

SUBJECT: Removing expiration and adding election to abolish street maintenance tax

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

VOTE: 5 ayes — Hill, Creighton, Elkins, C. Howard, Villarreal

0 nays

2 absent — Puente, Quintanilla

WITNESSES: For — Fiona Allen, City of Arlington; Roy McDonald, West Orange City Council. (*Registered, but did not testify*: Bennett Sandlin, Texas Municipal League)

Against — None

BACKGROUND: In 2001, the 77th Legislature created the street maintenance tax by approving HB 445 by Goodman and G. Lewis. The bill added Tax Code, ch. 327 to allow municipalities to levy, with voter approval, a quarter-cent sales-and-use tax for maintenance and repair of existing streets, excluding county, state, and federal roads.

In 2003, the enactment of HB 164 by Truitt by the 78th Legislature amended ch. 327 to allow municipalities to levy a street maintenance tax of one-eighth of 1 percent instead of a quarter-cent tax. Cities imposing a quarter-cent tax can by ordinance reduce rates to the lower level but must seek voter approval to raise the tax from the lower level to a quarter-cent.

Under Tax Code, sec. 327.007, the tax expires four years after it first takes effect or, in the case of a tax reauthorized by voters, the first day of the calendar quarter following the four-year anniversary of renewal. If reauthorization fails or is not sought before the expiration date, the municipality is barred from seeking a new tax until one year after the expiration date.

DIGEST: HB 3084 would add Tax Code, sec. 327.009 to allow for a municipal election to abolish a street maintenance tax. An election to abolish the tax would be held if the governing body of the municipality opted to seek one either by its own motion or at the petition of at least 5 percent of registered voters in the municipality. The ballot language for a proposal to abolish

the tax would read “The abolition of the local sales-and-use tax for maintenance and repair of municipal streets in (name of municipality).”

The provision in sec. 327.007 causing the tax to expire after four years would be amended to apply only to street maintenance taxes adopted prior to September 1, 2007.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 3084 would free municipalities that impose street maintenance taxes from the requirement of spending time, money, and resources seeking voter approval to continue the tax every four years. The will of voters would be honored under this bill because they could petition for an election to abolish the tax at any time. This bill would help larger municipalities that need much longer than four years to complete road maintenance projects as well as smaller municipalities that have no need or desire to impose the tax for as long as four years.

Since their creation in 2001, street maintenance taxes have been enormously popular and successful. In the roughly 50 communities that have put them on the ballot, voters have never opposed imposition or reauthorization of a sales-and-use tax for road maintenance. While these taxes benefit local communities, they are imposed not only on local residents but on out-of-town motorists who also contribute to the wear and tear of the roads. Worn-out streets inhibit commerce, damage vehicles, create safety hazards, and hamper the efficient operation of vehicles used to meet vital needs, such as law enforcement, emergency response, and utility repair. When a municipality can spend dedicated revenue on maintaining streets, the overall system will last longer. This tax also would give municipalities another way to fund road projects other than raising property tax rates.

The biggest problem municipalities face with this tax is the need to reauthorize the program every four years, which creates administrative burdens and costs associated with holding elections. This reauthorization also causes planning and budgeting difficulties because of the uncertainty of receiving revenues over the long term. Municipalities should not need to spend time and resources preparing for unnecessary elections. They are not required to seek renewal of any other type of voter-approved sales taxes, and HB 3084 would put the street maintenance tax in this same category.

The nature of the four-year reauthorization also creates waste because some municipalities either do not need that much funding or would rather use the taxing authority for other purposes. For example, a large municipality that had adopted a street maintenance tax might decide later, before the four-year period had ended, that it wished to direct its taxes toward another priority. Currently, that municipality might be prevented from spending its money on its greatest needs because it can impose sales-and-use taxes only up to a 2 percent cap and it would be forced to continue applying valuable fractions of a penny toward street maintenance until the tax expired. Such a municipality would benefit greatly from being allowed to call an election to abolish the tax sooner.

Voters still would have the ability to participate in the process. They would have to approve the initial tax in order for it to take effect. Instead of being limited to voting on the tax once every four years, they could call for an election at any time if they did not like the way money was being spent or managed.

Municipalities could receive a more favorable bond rating under this bill. Without the threat of the funding source ending every four years and the increased likelihood of a steady revenue stream, rating boards would look more favorably on the municipality's financial strength. Although voters could seek a petition election to abolish the tax, that would be unlikely given the proven popularity of this program.

**OPPONENTS
SAY:**

This bill would remove an integral component of the street maintenance sales-and-use tax that forces a municipality to prove it is properly and wisely spending money, removing a tool that voters can use currently to fight government waste. New provisions allowing for the abolition of this tax could undercut any advantages the bill is designed to create because voters could end the tax at any time, causing problems for planning, budgeting, and a municipality's bond rating.

In 2001, the sunset provision for the street maintenance tax was one of the selling points for the bill creating the tax. It guarantees in statute that the tax cannot continue in perpetuity and that voters will have an opportunity to regularly examine the program to ensure it is still worth the imposition of a tax. Although the new provisions would give voters the power to abolish the tax at any time, this requirement would burden voters with the need to continually monitor this program.

Giving voters or the governing body of a municipality the power to cancel the tax at any time would create instability in the program. It is not clear that HB 3084 would help a city's bond rating because this new power would not guarantee a revenue stream for any amount of time. Under current law, a municipality can be assured it will receive at least four years of tax revenue. A number of other factors, from the overall economic health of an area to its tax base, influence a municipality's bond rating, and given the inherent risk under the new provision, it is hard to see how much — if any — positive impact it would have on a bond rating. The threat of abolishing the tax at any time also could cause more uncertainty for budgeting and planning.