

By: Carona

S.B. No. 257

A BILL TO BE ENTITLED

AN ACT

1
2 relating to limitations on the combined rates of transit and other
3 local sales and use taxes.

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

5 SECTION 1. Section 321.101, Tax Code, is amended to read as
6 follows:

7 Sec. 321.101. TAX AUTHORIZED. (a) A municipality may adopt
8 or repeal a sales and use tax authorized by this chapter, other than
9 the additional municipal sales and use tax, at an election in which
10 a majority of the qualified voters of the municipality approve the
11 adoption or repeal of the tax.

12 (b) A municipality [~~that is not disqualified~~] may, by a
13 majority vote of the qualified voters of the municipality voting at
14 an election held for that purpose, adopt an additional sales and use
15 tax for the benefit of the municipality in accordance with this
16 chapter. [~~A municipality is disqualified from adopting the
17 additional sales and use tax if the municipality:~~

18 [~~(1) is included within the boundaries of a rapid
19 transit authority created under Chapter 451, Transportation Code,~~

20 [~~(2) is included within the boundaries of a regional
21 transportation authority created under Chapter 452, Transportation
22 Code, by a principal municipality having a population of less than
23 800,000, unless the municipality has a population of 400,000 or
24 more and is located in more than one county,~~

1 ~~[(3) is wholly or partly located in a county that~~
2 ~~contains territory within the boundaries of a regional~~
3 ~~transportation authority created under Chapter 452, Transportation~~
4 ~~Code, by a principal municipality having a population in excess of~~
5 ~~800,000, unless:~~

6 ~~[(A) the municipality is a contiguous~~
7 ~~municipality; or~~

8 ~~[(B) the municipality is not included within the~~
9 ~~boundaries of the authority and is located wholly or partly in a~~
10 ~~county in which fewer than 250 persons are residents of both the~~
11 ~~county and the authority according to the most recent federal~~
12 ~~census; or~~

13 ~~[(C) the municipality is not and on January 1,~~
14 ~~1993, was not included within the boundaries of the authority; or~~

15 ~~[(4) imposes a tax authorized by Chapter 453,~~
16 ~~Transportation Code.]~~

17 ~~(c) [For the purposes of Subsection (b), "principal~~
18 ~~municipality" and "contiguous municipality" have the meanings~~
19 ~~assigned by Section 452.001, Transportation Code.~~

20 ~~[(d)]~~ In any municipality in which an additional sales and
21 use tax has been imposed, in the same manner and by the same
22 procedure the municipality by majority vote of the qualified voters
23 of the municipality voting at an election held for that purpose may
24 reduce, increase, or abolish the additional sales and use tax.

25 (d) ~~[(e) An authority created under Chapter 451 or 452,~~
26 ~~Transportation Code, is prohibited from imposing the tax provided~~
27 ~~for by those chapters if within the boundaries of the authority~~

1 ~~there is a municipality that has adopted the additional sales and~~
2 ~~use tax provided for by this section.~~

3 ~~(f)~~ A municipality may not adopt or increase a sales and
4 use tax or an additional sales and use tax under this section if as a
5 result of the adoption or increase of the tax the combined rate of
6 all sales and use taxes, other than transit sales and use taxes
7 primarily for the support of transportation services authorized
8 under the Transportation Code, imposed by the municipality and
9 other political subdivisions of this state having territory in the
10 municipality would exceed two percent at any location in the
11 municipality.

12 (e) ~~(g)~~ For the purposes of Subsection (d) ~~(f)~~,
13 "territory" in a municipality having a population of 5,000 or less
14 and bordering on the Gulf of Mexico does not include any area
15 covered by water and in which no person has a place of business to
16 which a sales tax permit issued under Subchapter F of Chapter 151
17 applies.

18 (f) ~~(i)~~ A municipality for which the adoption or increase
19 of a sales and use tax approved by the voters in an election held
20 after May 1, 1995, and before December 31, 1995, is invalid because
21 the election combined into a single proposition proposal for
22 adopting an economic development sales and use tax under Section
23 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's
24 Texas Civil Statutes), and an additional sales and use tax under
25 Subsection (b) may adopt or increase the sales and use tax
26 previously approved by the voters by ordinance or resolution of the
27 governing body of the municipality. If the governing body of the

1 municipality adopts or increases the sales and use tax under this
2 subsection, the municipal secretary shall send to the comptroller
3 by certified or registered mail a certified copy of the ordinance or
4 resolution. The tax takes effect on the first day of the month
5 following the expiration of the calendar quarter occurring after
6 the date on which the comptroller receives the ordinance or
7 resolution.

