the department on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within the city or town, which items are subject to the Limited Sales, Excise, and Use Tax Act. The tax imposed under this section and the tax imposed under the Limited Sales, Excise, and Use Tax Act and any applicable local sales and use tax shall be collected together and reported on such forms and under such administrative rules as may be prescribed by the comptroller.~~

~~[(i) The comptroller shall make to a department substantially the same reports as to taxes within the city or town collected for the department as are made to cities under Subsections (b), (c), and (d) of Section 5 of the Local Sales and Use Tax Act.~~

~~[(j) The following provisions govern the collection by the comptroller of the tax imposed under this section:~~

~~[(1) all applicable provisions contained in Title 2, Tax Code;~~

~~[(2) Section 6, Local Sales and Use Tax Act, and~~

[(3)--the-penalties--provided--in--Title--2,--Tax--Code,--for violations-of-that-title.

[(k)--The--sales--and--use--tax--collected-by-the-comptroller under-this-section-shall-be-deposited,--held,--accounted--for,--and transmitted--for--the--department--as--if--it--were-an-authority-as provided--by--Subdivision--(4),--Subsection--(B)(e),--Section--11B, Chapter--141,--Acts--of-the-63rd-Legislature,-Regular-Session,-1973 (Article-1118x,-Vernon's-Texas-Civil-Statutes).

[(l)--Each-department's-share-of--all--sales--and--use--taxes collected---under---this---section--by--the--comptroller--shall--be transmitted-periodically-and-as-promptly-as-feasible--to--the--city treasurer--by--the--comptroller.---Transmittals-required-under-this section-shall-be-made-at-least-twice-in--each--state--fiscal--year. Before-transmitting-funds,-the-comptroller-shall-deduct-two-percent of--the-sum-collected-from-each-city-or-town-during-the-period-as-a charge-by-the-state-for-its-services-specified-in-this-section,-and the-amounts-so-deducted-shall-be-deposited-by--the--comptroller--in the--state-treasury-to-the-credit-of-the-general-revenue-fund.--The comptroller-may-retain-in-the-suspense-account-of-any-department--a portion-of-the-department's-share-of-the-taxes-collected-under-this section.---The--balance-so-retained-in-the-suspense-account-may-not exceed-five-percent-of-the-amount-remitted-to-the-department.---The comptroller-is-authorized-to-make-refunds-from-the-suspense-account of--any--department--for--overpayments--made--to--the--department's accounts-and-to-redeem-dishonored-checks-and--drafts--deposited--to the-credit-of-the-suspense-account-of-the-department.

[~~(m)--The--comptroller--may-adopt-rules-not-inconsistent-with this-article-to--implement--the--enforcement,--administration,--and collection-of-the-taxes-authorized-by-this-section.~~

[~~(n)--In--any--city--or--town--in-which-the-sales-and-use-tax authorized-by-this-section-has--been--imposed,--if--any--person--is delinquent--in--the-payment-of-the-amount-required-to-be-paid-under this-section-or-if-a-determination-has-been-made--against--him--for taxes-and-a-penalty-under-this-section,-the-limitation-for-bringing suit--for--the--collection-of-the-delinquent-tax-and-penalty-is-the same-as-that-provided-by-the-Limited-Sales,--Excise,--and--Use--Tax Act.---If--any--person-is-delinquent-in-payment-of-taxes-under-this section,-the-comptroller--shall--notify--the--department--to--which delinquent--taxes-are-due-by-United-States-certified-mail-and-shall send-a-copy-of-the-notice-to-the-attorney-general.--The-department, acting-through-the-city-attorney,-may-join-in-any-suit--brought--by the--attorney--general--as-a-party-plaintiff-to-seek-a-judgment-for the-delinquent-taxes-and-penalty-due-the--department.---The--notice sent--by--the-comptroller-to-the-department-showing-the-delinquency of-a-taxpayer-constitutes-a-certification-of-the-amount-owed-and-is prima-facie-evidence-of-the-determination-of-the--tax--and--of--the delinquency--of-the-amounts-of-sales-and-use-taxes-set-forth-in-the notice.~~

