By: Carona   S.B. No. 899

A BILL TO BE ENTITLED

1   AN ACT

2   relating to funding for crime control and prevention districts;

3   imposing a tax and providing a penalty.

4   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5   SECTION 1. Section 363.054(b), Local Government Code, is

6   amended to read as follows:

7   (b) An order calling an election under Subsection (a) must

8   state:

9   (1) the nature of the election, including the

10   proposition that is to appear on the ballot;

11   (2) the date of the election;

12   (3) the hours during which the polls will be open;

13   (4) the location of the polling places;

14   (5) in summary form, the approved budget plan and

15   crime control plan of the proposed district; and

16   (6) the proposed rate of each type of [the sales and

17   use] tax for the district.

18   SECTION 2. Section 363.055(c), Local Government Code, is

19   amended to read as follows:

20   (c) A municipality that creates a district may [shall] adopt

21   a sales and use tax. A municipality that adopts a sales and use tax

22   shall adopt the tax under Section 323.105, Tax Code, for financing

23   the operation of the district in the same manner as a county under

24   that section.

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1   SECTION 3. Section 363.058, Local Government Code, is
2 amended to read as follows:

3   Sec. 363.058. BALLOT PROPOSITION. The ballot for an
4 election to create a district shall be printed to permit voting for
5 or against the proposition: "The creation of the _____ (name of
6 the political subdivision proposing to create the district) Crime
7 Control and Prevention District dedicated to crime reduction
8 programs and the adoption of a proposed [local sales and use] tax at
9 a rate of _____ (list each type of tax and the rate specified in the
10 election order for that type of tax)."

11   SECTION 4. Section 363.061(b), Local Government Code, is
12 amended to read as follows:

13   (b) The budget plan must include:

14   (1) the amount of money budgeted by the district for
15 each crime control and crime prevention strategy;

16   (2) the amount of money budgeted by the district and
17 the percentage of the total budget of the district for
18 administration, with individual amounts showing the cost of the
19 administration that would be conducted by the district and the cost
20 of administration that would be conducted by private or public
21 entities;

22   (3) the estimated amount of money available to the
23 district from all sources during the ensuing year;

24   (4) the amount of balances expected at the end of the
25 years for which the budget is prepared; and

26   (5) the estimated tax rate for each type of tax that
27 will be required.

1 SECTION 5. Sections 363.154(a) and (b), Local Government

2 Code, are amended to read as follows:

3 (a) In a district created by a county, the board, from the

4 [sales and use] tax revenue distributed to the district [under

5 Section 323.105, Tax Code,] must budget, to the extent practicable:

6 (1) not less than 49.75 percent of the revenue to

7 finance programs for which applications are submitted under Section

8 363.209(a);

9 (2) not less than 24.87 percent of the revenue to

10 finance programs for which applications are submitted under Section

11 363.209(b); and

12 (3) not less than 24.87 percent of the revenue to be

13 distributed under Subsection (b) or (d).

14 (b) In a district containing more than one municipality, the

15 funds under Subsection (a)(3) shall be apportioned to the

16 municipalities of the district based on a formula that averages the

17 proportionate percentage of:

18 (1) the population of a municipality to the total

19 population of the district;

20 (2) the index crime reported in each municipality in

21 the district to the total index crime reported in the district; and

22 (3) the [sales] tax generated by each municipality to

23 the total [sales] tax generated in the district based on the amount

24 collected during the preceding year.

25 SECTION 6. Section 363.203(b), Local Government Code, is

26 amended to read as follows:

27 (b) The proposed budget must contain a complete financial

1 statement, including a statement of:

2   (1) the outstanding obligations of the district;

3   (2) the amount of cash on hand to the credit of each

4 fund of the district;

5   (3) the amount of money received by the district from

6 all sources during the previous year;

7   (4) the estimated amount of money available to the

8 district from all sources during the current fiscal year;

9   (5) the amount of money needed to fund programs

10 approved for funding by the board;

11   (6) the amount of money requested for programs that

12 were not approved for funding by the board;

13   (7) the tax rate for each type of tax for the next

14 fiscal year;

15   (8) the amount of the balances expected at the end of

16 the year in which the budget is being prepared; and

17   (9) the estimated amount of revenues and balances

18 available to cover the proposed budget.