8 SECTION 2. Sections 321.102(e) and (g), Tax Code, are
9 amended to read as follows:

10 (e) If, as a result of the imposition or increase in a sales
11 and use tax by a municipality in which there is located all or part
12 of a local governmental entity that has adopted a sales and use tax
13 or as a result of the annexation by a municipality of all or part of
14 the territory in a local governmental entity that has adopted a
15 sales and use tax, the overlapping local sales and use taxes in the
16 area, other than transit sales and use taxes primarily for the
17 support of transportation services authorized under the
18 Transportation Code, will exceed two percent, the entity's sales
19 and use tax is automatically reduced in that area to a rate that
20 when added to the combined rate of local sales and use taxes, other
21 than transit sales and use taxes, will equal two percent.

22 (g) Subsections (e) and (f) do not apply if and during any
23 period in which a local governmental entity has outstanding
24 indebtedness or obligations that are payable wholly or partly from
25 the sales and use tax revenue of the entity. A municipality may not
26 implement the imposition or increase of the sales and use tax as a
27 result of the circumstances described by Subsection (e) if, as a

1 result of the implementation of that imposition or increase, the
2 combined rate of all sales and use taxes, other than transit sales
3 and use taxes primarily for the support of transportation services
4 authorized under the Transportation Code, imposed by the
5 municipality, the local governmental entity, and any other
6 political subdivisions having territory in the district would
7 exceed two percent at any location in the municipality.

8 SECTION 3. Section 323.101, Tax Code, is amended to read as
9 follows:

10 Sec. 323.101. TAX AUTHORIZED. (a) A qualified county may
11 adopt or repeal the county sales and use tax authorized by this
12 chapter at an election in which a majority of the qualified voters
13 of the county approve the adoption or repeal of the tax, as
14 applicable.

15 (b) ~~[A county is qualified to adopt the tax only if no part~~
16 ~~of the county is located in a rapid transit authority created under~~
17 ~~Chapter 451, Transportation Code, or a regional transportation~~
18 ~~authority created under Chapter 452 of that code.~~

19 ~~[(c) An authority created under Chapter 451 or 452,~~
20 ~~Transportation Code, is prohibited from imposing the tax provided~~
21 ~~for by those chapters in a county in which the county sales and use~~
22 ~~tax provided for by this section is in effect or is scheduled to~~
23 ~~take effect. For the purposes of this section, an authority is not~~
24 ~~considered to be located in any county in which fewer than 250~~
25 ~~persons are both residents of the authority and the county.~~

26 ~~[(d)]~~ A county may not adopt a sales and use tax under this
27 section if as a result of the adoption of the tax the combined rate

1 of all sales and use taxes, other than transit sales and use taxes
2 primarily for the support of transportation services authorized
3 under the Transportation Code, imposed by the county and other
4 political subdivisions of this state having territory in the county
5 would exceed two percent at any location in the county.

6 (c) [~~(e)~~] If the voters of a county approve the adoption of
7 a sales and use tax at an election held on the same election date on
8 which a municipality having territory in the county adopts a sales
9 and use tax or an additional sales and use tax and as a result the
10 combined rate of all sales and use taxes, other than transit sales
11 and use taxes primarily for the support of transportation services
12 authorized under the Transportation Code, imposed by the county and
13 other political subdivisions of this state having territory in the
14 county would exceed two percent at any location in the county, the
15 election to adopt a county sales and use tax has no effect.

16 (d) [~~(f)~~] The provisions of this chapter govern the
17 application, collection, and administration of a sales and use tax
18 imposed under Chapter 285, 775, or 776, Health and Safety Code, to
19 the extent not inconsistent with the provisions of those chapters.
20 [~~Provided, however, that Subsection (b) shall not apply to a tax~~
21 ~~authorized under those chapters.~~]

22 SECTION 4. Sections 324.021(b) and (c), Tax Code, are
23 amended to read as follows:

24 (b) A county may not adopt or increase a tax under this
25 chapter if as a result of the adoption of or increase in the tax the
26 combined rate of all sales and use taxes, other than transit sales
27 and use taxes primarily for the support of transportation services

1 authorized under the Transportation Code, imposed by the county and
2 other political subdivisions of this state having territory in the
3 county would exceed two percent at any location in the county.