[~~(o)--If-property-is-seized-by-the-comptroller-under-any--law authorizing-seizure-of-the-property-of-a-taxpayer-who-is-delinquent in-payment-of-the-tax-imposed-by-the-Limited-Sales,-Excise,-and-Use Tax--Act--and--if-the-taxpayer-is-also-delinquent-in-payment-of-any~~

~~tax--imposed--under--this--section,--the--comptroller--shall---sell sufficient-property-to-pay-the-delinquent-taxes-and-penalty-due-any department--under--this-section-in-addition-to-that-required-to-pay any-amount-due-the-state-under-the-Limited-Sales,-Excise,--and--Use Tax--Act--and--due--any-city-under-the-Local-Sales-and-Use-Tax-Act. The-proceeds-from-the-sale-shall-first-be-applied-to-all--sums--due the-state,-then-all-sums-due-any-city-under-the-Local-Sales-and-Use Tax--Act,--and--the-remainder,-if-any,-shall-be-applied-to-all-sums due-the-department.~~

[~~(p)--A-city-or-town-having-a-department-for--which--the--tax authorized--by-this-section-has-been-adopted-may-bring-suit-for-the collection-of-sales,--excise,--or--use--taxes--imposed--under--this section--that--have-been-certified-as-provided-by-Subsection-(n)-of this-section-and-are-owed-to-the-department-under-this-section--if, at--least--60--days--before--the-day-of-filing-of-the-suit,-written notice-by--certified--mail--of--the--tax--delinquency--and--of--the intention--to--file-suit-is-given-to-the-taxpayer,-the-comptroller, and-the-attorney-general,-and-if-neither-the--comptroller--nor--the attorney--general--disapproves--the--suit--by-written-notice-to-the department.~~

[~~(q)--The-comptroller-or-attorney-general-may-disapprove--the institution-of-tax-suit-under-this-section-by-a-city-or-town-if:~~

[~~(1)--negotiations--between--the--state--and-the-taxpayer-are being-conducted-for-the-purpose-of--the--collection--of--delinquent taxes--owed--to-the-state-and-the-department-seeking-to-bring-suit,~~

[~~(2)--the-taxpayer-owes-substantial-taxes-to--the--state--and~~

~~there--is--a-reasonable-possibility-that-the-taxpayer-may-be-unable to-pay-the-total-amount-owed-in-full;~~

~~[(3)--the-state-will-bring-suit-against-the-taxpayer-for--the collection--of--all--sales,--excise,--and--use--taxes-due-under-the Limited-Sales,-Excise,-and-Use-Tax-Act-and-this-section,-or~~

~~[(4)--the-suit-involves-a-critical-legal-question-relating-to the-interpretation-of--state--law--or--a--provision--of--the--Texas Constitution--or--United-States-Constitution-in-which-the-state-has an-overriding-interest.~~

~~[(r)--A-notice-of-disapproval-to-a-city-or-town-must-give-the reason--for--the--determination--of--the--comptroller--or--attorney general.--A-disapproval-is-final-and-not-subject-to-review.--A-city or---town,---after--the--first--anniversary--of--the--date--of--the disapproval,-may-proceed-again-as-provided--in--Subsection--(p)--of this--section--even--though--the-liability-of-the-taxpayer-includes taxes-for-which-the-city-or-town-has-previously--given--notice--and the--comptroller-or-attorney-general-has-previously-disapproved-the suit.~~

~~[(s)--In-any-suit-under-Subsection-(n)-of--this--section--for the--collection--of--the--tax--for--a-department,-a-judgment-for-or against-the-taxpayer-does-not-affect-any-claim-against-the-taxpayer by-the-state,-or-a-claim-arising-under-the-Local-Sales-and-Use--Tax Act-by-a-city,-unless-the-state-is-a-party-to-the-action.~~

~~[(t)--A-copy-of-the-final-judgment-in-favor-of-a-city-or-town acting--under--this--section--in-a-case-in-which-the-state-is-not-a party-shall-be-abstracted-by-the-city-or-town-and--a--copy--of--the~~

