Senate Research Center   H.B. 157
84R241 TJB-D   By: Larson; Springer (Eltife)
                                                                                                      Finance
                                                                                                    5/8/2015
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is a maximum rate at which all combined local sales and use taxes may be imposed. In addition, the law limits the rates at which municipalities in Texas may impose sales and use taxes for, among other purposes, street maintenance, venue projects, property tax relief, economic development, and crime control and prevention. Interested parties have raised concerns that such restrictions, in conjunction with the maximum combined rate, limit municipalities' fiscal flexibility in responding to local needs. H.B. 157 seeks to address such concerns by removing restrictions on rates within the two percent limit on municipal sales and use taxes.

H.B. 157 amends current law relating to the rates of sales and use taxes imposed by municipalities and authorizes an increase or decrease in the rate of those taxes.

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 Section 334.082(d), Local Government Code, to provide that the tax imposed by this subchapter is in addition to a tax imposed under other law, including Chapters 321 (Municipal Sales and Use Taxes) and 323 (County Sales and Use Tax Act), Tax Code, and is included in computing a combined sales and use tax rate for purposes of the limitation on the maximum combined sales and use tax rate of political subdivisions.

SECTION 2. Amends Section 334.083(a), Local Government Code, as follows:

> (a) Requires that the rate of a tax adopted by a county under this subchapter be one-eighth, one-fourth, three-eighths, or one-half of one percent. Provides that the rate of the tax adopted by a municipality may be any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f) (prohibiting a municipality from adopting or increasing a sales and use tax or an additional sales and use tax under this section if as a result of the adoption or increase of the tax the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed two percent at any location in the municipality), Tax Code.

SECTION 3. Amends Section 334.084, Local Government Code, as follows:

> Sec. 334.084. RATE INCREASE. (a) Authorizes a municipality, rather than a municipality or county, that has adopted a sales and use tax under this subchapter at any rate, and a county that has adopted a sales and use tax under this subchapter at a rate of less than one-half of one percent, to by ordinance or order increase the rate of the tax if the increase is approved by a majority of the registered voters of that municipality or county voting at an election called and held for that purpose.

(b) Provides that the county tax may be increased under Subsection (a) in one or more increments of one-eighth of one percent to a maximum of one-half of one percent. Provides that the municipal tax may be increased under Subsection (a) in one or more increments of one-eighth of one percent to any rate that the municipality determines is appropriate and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f), Tax Code.

(c) Requires that the ballot for an election to increase the tax to be printed to permit voting for or against the proposition. Sets forth the required ballot language.

SECTION 4. Amends Section 363.055(a), Local Government Code, as follows:

(a) Authorizes the proposed rate for the district sales and use tax imposed under Subchapter B (Imposition of Sales and Use Taxes by Municipalities), Chapter 321, Tax Code, to be any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f), Tax Code. Provides that the proposed rate for the district sales and use tax imposed under Subchapter B, Chapter 323, Tax Code, rather than Subchapter B, Chapter 321, Tax Code, or Subchapter B, Chapter 323, Tax Code, may be only:

(1) one-eighth of one percent;

(2) one-fourth of one percent;

(3) three-eighths of one percent; or

(4) one-half of one percent.

SECTION 5. Amends Section 504.252(b), Local Government Code, as follows:

(b) Provides that the rate of the tax imposed under Subsection (a) may be any rate that is an increment of one-eighth of one percent, that the authorizing municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 504.254(a). Deletes existing text requiring that the rate of the tax imposed under Subsection (a) be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent.

SECTION 6. Amends Section 504.256, Local Government Code, as follows:

Sec. 504.256. BALLOT. Requires that the ballot, in an election to adopt the sales and use tax under this chapter, be printed to provide for voting for or against the proposition. Sets forth the required ballot language.