19   SECTION 7. Sections 363.251(e) and (f), Local Government

20 Code, are amended to read as follows:

21   (e) For a continuation referendum, the ballot shall be

22 printed to permit voting for or against the proposition: "Whether

23 the _____ (name of the political subdivision that created

24 the district) Crime Control and Prevention District should be

25 continued and the crime control and prevention district _____

26 (list each type of tax here) [sales and use tax] should be

27 continued."

4

1   (f) For a dissolution referendum, the ballot shall be

2 printed to permit voting for or against the proposition: "Whether

3 the _____ (name of the political subdivision that created

4 the district) Crime Control and Prevention District should be

5 dissolved and the crime control and prevention district _____

6 (list each type of tax here) [~~sales and use tax~~] should be

7 abolished."

8   SECTION 8. Section 363.2515(c), Local Government Code, is

9 amended to read as follows:

10   (c) For a continuation referendum under this section, the

11 ballot shall be printed to permit voting for or against the

12 proposition: "Whether the _____ Crime Control and Prevention

13 District should be continued for _____ years and the crime

14 control and prevention district _____ (list each type of tax

15 here) [~~sales and use tax~~] should be continued for _____

16 years."

17   SECTION 9. Sections 363.252(b) and (c), Local Government

18 Code, are amended to read as follows:

19   (b) To be valid, an application for a petition to continue

20 the district must contain:

21   (1) the following heading: "Application for a

22 Petition for a Local Option Referendum to Continue the Crime

23 Control and Prevention District and to Continue the Crime Control

24 and Prevention District _____ (list each type of tax here)

25 [~~Sales and Use Tax~~]";

26   (2) the following statement of the issue to be voted

27 on: "Whether the _____ (name of the political subdivision

1   that created the district) Crime Control and Prevention District

2   should be continued and the crime control and prevention district

3   _____ (list each type of tax here) [sales and use tax] should

4   be continued";

5   (3) the following statement immediately above the

6   signatures of the applicants: "It is the purpose and intent of the

7   applicants whose signatures appear below that the crime control and

8   prevention district be continued and the crime control and

9   prevention district _____ (list each type of tax here) [sales

10   and use tax] in _____ (name of the political subdivision

11   that created the district) be continued"; and

12   (4) the printed name, signature, residence address,

13   and voter registration certificate number of each applicant.

14   (c) To be valid, an application for a petition to dissolve

15   the district must contain:

16   (1) the following heading: "Application for a

17   Petition for a Local Option Referendum to Dissolve the Crime

18   Control and Prevention District and to Abolish the Crime Control

19   and Prevention District _____ (list each type of tax here)

20   [Sales and Use Tax]";

21   (2) the following statement of the issue to be voted

22   on: "Whether the _____ (name of the political subdivision

23   that created the district) Crime Control and Prevention District

24   should be dissolved and the crime control and prevention district

25   _____ (list each type of tax here) [sales and use tax] should

26   be abolished";

27   (3) the following statement immediately above the

1 signatures of the applicants: "It is the purpose and intent of the

2 applicants whose signatures appear below that the crime control and

3 prevention district be dissolved and the crime control and

4 prevention district _____ (list each type of tax here) [~~sales~~

5 ~~and use tax~~] in _____ (name of the political subdivision

6 that created the district) be abolished"; and

7   (4) the printed name, signature, residence address,

8 and voter registration certificate number of each applicant.