4 (c) If the voters of a county approve the adoption of or the
5 increase in the tax at an election held on the same election date on
6 which another political subdivision adopts a sales and use tax or
7 approves the increase in the rate of its sales and use tax and as a
8 result the combined rate of all sales and use taxes, other than
9 transit sales and use taxes primarily for the support of
10 transportation services authorized under the Transportation Code,
11 imposed by the county and other political subdivisions of this
12 state having territory in the county would exceed two percent at any
13 location in the county, the election to adopt a sales and use tax
14 under this chapter or increase the tax has no effect.

15 SECTION 5. Sections 325.021(b) and (c), Tax Code, are
16 amended to read as follows:

17 (b) A county may not adopt a tax under this chapter if as a
18 result of the adoption of the tax the combined rate of all sales and
19 use taxes, other than transit sales and use taxes primarily for the
20 support of transportation services authorized under the
21 Transportation Code, imposed by the county and other political
22 subdivisions of this state having territory in the county would
23 exceed two percent at any location in the county.

24 (c) If the voters of a county approve the adoption of the tax
25 at an election held on the same election date on which another
26 political subdivision adopts a sales and use tax or approves the
27 increase in the rate of its sales and use tax and as a result the

1 combined rate of all sales and use taxes, other than transit sales
2 and use taxes primarily for the support of transportation services
3 authorized under the Transportation Code, imposed by the county and
4 other political subdivisions of this state having territory in the
5 county would exceed two percent at any location in the county, the
6 election to adopt a sales and use tax under this chapter has no
7 effect.

8 SECTION 6. Sections 327.003(b) and (c), Tax Code, are
9 amended to read as follows:

10 (b) A municipality may not adopt a tax under this chapter or
11 increase the rate of the tax if as a result of the adoption of the
12 tax or the increase in the rate of the tax the combined rate of all
13 sales and use taxes, other than transit sales and use taxes
14 primarily for the support of transportation services authorized
15 under the Transportation Code, imposed by the municipality and
16 other political subdivisions of this state having territory in the
17 municipality would exceed two percent at any location in the
18 municipality.

19 (c) If the voters of a municipality approve the adoption of
20 the tax or the increase in the rate of the tax at an election held on
21 the same election date on which another political subdivision
22 adopts a sales and use tax or approves the increase in the rate of
23 its sales and use tax and as a result the combined rate of all sales
24 and use taxes, other than transit sales and use taxes primarily for
25 the support of transportation services authorized under the
26 Transportation Code, imposed by the municipality and other
27 political subdivisions of this state having territory in the

1 municipality would exceed two percent at any location in the
2 municipality, the election to adopt a sales and use tax under this
3 chapter has no effect.

4 SECTION 7. Section 370.363, Transportation Code, is amended
5 to read as follows:

6 Sec. 370.363. MAXIMUM TAX RATE. (a) An authority may not
7 adopt a sales and use tax rate, including a rate increase, that when
8 combined with the rates of all transit sales and use taxes primarily
9 for the support of transportation services authorized under this
10 code and imposed by all political subdivisions of this state having
11 territory in the service area of the transferred transit system
12 exceeds one [~~two~~] percent in any location in the service area.

13 (b) An election to approve a sales and use tax or increase
14 the rate of an authority's sales and use tax has no effect if as a
15 result of the election[+]

16 [~~(1) the voters in the service area approve the~~
17 ~~authority's sales and use tax rate or rate increase at an election~~
18 ~~held on the same day on which a municipality or county having~~
19 ~~territory in the jurisdiction of the service area adopts a sales and~~
20 ~~use tax or an additional sales and use tax; and~~

21 [~~(2)~~] the combined rates of all transit sales and use
22 taxes primarily for the support of transportation services
23 authorized under this code and imposed by the authority and all
24 political subdivisions of this state would exceed one [~~two~~] percent
25 in any part of the territory in the service area.