~~judgment--together-with-a-copy-of-the-abstract-shall-be-sent-to-the comptroller.--The-city-or-town-shall-collect-taxes-awarded--to--the city--or--town-for-the-department-under-the-judgment-as-provided-by Subsection-(e),-Section-151.608,-Tax-Code,-and-is--responsible--for the--renewal--of--the-judgment-before-the-expiration-of-the-10-year period.--If-a-collection-is-made-by-a-city-or-town--on--a--judgment regarding--a-claim-arising-under-this-section,-the-department-shall send-notice-of-the--amount--collected--by--certified--mail--to--the comptroller.---The--comptroller-may-prescribe-a-form-for-the-notice to-be-used-by-departments.~~

[~~(u)~~] The board by order may decrease the local sales and use tax rate or may call an election to increase or decrease the local sales and use tax rate.

(d) [~~(v)~~] At the election, the ballots shall be prepared to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate of (name of department) to (percentage)." The increase or decrease in the tax rate is effective if it is approved by a majority of the votes cast. A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation and the comptroller and filed in the deed records of the county in the same manner as provided for a tax election by Section 5 of this article.

(e) [~~(w)~~] An increase or decrease in the rate of a local sales and use tax already levied takes effect on the first day of the next calendar quarter after actual notification to the

comptroller, except that if the comptroller notifies the presiding officer of the board in writing before the 11th day after the day of receipt of the notification that he requires more time to implement collection and reporting procedures, the comptroller may delay implementation for one whole calendar quarter. Thereafter, the new tax rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

(f) [~~(k)~~] The board shall deposit taxes remitted to the department under this section as provided by Subsection (c) of Section 4 of this article in an account separate from an account for funds as provided by Subsection (e) of Section 4 of this article. Taxes collected under this section may be used only for mass transit purposes.

SECTION 10. CONTINGENT AMENDMENT. Section 3f, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended, if the Local Government Code is not adopted by the 70th Legislature, Regular Session, 1987, to read as follows:

Sec. 3f. (a) In this section, "eligible coastal city" means a home-rule city that borders on the Gulf of Mexico and that has a population of less than 80,000, according to the most recent federal census. [~~The definitions contained in Section 3d of this Act apply to this section.~~]

(b) [~~In lieu of the taxes authorized by Section 3a of this Act, an eligible coastal city may levy by ordinance on the cost of occupancy of any sleeping room furnished by any hotel, in which the~~

~~cost--of--occupancy--is-$2-or-more-a-day,-a-tax-not-to-exceed-seven percent-of-the-consideration-paid-by-the-occupant-of--the--sleeping room-to-the-hotel.~~

~~[(c)--A--city--that--levies--and--collects--an--occupancy-tax authorized-by-this-section-at-a-rate-of-seven-percent-or-more--must pledge--a--portion--of-the-revenue-equal-to-at-least-one-percent-of the-cost-of-the-occupancy-of-hotel-rooms-to-either-or-both--of--the following-purposes:~~

~~[(1)--the--payment-of-the-bonds-that-the-city-or-a-Park-Board of-Trustees-may-issue-under-Section-3-of-this-Act-or-under--Chapter 33,-Acts-of-the-57th-Legislature,-3rd-Called-Session,-1962-(Article 6081g-1,-Vernon's-Texas-Civil-Statutes),-in-order-to-provide-all-or part--of--the--funds--for-the-establishment,-acquisition,-purchase, construction,-improvement,-enlargement,-equipment,-or-repair-of-any or-all-public-improvements,-including-but--not--limited--to--parks, civic--centers,--civic--center--buildings,--auditoriums,-exhibition halls,-coliseums,-marinas,-cruise-ship-terminal-facilities,-hotels, motels,--parking--facilities,--golf--courses,--trolley--or--trolley transportation--systems,--and-other-facilities-as-may-be-considered advisable-in--connection--with--these--facilities--that--serve--the purpose-of-attracting-visitors-and-tourists-to-the-city,-or~~

