

## **BILL ANALYSIS**

Senate Research Center

S.B. 856  
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### **DIGEST**

Currently, hotel and motel taxes and other city revenues may be used to underwrite the cost of certain activities. Some events such as athletic events may be held in facilities owned by one entity and leased by another entity for the actual event. This bill authorizes municipalities to impose a tax on motor vehicle rentals for the purpose of underwriting the costs of athletic events.

### **PURPOSE**

As proposed, S.B. 856 authorizes municipalities to impose a tax on motor vehicle rentals for the purpose of underwriting costs of athletic events.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to a municipality and the comptroller of public accounts in SECTION 1 (Sections 326.101, 326.201, and 326.408, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 3C, Tax Code, by adding Chapter 326, as follows:

#### CHAPTER 326. MUNICIPAL TAX ON RENTAL OF MOTOR VEHICLE

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 326.001. DEFINITIONS. Defines "athletic event," "auto rental tax fund," "gross rental receipts," "motor vehicle," and "rental of a motor vehicle."

Sec. 326.002. OTHER PORTIONS OF TAX APPLICABLE. Provides that Chapter 152, Titles 2A and B apply to the taxes and the administration and enforcement of the taxes imposed by this chapter.

Sec. 326.003. APPLICATION OF CHAPTER. Provides that this chapter applies only to a municipality with a population of more than 500,000 that is situated in a county bordering the Republic of Mexico and which has an athletic event located within the municipality's boundaries.

##### SUBCHAPTER B. IMPOSITION OF GROSS RENTAL RECEIPTS TAX BY MUNICIPALITY

Sec. 326.101. TAX AUTHORIZED. Authorizes a municipality to impose a tax on the gross rental receipts from the rental of a motor vehicle. Authorizes a municipality to repeal, increase, or decrease the rate of a tax imposed. Authorizes a municipality to impose or increase a tax only if the tax is approved by a majority of the qualified voters of the municipality voting at an election called and held for that purpose under Section 326.102.

Sec. 326.102. ELECTION. Sets forth conditions for an election to be held under this chapter.

Sec. 326.103. EFFECTIVE DATE OF NEW TAX, TAX REPEAL, OR RATE CHANGE;

**BOUNDARY CHANGE.** Sets forth a provision in which the effective date for the imposition, repeal, or change of a tax under this chapter takes place. Requires the municipal secretary to send a certified copy of the ordinance that adds or detaches municipal territory, showing the effective date of the boundary change to the comptroller of public accounts (comptroller). Requires the ordinance to be accompanied by a map showing the added or detached territory. Provides that the tax takes effect in the added territory or is inapplicable to the detached territory by a certain date, except as provided by Subsection (c). Provides that the effective date of the application of the tax in the added or detached territory is a certain date, if, within 10 days after the receipt of an ordinance and map sent under Subsection (b), the comptroller notifies the secretary of the municipality that more time is required.

Sec. 326.104. **RENTAL TAX.** Authorizes taxes to be imposed, in increments of one-eighth of one percent, not to exceed five percent, on the gross rental receipts from the rental of a motor vehicle within the municipality.

#### SUBCHAPTER C. USE OF TAX REVENUE

Sec. 326.201. **AUTO RENTAL TAX FUND.** Requires a municipality to establish by resolution a fund known as the auto rental tax fund. Requires the municipality to deposit into the auto rental tax fund the proceeds of any tax imposed by the municipality under this chapter. Authorizes the municipality to use money in the auto rental tax fund only to operate one or more athletic events, including but not limited to certain costs.

#### SUBCHAPTER D. COMPUTATION OF TAX

Sec. 326.301. **COMPUTATION OF GROSS RENTAL RECEIPTS TAX.** Requires each motor vehicle owner or lessor in a municipality that has adopted a tax authorized by this chapter to add the gross rental receipts tax imposed by the municipality. Requires the sum of the taxes to be part of the rental charge, a debt owed to the motor vehicle owner or lessor by the person renting the vehicle, and recoverable at law in the same manner as the rental charge. Sets forth conditions for determining the amount of tax. Provides that all gross rental receipts of an owner or lessor of a motor vehicle registered as a retailer under Section 152.065 from the rental of the motor vehicle are presumed to be subject to the tax imposed under this chapter, except under certain conditions.