26 SECTION 8. Section 451.405, Transportation Code, is amended
27 to read as follows:

1 Sec. 451.405. MAXIMUM TAX RATE IN AUTHORITY AREA. (a) An
2 authority may not adopt a sales and use tax rate, including a rate
3 increase, that when combined with the rates of all transit sales and
4 use taxes primarily for the support of transportation services
5 authorized under this code and imposed by other political
6 subdivisions of the state having territory in the authority exceeds
7 one [~~two~~] percent in any location in the authority.

8 (b) An election by an authority to adopt a sales and use tax
9 or to increase the rate of the authority's sales and use tax has no
10 effect if as a result of the election [+

11 ~~[(1) the voters of the authority approve the~~
12 ~~authority's sales and use tax rate or rate increase at an election~~
13 ~~held on the same day on which a municipality or county having~~
14 ~~territory within the authority adopts a sales and use tax or an~~
15 ~~additional sales and use tax; and~~

16 ~~[(2)]~~ the combined rates of all transit sales and use
17 taxes primarily for the support of transportation services
18 authorized under this code and imposed by the authority and other
19 political subdivisions of the state would exceed one [~~two~~] percent
20 in any location in the authority.

21 SECTION 9. Section 451.706(a), Transportation Code, is
22 amended to read as follows:

23 (a) The combined rate of all transit sales and use taxes
24 primarily for the support of transportation services authorized
25 under this code and imposed by the district and all other political
26 subdivisions of this state may not exceed one [~~two~~] percent in any
27 location in the district.

1 SECTION 10. Section 452.403, Transportation Code, is
2 amended to read as follows:

3 Sec. 452.403. MAXIMUM TAX RATE IN AUTHORITY AREA. (a) An
4 authority may not adopt a sales and use tax rate, including a rate
5 increase, that when combined with the rates of all transit sales and
6 use taxes primarily for the support of transportation services
7 authorized under this code and imposed by other political
8 subdivisions of the state having territory in the authority exceeds
9 one [~~two~~] percent in any location in the authority.

10 (b) An election by an authority to adopt a sales and use tax
11 or increase the rate of the authority's sales and use tax has no
12 effect if as a result of the election [+

13 [~~(1) the voters of the authority approve the~~
14 ~~authority's sales and use tax rate or rate increase at an election~~
15 ~~held on the same day on which a municipality or county having~~
16 ~~territory within the authority adopts a sales and use tax or an~~
17 ~~additional sales and use tax, and~~

18 [~~(2)~~] the combined rates of all transit sales and use
19 taxes primarily for the support of transportation services
20 authorized under this code and imposed by the authority and other
21 political subdivisions of this state would exceed one [~~two~~] percent
22 in any location in the authority.

23 [~~(c) If an authority consisting of one subregion governed by~~
24 ~~a subregional board created under Subchapter O adds territory that~~
25 ~~is a municipality, any additional sales and use tax under Chapter~~
26 ~~321, Tax Code, imposed by that municipality is repealed as provided~~
27 ~~by Section 321.1025, Tax Code. The effective date of the repeal~~

1 ~~and for the imposition of the tax authorized to be collected under~~
2 ~~Section 452.401 in the added territory is the date that, under~~
3 ~~Section 321.102(b), Tax Code, the repeal of the additional sales~~
4 ~~and use tax is effective in the territory.]~~

5 SECTION 11. Section 453.402, Transportation Code, is
6 amended to read as follows:

7 Sec. 453.402. MAXIMUM TAX RATE. (a) A board may not adopt a
8 sales and use tax rate, including a rate increase, that when
9 combined with the rates of all transit sales and use taxes primarily
10 for the support of transportation services authorized under this
11 code and imposed by other political subdivisions of this state
12 having territory in the municipality exceeds one [~~two~~] percent in
13 any location in the municipality.

14 (b) An election by a transit department to approve a sales
15 and use tax or increase the rate of the transit department's sales
16 and use tax has no effect if as a result of the election[+]

17 [~~(1) the voters of the transit department approve the~~
18 ~~department's sales and use tax rate or rate increase at an election~~
19 ~~held on the same day on which the municipality or county having~~
20 ~~territory in the jurisdiction of the transit department adopts a~~
21 ~~sales and use tax or an additional sales and use tax; and~~

22 [~~(2)~~] the combined rates of all transit sales and use
23 taxes primarily for the support of transportation services
24 authorized under this code and imposed by the transit department
25 and other political subdivisions of this state would exceed one
26 [~~two~~] percent in any part of the territory in the jurisdiction of
27 the transit department.

