

SUBJECT: Allowing municipalities to discuss sales tax information in closed meeting

COMMITTEE: Local Government Ways and Means — favorable, without amendment

VOTE: 6 ayes — Hill, Hegar, Laubenberg, McReynolds, Mowery, Quintanilla

0 nays

1 absent — Puente

WITNESSES: For — Bennett Sandlin, Texas Municipal League; Rosie Vela, City of Richardson

Against — None

BACKGROUND: Tax Code, chapter 321 authorizes cities, towns, and villages to impose a municipal sales and use tax, administered by the state comptroller. Sec. 321.3022(a) requires the comptroller to furnish any municipality with a population of not more than 275,000 with information about any person or business in the municipality that annually collects and remits more than \$100,000 in municipal sales taxes. SB 843 by Carona, enacted by the 76th Legislature in 1999, raised the population bracket for cities eligible to receive this information from less than 50,000 to not more than 275,000.

Tax Code, sec. 321.3022(f) declares such information confidential and not open for public inspection. The information may be used only for economic forecasting or for determining the amount of sales tax paid by a person or business in an interlocal agreement, tax abatement agreement, reinvestment zone, tax incremental financing district, revenue sharing agreement, enterprise zone, or neighborhood empowerment zone.

Government Code, chapter 551 requires governmental bodies to make policy decisions in meetings open to the public. The open meetings law provides for exceptions in which governmental bodies may confer with their attorneys or employees in executive sessions closed to the public, as long as no deliberations on public business take place.

DIGEST: HB 1088 would require the comptroller, on request, to provide information to a municipality about a person or business that annually collects and remits more than \$25,000, rather than the current \$100,000, in local sales tax payments.

The bill also would specify that a city council or commission, notwithstanding Government Code, chapter 551, need not hold an open meeting with city employees or a third party to receive information about local sales tax information provided by the comptroller.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

SUPPORTERS SAY: By lowering to \$25,000 the threshold for release of specific sales tax information by the comptroller, HB 1088 would give municipalities additional data with which to refine their economic forecasts and revenue projections. Sales taxes represent a significant portion of municipal revenues but have become a volatile and unpredictable source because of current economic conditions. State law still would prohibit public disclosure of these reports, and maintaining confidentiality would help ensure businesses' compliance with the laws governing collection of the sales tax.

City council members should be able to question city employees and third-party consultants and economic forecasters regarding their analysis of the comptroller's tax data. Consultants can report directly to city staff members, but it would be more effective if the consultants could speak directly to the council members. Closed meetings are necessary to encourage frank discussion of the data and to ensure the confidentiality of the reports. HB 1088 would provide a narrow but needed exemption to the open meetings law. Final decisions based on the information, such as revenue projections or budgets, would remain subject to public deliberations under the open meetings law.

OPPONENTS SAY: The Legislature should grant no new exclusions from the open meetings law. The public needs to know the information used in deciding the municipality's budget, because this is a critical public policy decision. Government should operate in public, not in closed sessions.

Lowering the dollar threshold would subject more businesses to scrutiny by local bureaucrats and would increase the risk of illegal disclosure of the information, despite state laws guaranteeing its confidentiality.

**OTHER
OPPONENTS
SAY:**

The bill should remove the population bracket that limits the release of sales tax data. The eight cities currently excluded (Houston, Dallas, San Antonio, Austin, El Paso, Fort Worth, Arlington, and Corpus Christi) would benefit from having these data in preparing their economic and budget forecasts.