Sec. 326.302. **CONSUMMATION OF RENTAL.** Provides that a rental of a motor vehicle occurs within the municipality in which the rental is consummated. Sets forth conditions in which a rental may be consummated. Provides that a rental is consummated if certain conditions apply and if neither the place at which possession of the motor vehicle is taken nor the place to which delivery of the motor vehicle is made from the owner's or lessor's place of business is in this state.

Sec. 326.303. **LOCAL TAX INAPPLICABLE WHEN NO STATE TAX.** Prohibits the tax authorized by this chapter from applying to the gross rental receipts from the rental of a motor vehicle unless the tax imposed by Chapter 152 also applies to the rental.

Sec. 326.304. **STATE EXEMPTIONS APPLICABLE.** Provides that the exemptions provided by Chapter 152E, apply to the taxes authorized by this chapter.

Sec. 326.305. **TRANSITION EXEMPTION.** Provides that gross rental receipts from the rental of a motor vehicle are exempt from the imposition of the tax if the notice required by Subsection (b) is given, and if certain conditions are met before September 1, 2000. Requires the taxpayer to give the comptroller notice of the contract or bid on which an exemption is to be claimed within 30 days after the effective date of the imposition or increase of the tax under this chapter in the municipality. Requires the taxpayer to provide a copy of the contract or bid to the comptroller.

#### SUBCHAPTER E. ADMINISTRATION OF TAX

Sec. 326.401. **COMPTROLLER TO COLLECT AND ADMINISTER TAX.** Requires the comptroller to administer, collect, and enforce the tax imposed by a municipality under this chapter. Requires the taxes imposed under this chapter and Chapter 152 to be collected together.

Sec. 326.402. **COMPTROLLER'S REPORTING DUTIES.** Requires the comptroller to make a quarterly report to a municipality that has adopted the tax authorized by this chapter and sets forth information to be contained in the report. Requires the comptroller to make an additional quarterly report to the municipality, and include certain information, if a municipality requests an additional report. Requires the municipality to report to the comptroller the name and address of a person, if a municipality determines that the person doing business in the municipality is not included in a report from the comptroller. Sets forth information the comptroller is required to send to the municipality within 90 days after receiving the report from a municipality. Requires the comptroller to send a notice of each person who is delinquent in the payment to the municipality or taxes authorized by this chapter to the municipal tax collector and the attorney general. Provides that 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.

Sec. 326.403. **DISPOSITION OF AMOUNT ERRONEOUSLY COLLECTED.** Requires the comptroller to treat an amount collected as a tax as if it were revenue from the tax imposed by the municipality under this chapter, if certain conditions apply. Provides that this section does not affect the right of a person who paid an amount erroneously collected by an owner or lessor to claim a refund or the authority of the comptroller to make a refund of that amount.

Sec. 326.404. **PERMITS.** Requires a motor vehicle owner or lessor who collects, reports, and pays a tax on gross rental receipts under this chapter to comply with Section 152.065 and applicable provisions of Chapter 151. Provides that an additional permit, exemption, or certificate is not required except that the comptroller may prescribe a separate exemption certificate form for the transition exemption for prior contracts and bids under Section 326.305.

Sec. 326.405. **DISCOUNTS.** Provides that a discount allowed to an owner or lessor under Chapter 152 and applicable provisions of Chapter 151 for the collection and prepayment of the taxes under that chapter are allowed and applicable to the taxes collected under this chapter.

Sec. 326.406. **RECORDS.** Requires the owner or lessor of a motor vehicle used for rental purposes to keep certain records for four years after the rental of the vehicle.

Sec. 326.407. **FAILURE TO KEEP RECORDS.** Provides that an owner or lessor of a motor vehicle commits an offense if the person fails to make and retain complete records as required under Section 326.406. Provides that an offense under this section is a misdemeanor punishable by a fine of \$25 to \$500.