9   SECTION 10. Section 363.253, Local Government Code, is

10 amended to read as follows:

11   Sec. 363.253. PETITION. (a) To be valid, a petition for a

12 referendum to continue a district must contain:

13   (1) the following heading: "Petition for a Local

14 Option Referendum to Continue the _____ (name of the

15 political subdivision that created the district) Crime Control and

16 Prevention District and to Continue the Crime Control and

17 Prevention District _____ (list each type of tax here) [~~Sales~~

18 ~~and Use Tax~~]";

19   (2) a statement of the issue to be voted on in the same

20 words used in the application;

21   (3) the following statement immediately above the

22 signatures of the petitioners: "It is the purpose and intent of the

23 petitioners whose signatures appear below that the crime control

24 and prevention district be continued and the crime control and

25 prevention district _____ (list each type of tax here) [~~sales~~

26 ~~and use tax~~] in _____ (name of the political subdivision

27 that created the district) be continued";

1   (4)   lines   and   spaces   for   the   names,   signatures,

2   residence addresses, and voter registration certificate numbers of

3   the petitioners; and

4   (5)   the date of issuance, the serial number, and the

5   seal of the clerk of the political subdivision on each page.

6   (b)   To be valid, a petition for a referendum to dissolve a

7   district must contain:

8   (1)   the   following   heading: "Petition   for   a   Local

9   Option   Referendum   to   Dissolve   the   _____   (name   of   the

10 political subdivision that created the district) Crime Control and

11 Prevention District and to Abolish the Crime Control and Prevention

12 District   _____   (list   each   type   of   tax   here)   [~~Sales and Use~~

13 ~~Tax~~]";

14   (2)   a statement of the issue to be voted on in the same

15 words used in the application;

16   (3)   the   following   statement   immediately   above   the

17 signatures of the petitioners: "It is the purpose and intent of the

18 petitioners whose signatures appear below that the crime control

19 and prevention district be dissolved and the crime control and

20 prevention district _____ (list each type of tax here) [~~sales~~

21 ~~and use tax~~] in _____ (name of the political subdivision

22 that created the district) be abolished";

23   (4)   lines   and   spaces   for   the   names,   signatures,

24 residence addresses, and voter registration certificate numbers of

25 the petitioners; and

26   (5)   the date of issuance, the serial number, and the

27 seal of the clerk of the political subdivision on each page.

1   SECTION 11. Section 363.262(b), Local Government Code, is

2   amended to read as follows:

3   (b) If the district is to be dissolved as a result of the

4   referendum, the abolition of the local crime control sales and use

5   tax, if any, takes effect on the first day of the first calendar

6   quarter that occurs after the expiration of the first complete

7   calendar quarter that occurs after the comptroller receives a

8   notice of the results of the continuation or dissolution

9   referendum.

10   SECTION 12. Section 363.302(c), Local Government Code, is

11   amended to read as follows:

12   (c) If on the date that the district is dissolved the

13   district has outstanding short-term or long-term liabilities, the

14   board shall, not later than the 30th day after the date of the

15   dissolution, adopt a resolution certifying each outstanding

16   short-term and long-term liability. The political subdivision that

17   created the district shall assume the outstanding short-term and

18   long-term liabilities. The political subdivision shall collect

19   each tax imposed under this chapter [the sales and use tax under

20   Section 323.105, Tax Code,] for the remainder of the calendar year

21   and may by resolution of its governing body continue to collect each

22   [the] tax for an additional calendar year if the revenue [from the

23   tax] is needed to retire liabilities of the district that were

24   assumed by the political subdivision. The governing body shall

25   notify the comptroller of this continuation not later than the 60th

26   day before the date the tax would otherwise expire. Any tax

27   collected after the liabilities have been retired shall be

1 transferred or conveyed as provided by Subsection (a).

