

SUBJECT: Limiting repeal of tax exemptions for telecommunications services

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 8 ayes — Oliveira, McCall, Bonnen, Y. Davis, Keffer, T. King, Ramsay, Sadler

0 nays

3 absent — Craddick, Heflin, Hilbert

WITNESSES: None

BACKGROUND: Under state law, telecommunications services sold within a taxing entity are exempt from local sales and use taxes imposed by the taxing entity. In 1987, the Legislature allowed certain mass transit taxing entities (formed under Chapters 451, 452, and 453 of the Transportation Code) to repeal the exemption for telecommunications services, with the exception of the exemption for interstate long-distance telecommunications services (§322.109, Tax Code).

DIGEST: HB 2858 would forbid a metropolitan rapid transit authority (formed under Chapter 451, Transportation Code) from repealing a telecommunications tax exemption unless this was approved by the governing body of each municipality that created the transit authority. A reinstatement of the exemption would have to be approved in the same manner.

HB 2858 would apply only to exemptions repealed after the effective date of the bill. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

SUPPORTERS SAY: HB 2858 would prohibit the non-elected metropolitan rapid transit authority (MTA) boards from taking an action that, in effect, would raise taxes. In 1987, the Legislature allowed transit authorities to repeal sales and use tax exemptions on telecommunications services. This allowed transit authorities to expand their tax base and was, in effect, a tax increase. Five transit authorities have repealed the exemptions, including Austin, Dallas, El Paso, Laredo, and Corpus Christi.

Recently, San Antonio's MTA sought to repeal the telecommunication exemption. The people of San Antonio protested the measure. As a result, the MTA left the exemption in place. But because an appointed board is somewhat insulated from the political process, a less responsible board could have repealed the exemption regardless of public sentiment.

Board members making unpopular decisions like this could be replaced when their terms expired, but the tax would be collected in the mean time. Taxpayers should be protected from tax hikes imposed by non-elected officials.

HB 2858 would apply only to MTAs that have not already repealed these exemptions. Houston and San Antonio have the only MTAs that have yet to repeal the exemptions. If these MTAs later want to repeal the exemption they could simply go to the elected city councils within their service areas for approval.

**OPPONENTS
SAY:**

Under current law, members of a transit board who make a politically unpopular decision could be replaced at the end of their terms by the elected officials who appointed them. This is the fair way for an appointed board's authority to be curtailed.

If the reason for this change is to prevent an appointed board from raising taxes, then HB 2858 should apply to all mass transit authorities with appointed boards. HB 2858 would single out Chapter 451 MTAs, particularly Houston and San Antonio, instead of applying the law to all appointed mass transit authorities listed in the Transportation Code.