~~[(2)--the--maintenance,--improvement,--or--operation--of--the parks,--civic--centers,--civic---center---buildings,---auditoriums, exhibition---halls,---coliseums,---marinas,--cruise--ship--terminal facilities,--hotels,--motels,--parking--facilities,--golf--courses, trolley--or-trolley-transportation-systems,-and-other-facilities-as~~

~~may-be-considered-advisable-in--connection--with--these--facilities that--serve--the-purpose-of-attracting-visitors-and-tourists-to-the city.~~]

An eligible coastal [~~The~~] city and/or Park Board of Trustees is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the city and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease under this subsection shall be on the terms and conditions the city and/or Park Board of Trustees deems appropriate.

[~~(d)--If-the-tax-authorized-by-this-section-is-levied-by--the city--at-a-rate-of-four-percent-or-more,-an-amount-of-revenue-equal to-at-least-three-percent-of-the-cost-of--the--occupancy--of--hotel rooms--shall--be--reserved--for--the--purpose--of--advertising--and conducting-solicitation-programs-to-acquaint-potential--users--with~~

~~public--meeting--and--convention--facilities--and--for-promotion-of tourism-and-advertising-of-the-city-and-its-vicinity-either-by--the city--or-through-contract-with-persons-or-organizations-selected-by the-city.~~

[~~(e)--If-the-tax-authorized-by-this-section-is-levied-by--the city--at-a-rate-of-five-percent-or-more,-an-amount-of-revenue-equal to-at-least-one-percent-of-the-cost-of-the-occupancy-of-hotel-rooms shall-be-reserved-for--beach--patrol,--lifeguard--services,--marine water-safety,-and-park-law-enforcement.~~

[~~(f)--If--the-tax-authorized-by-this-section-is-levied-by-the city-at-a-rate-of-six-percent-or-more,-an-amount-of--revenue--equal to--at--least--one--percent-of-the-cost-of-occupancy-of-hotel-rooms shall-be-reserved-for-public-beach-cleaning-funds-including-but-not limited-to-use-as-matching-funds-for-state-funds-available-to-clean and-maintain-public-beaches.~~

[~~(g)--This-section-does-not--permit--the--impairment--of--any bonds--issued--under--the--provisions--of--this-Act-and-all-revenue previously-pledged-to-the-payment-of-these-bonds-shall-continue--to be--reserved-for-the-payment-of-the-principal-and-interest-on-these bonds.~~]

SECTION 11. CONTINGENT AMENDMENT. (a) If the Local Government Code is not enacted by the 70th Legislature, Regular Session, 1987, or does not become law, Sections 302.001, 302.101, and 302.102, Tax Code, as added by Section 1 of this Act, read as follows and not as provided by Section 1 of this Act:

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES. (a) A

city or town operating under Chapters 1-10, Title 28, Revised Statutes, may levy property taxes for current expenses, for the construction or purchase of public buildings, water works, sewers, and other permanent improvements in the municipality, including municipal schools and school sites, and for the construction and improvement of municipal roads, streets, and bridges in the municipality.

(b) A town or village operating under Chapter 11, Title 28, Revised Statutes, may levy property taxes at an annual rate not to exceed 25 cents for each $100 of property valuation.

(c) A home-rule municipality may levy special or general property taxes for lawful purposes. (V.A.C.S. Arts. 1026 (part); 1027 (part); 1028 (part); 1146, Subdiv. 1 (part); 1175, Subdiv. (7).)

Sec. 302.101. OCCUPATION TAXES. (a) The governing body of a municipality, other than a city, town, or village operating under Chapter 12, Title 28, Revised Statutes, and having 200 or fewer inhabitants, may impose and collect occupation taxes.

(b) A license required by a city or town operating under Chapters 1-10, Title 28, Revised Statutes, may not extend to more than one establishment or apply to more than one occupation, business, or calling and may not be imposed except by a vote of two-thirds of the elected aldermen. (V.A.C.S. Art. 1015, Subdiv. 35; Arts. 1031, 1032 (part), 1033 (part), 1146 (part).)