2   SECTION 13. Chapter 363, Local Government Code, is amended

3 by adding Subchapters H and I to read as follows:

4   SUBCHAPTER H. SHORT-TERM MOTOR VEHICLE RENTAL TAX

5   Sec. 363.351. DEFINITIONS. (a) In this subchapter:

6   (1) "Motor vehicle" means a self-propelled vehicle

7 designed principally to transport persons or property on a public

8 roadway and includes a passenger car, van, station wagon, sports

9 utility vehicle, and truck. The term does not include a:

10   (A) trailer, semitrailer, house trailer, truck

11 having a manufacturer's rating of more than one-half ton, or

12 road-building machine;

13   (B) device moved only by human power;

14   (C) device used exclusively on stationary rails

15 or tracks;

16   (D) farm machine; or

17   (E) mobile office.

18   (2) "Rental" means an agreement by the owner of a motor

19 vehicle to authorize for not longer than 30 days the exclusive use

20 of that vehicle to another for consideration.

21   (3) "Place of business of the owner" means an

22 established outlet, office, or location operated by the owner of a

23 motor vehicle or the owner's agent or employee for the purpose of

24 renting motor vehicles and includes any location at which three or

25 more rentals are made during a year.

26   (b) Except as provided by Subsection (a), words used in this

27 subchapter and defined by Chapter 152, Tax Code, have the meanings

1 assigned by Chapter 152, Tax Code.

2 Sec. 363.352. TAX AUTHORIZED. (a) A municipality by

3 ordinance or a county by order may impose a tax on the rental in the

4 municipality or county of a motor vehicle for the benefit of a

5 district that was created by the municipality or county.

6 (b) A municipality by ordinance or a county by order may

7 repeal or decrease the rate of a tax imposed under Subsection (a).

8 (c) A municipality or county may impose a tax under this

9 subchapter only if the tax:

10 (1) is for a purpose authorized by Section 363.151;

11 and

12 (2) is approved at an election held under Section

13 363.354.

14 Sec. 363.353. SHORT-TERM RENTAL TAX. The tax authorized by

15 this subchapter is imposed at a rate in increments of one-eighth of

16 one percent, not to exceed six percent, on the gross rental receipts

17 from the rental in the municipality or county of a motor vehicle.

18 Sec. 363.354. RATE ELECTION. (a) A municipality or county

19 may adopt or increase a tax under this subchapter by ordinance or

20 order if the rate or increase is not greater than the maximum

21 applicable rate and the rate is approved by a majority of the

22 registered voters of that municipality or county voting at an

23 election called and held for that purpose.

24 (b) The ballot for an election to adopt or increase the rate

25 of the tax shall be printed to permit voting for or against the

26 proposition: "The motor vehicle rental tax for the purpose of

27 financing _____ (insert description of appropriate purposes

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1 here) to a maximum rate of _____ percent (insert applicable

2 rate)."

3   Sec. 363.355. COMPUTATION OF TAX. (a) The owner of a motor

4 vehicle subject to the tax imposed under this subchapter shall

5 collect the tax for the benefit of the municipality or county.

6   (b) The owner shall add the short-term motor vehicle rental

7 tax imposed by the municipality or county under this subchapter, if

8 applicable, and the gross rental receipts tax imposed by Chapter

9 152, Tax Code, to the rental charge, and the sum of the taxes is a

10 part of the rental charge, is a debt owed to the motor vehicle owner

11 by the person renting the vehicle, and is recoverable at law in the

12 same manner as the rental charge.

13   Sec. 363.356. CONSUMMATION OF RENTAL. A rental of a motor

14 vehicle occurs in the municipality or county in which transfer of

15 possession of the motor vehicle occurs.

16   Sec. 363.357. EXEMPTIONS APPLICABLE. The exemptions

17 provided by Subchapter E, Chapter 152, Tax Code, apply to the tax

18 authorized by this subchapter.

19   Sec. 363.358. GROSS RECEIPTS PRESUMED SUBJECT TO TAX. All

20 gross receipts of an owner of a motor vehicle from the rental of the

21 motor vehicle are presumed to be subject to the tax imposed by this

22 subchapter, except for gross receipts for which the owner has

23 accepted in good faith a properly completed exemption certificate.