Sec. 326.408. **COMPTROLLER'S RULES.** Authorizes the comptroller to adopt rules and prescribe forms for implementing the administration, collection, reporting, and enforcement provisions of this chapter.

Sec. 326.409. **DELINQUENT TAXES: LIMITATIONS.** Provides that certain limitations for bringing suit for the collection of taxes are the same as limitations provided by Chapter 152 and applicable provisions of Chapter 151.

Sec. 326.410. **SEIZURE AND SALE OF PROPERTY.** Requires the comptroller to sell sufficient property to pay the delinquent taxes and penalties of both taxes, if the comptroller lawfully seizes the property for the payment of the taxes imposed under Chapter 152 and the property owner is delinquent in the payment of taxes. Requires the proceeds from the sale of the property to be applied to the payment of amounts due to the state and municipality.

Sec. 326.411. SUIT FOR TAX COLLECTION. Authorizes a municipality to join the attorney general as plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the municipality. Authorizes a municipality to bring suit for the collection of taxes owed to the municipality under this chapter, if certain conditions apply.

Sec. 326.412. DISAPPROVAL OF MUNICIPAL SUIT. Authorizes the comptroller or the attorney general to disapprove of the institution of a suit by a municipality under Section 326.411, if certain conditions apply. Requires a notice of disapproval to a municipality to be in writing and the reason for the determination to be given by the comptroller or attorney general. Authorizes the municipality to again proceed, by a certain date, as provided by Section 326.411 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.

Sec. 326.413. JUDGMENTS IN MUNICIPAL SUIT. Prohibits a judgment in a suit under Section 326.411 from affecting a claim against the taxpayer by another municipality or the state unless the state is party to the suit. Requires the municipality to abstract a copy of each final judgment for taxes imposed in the municipality's favor under this chapter in a case in which the state is not a party and to send a copy of the judgment and abstract to the comptroller. Requires a municipality to collect taxes awarded in a judgment by execution and is responsible for the renewal of the judgment before its expiration. Requires the municipality to notify the comptroller of any taxes collected on the judgment.

#### SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 326.501. TRUST ACCOUNT. Requires the comptroller to deposit the taxes collected by the comptroller under this chapter in the state treasury. Requires the comptroller to keep the deposits in trust in the separate suspense account of the municipality from which the taxes were collected. Requires the comptroller and certain employees of the comptroller to 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. Authorizes the comptroller to enter into blanket bonds to cover the comptroller and the comptroller's employees. Requires the premiums for the bonds to be paid when due from the state's share of money collected and held by the comptroller before its deposit in the general revenue fund.

Sec. 326.502. DISTRIBUTION OF TRUST FUNDS. Requires the comptroller to send to the municipal treasurer the municipality's share of the taxes collected by the comptroller at least twice during each state fiscal year and as often as necessary.

Sec. 326.503. STATE'S SHARE. Requires the comptroller to deduct certain fees as the state's charge for its services under this chapter and to credit the money deducted to the general revenue fund, before sending any money to a municipality.

Sec. 326.504. AMOUNTS RETAINED IN TRUST ACCOUNT. Authorizes the comptroller to retain a portion of the municipality's share of the tax collected for the municipality, not to exceed five percent of the amount remitted to the municipality, in a suspense account. Prohibits the amount to be retained from exceeding five percent of the final remittance to the municipality at the time of the termination of the collection of the tax, if the municipality has abolished the tax. Authorizes the comptroller to make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited from the amount retained in a municipality's suspense account. Requires the comptroller to send the remainder of the money to the municipality's suspense account and to close the account, by a certain date.

Sec. 326.505. INTEREST ON TRUST ACCOUNT. Requires interest earned on deposits to the state treasury under Section 326.501 and from suspense accounts to be credited to the general revenue fund.

Sec. 326.506. TAX POWERS OF MUNICIPALITY NOT LIMITED. Prohibits this chapter from abolishing or limiting the tax powers of a municipality.

SECTION 2. Emergency clause.

Effective date: upon passage.