1 SECTION 12. Section 457.302, Transportation Code, is
2 amended to read as follows:

3 Sec. 457.302. MAXIMUM TAX RATE. (a) A board may not adopt a
4 sales and use tax rate, including a rate increase, that when
5 combined with the rates of all transit sales and use taxes primarily
6 for the support of transportation services authorized under this
7 code and imposed by all political subdivisions of this state having
8 territory in the county exceeds one [~~two~~] percent in any location in
9 the county.

10 (b) An election by an authority to approve a sales and use
11 tax or increase the rate of the authority's sales and use tax has no
12 effect if as a result of the election [+

13 [~~(1) the voters of the authority approve the~~
14 ~~authority's sales and use tax rate or rate increase at an election~~
15 ~~held on the same day on which the municipality or county having~~
16 ~~territory in the jurisdiction of the authority adopts a sales and~~
17 ~~use tax or an additional sales and use tax, and~~

18 [~~(2)~~] the combined rates of all transit sales and use
19 taxes primarily for the support of transportation services
20 authorized under this code and imposed by the authority and all
21 political subdivisions of this state would exceed one [~~two~~] percent
22 in any part of the territory in the jurisdiction of the authority.

23 SECTION 13. Section 460.551(c), Transportation Code, is
24 amended to read as follows:

25 (c) A sales and use tax may be imposed, as prescribed by this
26 section, by a municipality that participates in a transportation or
27 transit authority other than an authority created under this

1 chapter if:

2 (1) the combined rates of all transit sales and use
3 taxes primarily for the support of transportation services
4 authorized under this code and imposed in the municipality does not
5 exceed one [~~two~~] percent in any location; and

6 (2) the ballot of the authorization vote for the sales
7 and use tax reads:

8 "(Name of city) already imposes a sales and use tax for
9 participation in the transportation authority. The proposed sales
10 and use tax is solely for the benefit of, and will be dedicated to,
11 the county transportation authority."

12 SECTION 14. Section 460.552(a), Transportation Code, is
13 amended to read as follows:

14 (a) An authority may not adopt a sales and use tax rate,
15 including a rate increase, that when combined with the rates of all
16 transit sales and use taxes primarily for the support of
17 transportation services authorized under this code and imposed by
18 other political subdivisions having territory in the authority
19 exceeds one [~~two~~] percent in any location in the authority.

20 SECTION 15. Sections 285.061(c) and (d), Health and Safety
21 Code, are amended to read as follows:

22 (c) A district may not adopt a tax under this subchapter or
23 increase the rate of the tax if as a result of the adoption of the
24 tax or the tax increase the combined rate of all sales and use
25 taxes, other than transit sales and use taxes primarily for the
26 support of transportation services authorized under the
27 Transportation Code, imposed by the district and other political

1 subdivisions of this state having territory in the district would
2 exceed two percent at any location in the district.

3 (d) If the voters of a district approve the adoption of the
4 tax or an increase in the tax rate at an election held on the same
5 election date on which another political subdivision of this state
6 adopts a sales and use tax or approves the increase in the rate of
7 its sales and use tax and as a result the combined rate of all sales
8 and use taxes, other than transit sales and use taxes primarily for
9 the support of transportation services authorized under the
10 Transportation Code, imposed by the district and other political
11 subdivisions of this state having territory in the district would
12 exceed two percent at any location in the district, the election to
13 adopt a sales and use tax or to increase the rate of the sales and
14 use tax in the district under this subchapter has no effect.

15 SECTION 16. Section 285.161(b), Health and Safety Code, is
16 amended to read as follows:

17 (b) A district may not adopt a tax under this subchapter or
18 increase the rate of the tax if as a result of the adoption or
19 increase the combined rate of all sales and use taxes, other than
20 transit sales and use taxes primarily for the support of
21 transportation services authorized under the Transportation Code,
22 imposed by the district and other political subdivisions of this
23 state having territory in the district would exceed two percent at
24 any location in the district.