24   Sec. 363.359. RECORDS. (a) The owner of a motor vehicle

25 used for rental purposes shall keep for four years records and

26 supporting documents containing the following information on the

27 amount of:

1   (1) gross rental receipts received from the rental of

2 the motor vehicle; and

3   (2) the tax imposed under this subchapter and paid to

4 the municipality or county on each motor vehicle used for rental

5 purposes by the owner.

6   (b) Mileage records are not required.

7   Sec. 363.360. FAILURE TO KEEP RECORDS. (a) An owner of a

8 motor vehicle commits an offense if the owner fails to make and

9 retain complete records for the four-year period required by

10 Section 363.359.

11   (b) An offense under this section is a misdemeanor

12 punishable by a fine of not less than $25 or more than $500.

13   Sec. 363.361. EFFECTIVE DATE AND ENDING DATE OF TAX. A tax

14 imposed under this subchapter or a change in the tax rate takes

15 effect on the date prescribed by the ordinance or order imposing the

16 tax or changing the rate.

17   Sec. 363.362. TAX COLLECTION; PENALTY. (a) The owner of a

18 motor vehicle required to collect the tax imposed under this

19 subchapter shall report and send the taxes collected to the

20 municipality or county as provided by the ordinance or order

21 imposing the tax.

22   (b) A municipality by ordinance or a county by order may

23 prescribe penalties, including interest charges, for failure to

24 keep records required by the municipality or county, to report when

25 required, or to pay the tax when due.

26   (c) The attorney acting for the municipality or county may

27 bring suit against a person who fails to collect a tax under this

1 subchapter and to pay it over to the municipality or county as

2 required.

3   Sec. 363.363. REIMBURSEMENT FOR TAX COLLECTION EXPENSES.

4 (a) Subject to Subsection (b), a municipality or county shall allow

5 a person who is required to collect and remit the tax imposed under

6 this subchapter one percent of the amount collected and required to

7 be remitted as reimbursement to the person for the costs of

8 collecting the tax.

9   (b) A person required to collect and remit the tax imposed

10 under this subchapter is not entitled to reimbursement under

11 Subsection (a) unless the municipality or county receives the

12 amount required to be collected not later than the 15th day after

13 the end of the collection period. If the 15th day is on a weekend or

14 holiday, the municipality or county must receive the amount

15 required to be collected not later than the first working day after

16 the 15th day. If the person remits the amount required to be

17 collected by mail, the date postmarked by the United States Postal

18 Service is considered to be the date of receipt by the municipality

19 or county.

20   Sec. 363.364. COLLECTION PROCEDURES ON PURCHASE OF MOTOR

21 VEHICLE RENTAL BUSINESS. (a) If the owner of a motor vehicle

22 rental business that makes rentals subject to the tax imposed by

23 this subchapter sells the business, the successor to the seller or

24 the seller's assignee shall withhold an amount of the purchase

25 price sufficient to pay the amount of tax due until the seller

26 provides a receipt by a person designated by the municipality or

27 county to provide the receipt showing that the amount has been paid

14

1 or a certificate showing that no tax is due.

2 (b) The purchaser of a motor vehicle rental business who

3 fails to withhold an amount of the purchase price as required by

4 this section is liable for the amount required to be withheld to the

5 extent of the value of the purchase price.

6 (c) The purchaser of a motor vehicle rental business may

7 request that the person designated by the municipality or county to

8 provide a receipt under Subsection (a) issue a certificate stating

9 that no tax is due or issue a statement of the amount required to be

10 paid before a certificate may be issued. The person designated by

11 the municipality or county shall issue the certificate or statement

12 not later than the 60th day after the date the person receives the

13 request.

14 (d) If the person designated by the municipality or county

15 to provide a receipt under Subsection (a) fails to issue the

16 certificate or statement within the period provided by Subsection

17 (c), the purchaser is released from the obligation to withhold the

18 purchase price or pay the amount due.