Sec. 302.102. TAX COLLECTION POWERS. (a) The governing body of a city or town operating under Chapters 1-10, Title 28,

Revised Statutes, may adopt ordinances and make rules relating to the imposition, assessment, and collection of taxes, except ad valorem taxes, authorized by this subchapter. An ordinance may provide for the sale of real and personal property for the collection of a tax authorized by this subchapter.

(b) A home-rule municipality may collect taxes that are authorized by the charter of the municipality or by law and may impose penalties for delinquent taxes. This subsection does not apply to property taxes. (V.A.C.S. Arts. 1041, 1175, Subdiv. 9.)

(b) If the Local Government Code is enacted by the 70th Legislature and becomes law, this section has no effect.

SECTION 12. REPEALER. The following statutes as compiled in Vernon's Texas Civil Statutes are repealed:

Article 1015, Subdivisions (34) and (35); Article 1026; Article 1027; Article 1028; Article 1029; Article 1031; Article 1032; Article 1033; Article 1034; Article 1039; Article 1040; Article 1041; Article 1066a; Article 1066c; Article 1066e; Article 1066f; Article 1118x, Section 11B, Subsection (B); Article 1118y, Section 16, Subsections (b) and (f); Article 1146, Subdivision (1); Article 1175, Subdivisions (7), (8), and (9); Article 1182f; Article 1269j-4.1, Sections 3a, 3b, 3c, 3d, 3e, and 3g as added by Chapters 879 and 1009, Acts of the 68th Legislature, Regular Session, 1983; Article 2352; Article 2352i; Article 2353; Article 2353e; Article 2372d-8, Sections 4, 4A, 6, 7 and 15; and Article 7057h.

SECTION 13. LEGISLATIVE INTENT. This Act is enacted

pursuant to Article III, Section 43, of the Texas Constitution. This Act is intended as a recodification only, and no substantive change in the law is intended by this Act.

SECTION 14. EFFECTIVE DATE. This Act takes effect September 1, 1987.

SECTION 15. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

S.B. No. 888

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 888 passed the Senate on March 18, 1987, by a viva-voce vote; and that the Senate concurred in House amendment on May 1, 1987, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 888 passed the House, with amendment, on April 30, 1987, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

BILL ANALYSIS

By: McFarland

S.B. 888
Enrolled

BACKGROUND:

The Texas Legislative Council is required by law to carry out a complete nonsubstantive revision of Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law if practical. This is to promote the stated purpose of making the statutes "more accessible, understandable and usable" without altering the sense, meaning or effect of the law.

Title 3 of the Tax Code includes law relating to local taxation. The scope of the title generally includes municipal, county, and transportation authority sales and use tax, local hotel occupancy taxes, local tax increment and tax abatement statutes, and general city taxation provisions.

PURPOSE:

As proposed, S.B. 888 makes nonsubstantive changes in the statutes relating to local taxation.

RULEMAKING AUTHORITY:

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution or agency.

SECTION BY SECTION ANALYSIS:

SECTION 1. Amends the Tax Code by adding Title 3 to make a nonsubstantive revision of the statutes relating to local taxation and to codify existing law and arrange it into an organized format.

SECTIONS 2 through 10 make conforming amendments to:

SECTION 2. Section 11.28, Tax Code.

SECTION 3. Section 11.86(a), Education Code.

SECTION 4. Section 5(b), Article 1015o, V.T.C.S..

SECTION 5. Article 5190.7, V.T.C.S..

SECTION 6. Section 5(b), Article 6674v-4, V.T.C.S..

SECTION 7. Subsection (A), Section 11B, Article 1118x, V.T.C.S..

SECTION 8. Subsection (a), Section 16, Article 1118y, V.T.C.S..

SECTION 9. Section 8, Article 1118z, V.T.C.S..

SECTION 10. Section 3f, Article 1269j-4.1, V.T.C.S..

