

BILL ANALYSIS

Senate Research Center
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S.B. 402
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since 1987, the local sales tax maximum rate has been two percent. Over time, local governments have been authorized to assess sales tax for a variety of purposes, including economic development, crime control and prevention, sports and community venue projects, transit, emergency medical services districts, county health districts, county library districts, and street maintenance. Cities and counties are also currently eligible to impose a sales tax for property tax relief, within certain limitations.

The many competing needs for sales tax revenue, the two percent limitation, and unfunded mandates from the state and federal governments have served to increase the property tax burden at the local level. An additional sales tax for the express purpose of property tax relief would help alleviate this situation.

As proposed, S.B. 402 authorizes a municipality or a county to adopt or abolish the sales and use tax authorized by Chapter 326 (Municipal and County Sales and Use Tax for Property Tax Relief) at an election held in the municipality or county. The bill also provides that the rate of tax authorized by Chapter 326, Tax Code, is one-fourth of one percent.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

CHAPTER 326. MUNICIPAL AND COUNTY SALES AND USE TAX FOR PROPERTY TAX RELIEF

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 326.001. **APPLICABLE LAW.** Provides that, except as otherwise provided by this chapter, Chapter 321 (Municipal Sales and Use Tax Act) applies to the municipal tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter and Chapter 323 (County Sales and Use Tax Act) applies to the county tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter.

Sec. 326.002. **EFFECT ON COMBINED LOCAL TAX RATE.** (a) Provides that Sections 321.101 (Tax Authorized) and 323.101 (Tax Authorized) do not apply to the municipal or county tax authorized by this chapter.

(b) Prohibits the rate of municipal or county sales and use tax imposed under this chapter from being considered in determining the combined or overlapping rate of local sales and use taxes in any area under this subtitle or another law, including the Health and Safety Code, the Local Government Code, the Special District Local Laws Code, or the Transportation Code.

[Reserves Sections 326.003-326.050 for expansion.]

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 326.051. TAX AUTHORIZED. (a) Authorizes a municipality or a county to adopt or abolish the sales and use tax authorized by this chapter at an election held in the municipality or county.

(b) Provides that the adoption of the tax authorized by this chapter by one political subdivision does not affect the authority of another political subdivision that has overlapping boundaries to also adopt the tax authorized by this chapter.

Sec. 326.052. TAX RATE. Provides that the rate of the tax authorized by this chapter is one-fourth of one percent.

Sec. 326.053. SALES AND USE TAX EFFECTIVE DATE. (a) Provides that the adoption or abolition of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election from the municipality or county.

(b) Authorizes the effective date provided by Subsection (a) to be extended by the comptroller of public accounts (comptroller) until the first day of the next succeeding calendar quarter if the comptroller determines that an effective date will occur before the comptroller can reasonably take the action required to begin collecting the tax or to implement the abolition of the tax.

[Reserves Sections 326.054-326.100 for expansion.]

SUBCHAPTER C. TAX ELECTION PROCEDURES

Sec. 326.101. CALLING ELECTION. (a) Provides that an election authorized by this chapter in a municipality is called by the adoption of an ordinance by the governing body of the municipality.

(b) Provides that an election authorized by this chapter in a county is called by the adoption of an order by the commissioners court of the county.

Sec. 326.102. ELECTION DATE. Requires that an election under this chapter be held on the next uniform election date that occurs after the date of the election order and that allows sufficient time to comply with the requirements of other law.

Sec. 326.103. BALLOT. (a) Requires that the ballot, at an election to adopt the tax, be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of municipality or county) at the rate of one-fourth of one percent to reduce the (municipal or county) property tax rate."

(b) Requires that the ballot, at an election to abolish the tax, be prepared to permit voting for or against the proposition: "The abolition of the one-fourth of one percent sales and use tax in (name of municipality or county) used to reduce the (municipal or county) property tax rate."

[Reserves Sections 326.104-326.150 for expansion.]

SUBCHAPTER D. USE OF TAX REVENUE

Sec. 326.151. USE OF REVENUE. Provides that any amount derived by a municipality or county from the sales and use tax under this chapter is additional sales and use tax revenue for purposes of Section 26.041 (Tax Rate of Unit Imposing Additional Sales and Use Tax).

Sec. 326.152. CALCULATION OF MUNICIPAL OR COUNTY ROLLBACK TAX RATE. Requires the officer or employee designated by the governing body of the municipality or the commissioners court of the county to make the calculation, for a municipality or county in which the voters have approved the imposition of the sales and use tax under this chapter, for an ad valorem tax year that begins on or after the date the sales and use tax takes effect, in the formula for calculating the rollback tax rate of the municipality or county, to substitute 1.05 for 1.08.

SECTION 2. Amends Section 26.012(1), Tax Code, to redefine "additional sales and use tax."

SECTION 3. Amends Section 31.01(i), Tax Code, to require the tax bill for a municipality, rather than a city or town, that imposes additional sales and use tax under Section 321.101(b) (relating to authorizing a municipality that is not disqualified to adopt additional sales and use tax) or Chapter 326, rather than Section 321.101(b) of this code, or a county that imposes a sales and use tax under Chapter 323 or 326, to indicate the amount of additional ad valorem taxes, if any that would have been imposed on the property if additional ad valorem taxes had been imposed in an amount equal to the amount of revenue estimated, to be collected from the additional municipality, rather than city, sales and use tax or from the county sales and use tax, as applicable, for the year determined as provided by Section 26.041, rather than Section 26.041 of this code. Make a conforming change.

SECTION 4. Provides that Sections 2 and 3 of this Act apply only to ad valorem taxes that are imposed for an ad valorem tax year that begins on or after January 1, 2010.

SECTION 5. (a) Effective date: September 1, 2009, except as provided by Subsection (b) of this section.

(b) Effective date, Sections 2 and 3, of this Act: January 1, 2010.