19 Sec. 363.365. DEPOSIT OF TAX REVENUE. Revenue from the tax

20 imposed under this subchapter shall be provided to the district by

21 the municipality or county imposing the tax.

22 SUBCHAPTER I. HOTEL OCCUPANCY TAXES

23 Sec. 363.401. DEFINITION. In this subchapter, "hotel" has

24 the meaning assigned by Section 156.001, Tax Code.

25 Sec. 363.402. IMPOSITION OF TAX. (a) A municipality by

26 ordinance or a county by order may impose, for the benefit of a

27 district created by the municipality or county, a tax on a person

1 who, under a lease, concession, permit, right of access, license,

2 contract, or agreement, pays for the use or possession or for the

3 right to the use or possession of a room that is in a hotel, costs $2

4 or more each day, and is ordinarily used for sleeping.

5 (b) A municipality or county may impose a tax under this

6 subchapter only if the tax:

7 (1) is for a purpose authorized by Section 363.151;

8 and

9 (2) is approved at an election held under Section

10 363.405.

11 Sec. 363.403. TAX CODE APPLICABLE. (a) Sections

12 351.002(c), 351.004, 351.0041, 351.005, and 351.006, Tax Code,

13 govern the imposition, computation, administration, collection,

14 and remittance of a municipal tax authorized under this subchapter

15 except as inconsistent with this subchapter.

16 (b) Sections 352.002(c), 352.004, 352.0041, 352.005, and

17 352.007, Tax Code, govern the imposition, computation,

18 administration, collection, and remittance of a county tax

19 authorized under this subchapter except as inconsistent with this

20 subchapter.

21 (c) The tax imposed by this subchapter is in addition to a

22 tax imposed under Chapter 351 or 352, Tax Code.

23 Sec. 363.404. TAX RATE. The tax authorized by this

24 subchapter may be imposed by a municipality or county at any rate

25 not to exceed three percent of the price paid for a room in a hotel.

26 Sec. 363.405. RATE ELECTION. (a) A municipality or county

27 may adopt or increase a tax under this subchapter by ordinance or

16

1 order if the rate or increase is not greater than the maximum

2 applicable rate and the rate is approved by a majority of the

3 registered voters of that municipality or county voting at an

4 election called and held for that purpose.

5   (b)   The ballot for an election to adopt or increase the rate

6 of the tax shall be printed to permit voting for or against the

7 proposition: "The hotel occupancy tax for the purpose of financing

8 _____ (insert description of appropriate purposes here) to a

9 maximum rate of _____ percent (insert applicable rate)."

10   Sec. 363.406.   EFFECTIVE DATE AND ENDING DATE OF TAX. A tax

11 imposed under this subchapter or a change in the tax rate takes

12 effect on the date prescribed by the ordinance or order imposing the

13 tax or changing the rate.

14   Sec. 363.407.   DEPOSIT OF TAX REVENUE. Revenue from the tax

15 imposed under this subchapter shall be provided to the district by

16 the municipality or county imposing the tax.

17   SECTION 14. Section 323.105(a), Tax Code, is amended to

18 read as follows:

19   (a)   Subject to an election held in accordance with the Crime

20 Control and Prevention District Act, a county in which a crime

21 control and prevention district is established may [shall] adopt a

22 sales and use tax in the area of the district for the purpose of

23 financing the operation of the crime control and prevention

24 district. The revenue from the tax may be used only for the purpose

25 of financing the operation of the crime control and prevention

26 district. The proposition for adopting a tax under this section and

27 the proposition for creation of a crime control and prevention

1 district shall be submitted at the same election. For purposes of

2 [Subsection (c) of] Section 323.101(c) [323.101 of this code], a

3 tax under this section is not a county sales and use tax.

4   SECTION 15. This Act takes effect immediately if it

5 receives a vote of two-thirds of all the members elected to each

6 house, as provided by Section 39, Article III, Texas Constitution.

7 If this Act does not receive the vote necessary for immediate

8 effect, this Act takes effect September 1, 2005.