SECTION 11. Makes the amendments to this title contingent on the failure of the adoption of the Local Government Code.

SECTION 12. Repealer.

SECTION 13. Provides that this Act is intended to recodify only.

SECTION 14. Effective date. September 1, 1987.

SECTION 15. Emergency clause.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 26, 1987

TO: Honorable Pete Laney, Chair
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: Senate Bill No. 888,
as engrossed
By: McFarland

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 888, as engrossed (relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, HES, JWH, AL, PA

70FSB888ae

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

March 13, 1987

TO: Honorable Ray Farabee, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 888
By: McFarland

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 888 (relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, HES, JWH, AL, AF

MAR 18 3 04 AM '87
RECEIVED
SECRETARY OF SENATE

70FSB888

S. B. No. 888 By McFarland

AN ACT relating to adoption of a nonsubstantive revision of statutes relating to local taxation; making conforming amendments and repeals.

3-11-87 Filed with the Secretary of the Senate

MAR 12 1987 Read and referred to Committee on STATE AFFAIRS

MAR 17 1987 Reported favorably

_____ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

MAR 17 1987 Ordered not printed

_____ Laid before the Senate

MAR 18 1987 Senate and Constitutional Rules to permit consideration suspended by: unanimous consent / ____ yeas, ____ nays

MAR 18 1987 Read second time, _____, and ordered engrossed by: unanimous consent / a viva voce vote / ____ yeas, ____ nays

_____ Caption ordered amended to conform to the body of the bill.

MAR 18 1987 Senate and Constitutional 3 Day Rule suspended by a vote of 27 yeas, 1 nays.

MAR 18 1987 Read third time, _____, and passed by ____ yeas, ____ nays.

BY A VIVA VOCE VOTE

Betty King

SECRETARY OF THE SENATE

OTHER ACTION:

Mar. 18, 1987 Engrossed

3-19-87 Sent to House

Engrossing Clerk Patsy Baw

MAR 19 1987 Received from the Senate

MAR 19 1987 Read first time and referred to Committee on State Affairs

APR 6 1987 Reported favorably amended; sent to Printer at 4:45 pm

APR 7 1987 Printed and Distributed 8:45 pm

APR 8 1987 Sent to Committee on Calendars 8:33 am

APR 29 1987 Read Second time (amended); passed to third reading ~~(failed)~~

by (Non-Record Vote) ~~Record Vote of~~ ____ ~~yeas~~, ____ ~~nays~~ ____ ~~present not voting~~.

_____ Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of ____ yeas, ____ nays ____ present not voting.

APR 30 1987 Read third time ~~(amended)~~; finally passed ~~(failed)~~ by (Non-Record Vote) ~~Record Vote of~~

~~____ yeas, ____ nays ____ present not voting.~~

APR 30 1987 Caption ordered amended to conform to body of bill.

APR 30 1987 Returned to Senate.

Betty Murray

CHIEF CLERK OF THE HOUSE

~~APR 30 1987~~ Returned from House without amendment.

APR 30 1987 Returned from House with 1 amendments.

MAY 1 1987 Concurred in House amendments by a viva voce vote ~~____ yeas, ____ nays.~~

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____,

_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;

_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
{ _____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
{ _____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
{ _____ yeas, _____ nays

1987 APR -7 PM 8:46
HOUSE OF REPRESENTATIVES

54

X;CT6;1;2;3;4;5;6;7;8;9;10

S.B. No. 888

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 888 (1) passed the Senate on March 18 (2), 1987, by ~~the following~~ a viva-voce vote; ~~Yeas _____ (3), Nays _____ (4).~~ and that the Senate concurred in House amendment on May 1 (5), 1987, by ~~the following~~ viva-voce vote: ~~Yeas _____ (6), Nays _____ (7).~~

Secretary of the Senate

I hereby certify that S.B. No. 888 (1) passed the House, with amendment, on April 30 (8), 1987, by ~~the following~~ a non-record vote: ~~Yeas _____ (9), Nays _____ (10).~~

Chief Clerk of the House

Approved:

Date

Governor