SECTION 7. Amends Section 504.258(c), Local Government Code, as follows:

(c) Provides that the tax rate may be reduced or increased to any rate that is an increment of one-eighth of one percent, that the authorizing municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 504.254(a). Deletes existing text authorizing the tax rate to be reduced in one or more increments of one-eighth of one percent, to a minimum rate of one-eighth of one percent, or increased in one or more increments of one-eighth of one percent, to a maximum rate of one-half of one percent.

SECTION 8. Amends Section 504.261(b), Local Government Code, as follows:

(b) Requires that the ballot, in an election to impose, reduce, increase, or abolish the tax under this chapter and the additional sales and use tax, be printed to provide for voting for or against the proposition. Sets forth the required ballot language.

SECTION 9. Amends Section 505.252(b), Local Government Code, as follows:

(b) Provides that the rate of a tax adopted under this chapter may be any rate that is an increment of one-eighth of one percent, that the authorizing municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 505.256(a). Deletes existing text requiring that the rate of a tax adopted under this chapter be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent.

SECTION 10. Amends Section 505.256(a), Local Government Code, as follows:

(a) Provides that Chapter 321, Tax Code, governs the imposition, computation, administration, collection, and remittance of the sales and use tax, except as inconsistent with this chapter. Prohibits an authorizing municipality from adopting a rate under this chapter that, when added to the rates of all other sales and use taxes imposed by the authorizing municipality and other political subdivisions of this state having territory in the authorizing municipality, would result in a combined rate exceeding two percent at any location in the municipality.

SECTION 11. Amends Section 505.259, Local Government Code, as follows:

Sec. 505.259. ELECTION REQUIREMENT FOR CERTAIN MUNICIPALITIES. Provides that for a tax under this subchapter at a rate that does not exceed one-half of one percent, the election requirement under Section 505.251 is satisfied and another election is not required if the voters of the authorizing municipality approved the imposition of an additional one-half cent sales and use tax at an election held before March 28, 1991, under an ordinance calling the election that:

(1) was published in a newspaper of general circulation in the municipality at least 14 days before the date of the election; and

(2) expressly stated that the election was being held in anticipation of the enactment of enabling and implementing legislation without further elections.

SECTION 12. Amends Section 321.101(a), Tax Code, to authorize a municipality to adopt or repeal a sales and use tax authorized by this chapter, other than the additional municipal sales and use tax, and may reduce or increase the rate of the tax, at an election in which a majority of the qualified voters of the municipality approve the adoption, reduction, increase, or repeal of the tax.

SECTION 13. Amends Section 321.102(a), Tax Code, as follows:

(a) Provides that a tax imposed under this chapter, a tax rate increase or decrease adopted under this chapter, or the repeal of a tax abolished under this chapter 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 action as required by Section 321.405(b). Provides that this subsection does not apply to the additional municipal sales and use tax.

SECTION 14. Amends Section 321.103, Tax Code, as follows:

Sec. 321.103. SALES TAX. (a) Provides that, in a municipality that has adopted the tax authorized by Section 321.101(a), there is imposed a tax on the receipts from the sale at retail of taxable items within the municipality at any rate, rather than at the rate, that is an increment of one-eighth of one percent, that the municipality determines is appropriate, that would not result in a combined rate that exceeds the maximum combined rate

prescribed by Section 321.101(f), and that is approved by the voters. Provides that the tax is imposed at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use. Deletes reference to one-percent tax rate requirement.

(b) Provides that in a municipality that has adopted the additional municipal sales and use tax, the tax is imposed at any rate that is an increment of one-eighth of one percent, rather than at the rate approved by the voters, that the municipality determines is appropriate, that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f), and that is approved by the voters. Authorizes the rate to be reduced in one or more increments of one-eighth of one percent or increased in one or more increments of one-eighth of one percent. Provides that the rate that the municipality adopts is on the receipts from the sale at retail of all taxable items within the municipality and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use unless the residential use of gas and electricity is exempted from the tax imposed under Section 321.101(a), in which case the residential use of gas and electricity is exempted under this subsection also. Deletes existing text requiring that the rate, when the tax is adopted, be equal to either one-eighth, one-fourth, three-eighths, or one-half of one percent. Deletes existing text authorizing the rate to be reduced in one or more increments of one-eighth of one percent to a minimum of one-eighth of one percent or increased in one or more increments of one-eighth of one percent to a maximum of one-half of one percent, or the tax may be abolished.

