

SUBJECT: Allowing county sales tax to retire bonds for criminal detention center

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

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

0 nays

1 absent — Puente

WITNESSES: None

BACKGROUND : The 74th Legislature in 1995 enacted SB 821 by Madla, adding Tax Code, ch. 325 to authorize a county with a population of 37,500 or less bordering on the Rio Grande and with a city of more than 15,000 population (Maverick County) to adopt a one-half percent sales and use tax, with the revenue dedicated to building, operating, or maintaining a criminal detention center and landfill in the county. The 77th Legislature in 2001 enacted HB 2810 by Wolens, adjusting the population totals for 170 statutes and amending Tax Code, sec. 325.023 to authorize the above sales and use tax in a county with a population of 48,000 or less bordering on the Rio Grande and with a city of more than 22,000 population.

Tax Code, sec. 323.101 prohibits a county from adopting a sales and use tax if a portion of the county is located in a rapid transit authority or a regional transportation authority created under the Transportation Code.

The state sales and use tax rate is 6.25 percent. In addition, cities and other local governmental entities may tax sales up to an additional 2 percent — up to 1 percent of their value in the aggregate for special purposes, and up to 1 percent for general purposes. The combined state and local tax rate may not exceed 8.25 percent.

DIGEST: HB 2139 would add Tax Code, ch. 328, allowing county voters to decide whether to impose a sales and use tax to pay bonds or other obligations issued to build a criminal detention center. The tax could range from one-eighth of 1 percent to 1 percent, in increments of one-eighth of 1 percent.

The county commissioners court could call an election to adopt or change the tax rate. Commissioners would have to call an election if they received a petition signed by a number of petitioners equal to at least 5 percent of registered voters in the county. The ballot would read: “The adoption of a local sales and use tax in (name of county) at the rate of (insert rate) to provide bonds or other obligations issued for a criminal detention center.”

The tax would take effect on the first day of the first calendar quarter after the expiration of the first complete quarter occurring after the date when the comptroller received notice of the election results. That would match the current reporting system in which taxes collected in quarters that end in March, June, September, and December are reported and paid to the comptroller the subsequent month.

The tax would be abolished once the bonds or other obligations to build the detention center had been paid off. The county would have to notify the comptroller at least 60 days before the expiration date.

A county could not impose the criminal detention facility tax if the current local sales tax exceeded the 2 percent cap or if imposing the additional tax would result in exceeding the cap in any portion of the county. A county located in a rapid transit authority or regional transportation authority could vote to authorize and collect the criminal detention center tax, but the county authorized to collect a sales tax for a criminal detention center and landfill under Tax Code, ch. 325 could not impose an additional sales tax.

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:**

HB 2139 would allow county voters to make local decisions about how to finance construction or expansion of criminal detention centers. Rising crime rates and overcrowding in the state prison system may force even smaller counties to shoulder a greater burden to provide for the public safety of their citizens. The bill would provide a flexible tool for building criminal justice facilities without raising property-tax rates.

Unlike the existing statute that grants specific authority to Maverick County, HB 2139 would provide broader authority for counties to hold local-option elections on a criminal detention facility tax. Currently, only 37 of Texas' 254 counties have reached the limit of 2 percent in the local sales-tax rate for the entire county or a portion of the county, so numerous counties could take advantage of this bill.

The tax would be imposed only by vote of county residents and would expire automatically when the bonds or other obligations used to build the county criminal detention facility were retired. The sales tax would be offered in increments of one-eighth of 1 percent — an insignificant burden to taxpayers compared with higher property taxes. State law also provides protection by limiting all local sales and use tax levies to no more than 2 percent.

Even those visiting a county briefly — such as those paying the sales tax on a meal at the Dairy Queen on the highway — benefit from the improvement in public safety when the county has adequate facilities to hold criminals in custody.

**OPPONENTS
SAY:**

The state and local entities already rely too heavily on the sales and use tax, a regressive form of taxation that collects disproportionately more from lower-income Texans. Sales and use taxes also allow counties to export their tax burden to nonresidents who may make purchases during short stays in the county. If counties need to build more criminal detention centers, the county commissioners should raise property taxes and be accountable to county residents for their decisions.