

BILL ANALYSIS

Senate Research Center

C.S.S.B. 856
By: Shapleigh
State Affairs
3-23-97
Committee Report (Substituted)

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, C.S.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, 326.104, 326.201, 326.404, and 326.406, 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," "motor vehicle," "place of business of the owner," and "rental."

Sec. 326.002. 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 United Mexican States 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 or decrease the rate of a tax imposed. Authorizes a municipality to impose a tax only if the tax is approved at an election held under Section 326.102.

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

Sec. 326.103. SHORT-TERM RENTAL TAX. Authorizes taxes to be imposed, in increments of one-eighth of one percent, not to exceed 10 percent, on the gross rental receipts from the rental in the municipality of a motor vehicle. Requires the ballot proposition at the election held to adopt the tax to specify the maximum tax rate to be adopted.

Sec. 326.104. RATE INCREASE. Authorizes a municipality that has adopted a tax under this chapter at a rate of less than 10 percent to increase, by ordinance, the rate of the tax to a maximum of 10 percent if the increase is approved by a majority of the registered voters of that municipality voting at an election called and held for that purpose. Requires the ballot for an election to increase the rate of the tax to be printed to permit voting for or against the proposition in a certain manner.

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 collect the tax imposed by this chapter and to operate one or more athletic events, including but not limited to certain costs.

SUBCHAPTER D. COMPUTATION OF TAX

Sec. 326.301. COMPUTATION OF TAX. Requires each motor vehicle subject to the tax imposed under this chapter to collect the tax for the benefit of the municipality. Requires the owner to add the short-term motor vehicle rental tax imposed by the municipality under this chapter, if applicable, and the gross rental receipts tax imposed by Chapter 152, Tax Code, to the rental charge. Provides that the sum of the taxes is a part of the rental charge, is a debt owed to the motor vehicle owner by the person renting the vehicle, and is recoverable at law in the same manner as the rental charge.

Sec. 326.302. CONSUMMATION OF RENTAL. Provides that a rental of a motor vehicle occurs in the municipality in which transfer of possession of the motor vehicle occurs.

Sec. 326.303. SHORT-TERM 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, Tax Code, also applies to the rental.

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

Sec. 326.305. GROSS RECEIPTS PRESUMED SUBJECT TO TAX. Provides that all gross receipts of an owner of a motor vehicle from the rental of the motor vehicle are presumed to be subject to the tax imposed by this chapter, except for gross receipts for which the owner has accepted in good faith a properly completed exemption certificate.

SUBCHAPTER E. ADMINISTRATION OF TAX

Sec. 326.401. RECORDS. Requires the owner of a motor vehicle used for rental purposes to keep records and documents containing certain information for four years. Provides that mileage records are not required to be kept.

Sec. 326.402. FAILURE TO KEEP RECORDS. Provides that an owner of a motor vehicle commits an offense if the owner fails to make and retain complete records for the four-year period required by Section 326.401. Provides that an offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$500.

Sec. 326.403. EFFECTIVE DATE OF TAX. Requires a tax imposed under this chapter or a change in the tax rate to take effect on the date prescribed by the ordinance imposing the tax or changing the rate.

Sec. 326.404. TAX COLLECTION; PENALTY. Requires the owner of a motor vehicle required to collect the tax imposed under this chapter to report and send the taxes collected

to the municipality as provided by the ordinance imposing the tax. Authorizes a municipality to prescribe penalties for failure to keep records, to make reports, and to pay taxes. Authorizes the attorney acting for the municipality to bring suit against a person who fails to collect a tax under this chapter and to pay it over to the municipality as required.

Sec. 326.405. COLLECTION PROCEDURES ON PURCHASE OF MOTOR VEHICLE RENTAL BUSINESS. Sets forth procedures for owners and purchasers of a motor vehicle rental to take in the purchasing of a motor vehicle rental business.

Sec. 326.406. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. Authorizes a municipality by ordinance to permit a person who is required to collect a tax under this subchapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. Authorizes a municipality to provide that a person may retain the amount authorized by Subsection (a) only if the person pays the tax and file reports as required by the municipality.

SECTION 2. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends proposed Section 326.001, Tax Code, to delete proposed definitions of "gross rental receipts," and "rental of a motor vehicle." Redefines "motor vehicle." Defines "place of business of the owner," and "rental." Deletes proposed Section 326.002, regarding other portions of tax applicable to the administration and enforcement of taxes imposed. Redesignates proposed Section 326.003, as Section 326.002, regarding to the application of this chapter. Authorizes a municipality to impose a tax under this chapter only if the tax is approved at an election held under Section 326.102. Deletes proposed Sections 326.103 and 326.104, regarding elections and effective dates of new taxes, tax repeals, or rate changes. Amends Sections 326.103 and 326.104, to provide for short-term rental tax and rate increases. Deletes proposed Subchapter D, regarding computation of tax, and adds new proposed Subchapter D, to set forth provisions regarding the computation of taxes, consummation of rentals, and gross receipts presumed that are subject to tax. Makes nonsubstantive changes for short-term taxes that are inapplicable when no state tax exists. Deletes proposed Subchapter E, and adds new proposed subsections regarding the administration of tax, including provisions for maintaining records, establishing effective tax dates, penalty collections, and collection procedures on purchasing a motor vehicle rental business. Sets forth measures for reimbursement for tax collection expenses. Deletes proposed Subchapter F, regarding revenue deposits.