SECTION 15. Amends Section 321.108(d), Tax Code, to provide that the rate of a tax adopted for a district under this section may be increased to any rate that is an increment of one-eighth of one percent, rather than be increased in increments of one-eighth of one percent not to exceed a total tax rate of one-half percent, for financing the operation of the crime control and prevention district by order of the board of directors of the crime control and prevention district if the board determines that the rate is appropriate, would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f), and is approved by a majority of the voters voting at an election called by the board and held in the district on the question of increasing the tax rate. Makes no further change to this subsection.

SECTION 16. Amends Section 321.404, Tax Code, by amending Subsections (a) and (c) and adding Subsection (d), as follows:

(a) Requires that the ballot, in an election to adopt the tax, be printed to provide for voting for or against the applicable proposition. Sets forth the required ballot language.

(c) Requires that the ballot at an election to adopt the additional municipal sales and use tax, in a municipality that does not impose a property tax, be printed to provide for voting for or against the following proposition. Sets forth the required ballot language.

(d) Requires that the ballot, in an election to reduce or increase the tax, be printed to provide for voting for or against the proposition. Sets forth the required ballot language.

SECTION 17. Amends Section 321.405(a), Tax Code, as follows:

(a) Requires the governing body of the municipality, within 10 days after an election in which the voters approve of the adoption, change in rate, or abolition of a tax authorized by this chapter, to by resolution or ordinance entered in its minutes of proceedings, declare the results of the election. Requires that a resolution or ordinance under this section include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

SECTION 18. Amends Section 327.004, Tax Code, as follows:

Sec. 327.004. TAX RATE. Provides that the tax authorized by this chapter may be imposed at any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 327.003(b). Deletes existing text authorizing the tax authorized by this chapter to be imposed at the rate of one-eighth of one percent or one-fourth of one percent.

SECTION 19. Amends Section 327.006(b), Tax Code, as follows:

(b) Requires that the ballot, at an election to adopt the tax, be prepared to permit voting for or against the proposition. Sets forth the required ballot language.

SECTION 20. Amends Section 327.0065, Tax Code, as follows:

Sec. 327.0065. RATE CHANGE. (a) Authorizes a municipality that has adopted a sales and use tax under this chapter to by ordinance decrease the rate of the tax in increments of one-eighth of one percent. Deletes existing text authorizing a municipality that has adopted a sales and use tax under this chapter at a rate of one-fourth of one percent to by ordinance decrease the rate of the tax to one-eighth of one percent.

(b) Authorizes a municipality that has adopted a sales and use tax under this chapter to by ordinance increase the rate of the tax to any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 327.003(b) if the increase is authorized at an election held in the municipality. Deletes existing text authorizing a municipality that has adopted a sales and use tax under this chapter at a rate of one-eighth of one percent to by ordinance increase the rate of the tax to one-fourth of one percent if the increase is authorized at an election held in the municipality.

(c) Requires that the ballot for an election to increase the tax be printed to permit voting for or against the proposition. Sets forth required ballot language.

SECTION 21. Provides that the changes in law made by this Act to Sections 334.084(c), 504.256, and 504.261(b), Local Government Code, and Sections 321.404, 327.006(b), and 327.0065(c), Tax Code, apply only to ballot language for an election ordered on or after the effective date of this Act. Provides that the ballot language for an election ordered before the effective date of this Act is governed by the law in effect when the election was ordered.

SECTION 22. Effective date: September 1, 2015.