25 SECTION 17. Section 286.172, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 286.172. LIMITATION ON COMBINED TAX RATE; EFFECT ON

1 ELECTIONS. An election to create a hospital district and to
2 authorize the imposition of a sales and use tax under this
3 subchapter, or an election to change the tax rate under Section
4 286.174, has no effect if as a result of the adoption of the sales
5 and use tax or the change in the rate the combined rate of all sales
6 and use taxes, other than transit sales and use taxes primarily for
7 the support of transportation services authorized under the
8 Transportation Code, imposed by the district and other political
9 subdivisions of this state having territory in the district would
10 exceed two percent at any location in the district.

11 SECTION 18. Sections 775.0751(c) and (d), Health and Safety
12 Code, are amended to read as follows:

13 (c) A district may not adopt a tax under this section or
14 increase the rate of the tax if as a result of the adoption of the
15 tax or the tax increase the combined rate of all sales and use
16 taxes, other than transit sales and use taxes primarily for the
17 support of transportation services authorized under the
18 Transportation Code, imposed by the district and other political
19 subdivisions of this state having territory in the district would
20 exceed two percent at any location in the district.

21 (d) If the voters of a district approve the adoption of the
22 tax or an increase in the tax rate at an election held on the same
23 election date on which another political subdivision of this state
24 adopts a sales and use tax or approves the increase in the rate of
25 its sales and use tax and as a result the combined rate of all sales
26 and use taxes, other than transit sales and use taxes primarily for
27 the support of transportation services authorized under the

1 Transportation Code, imposed by the district and other political
2 subdivisions of this state having territory in the district would
3 exceed two percent at any location in the district, the election to
4 adopt a sales and use tax or to increase the rate of the sales and
5 use tax in the district under this subchapter has no effect.

6 SECTION 19. Sections 776.0751(c) and (d), Health and Safety
7 Code, are amended to read as follows:

8 (c) A district may not adopt a tax under this section or
9 increase the rate of the tax if as a result of the adoption of the
10 tax or the tax increase the combined rate of all sales and use
11 taxes, other than transit sales and use taxes primarily for the
12 support of transportation services authorized under the
13 Transportation Code, imposed by the district and other political
14 subdivisions of this state having territory in the district would
15 exceed two percent at any location in the district.

16 (d) If the voters of a district approve the adoption of the
17 tax or an increase in the tax rate at an election held on the same
18 election date on which another political subdivision of this state
19 adopts a sales and use tax or approves the increase in the rate of
20 its sales and use tax and as a result the combined rate of all sales
21 and use taxes, other than transit sales and use taxes primarily for
22 the support of transportation services authorized under the
23 Transportation Code, imposed by the district and other political
24 subdivisions of this state having territory in the district would
25 exceed two percent at any location in the district, the election to
26 adopt a sales and use tax or to increase the rate of the sales and
27 use tax in the district under this subchapter has no effect.

1 SECTION 20. Section 326.096, Local Government Code, is
2 amended to read as follows:

3 Sec. 326.096. LIMITATION ON ADOPTION OF TAX. A district may
4 adopt a tax under this subchapter only if as a result of adoption of
5 the tax the combined rate of all local sales and use taxes, other
6 than transit sales and use taxes primarily for the support of
7 transportation services authorized under the Transportation Code,
8 imposed by political subdivisions having territory in the district
9 will not exceed two percent.

10 SECTION 21. Section 375.311(d), Local Government Code, is
11 amended to read as follows:

12 (d) If any territory in the authority is annexed by the
13 municipality, the municipality's sales and use tax applies in the
14 annexed area. If the authority's sales and use tax rate, when
15 combined with any other local sales and use tax applicable in the
16 authority, other than transit sales and use taxes primarily for the
17 support of transportation services authorized under the
18 Transportation Code, exceeds two percent, the authority's sales and
19 use tax is abolished upon annexation.

20 SECTION 22. Sections 334.085(a) and (b), Local Government
21 Code, are amended to read as follows:

22 (a) In this section, "taxing authority" means:

23 (1) [~~a rapid transit authority created under Chapter~~
24 ~~451, Transportation Code,~~

25 [~~(2) a regional transportation authority created~~
26 ~~under Chapter 452, Transportation Code,~~

27 [~~(3)~~] a crime control district created under the Crime

1 Control and Prevention District Act (Article 2370c-4, Vernon's
2 Texas Civil Statutes); or

3 (2) [~~(4)~~] an industrial development corporation
4 created under Section 4A or 4B, Development Corporation Act of 1979
5 (Article 5190.6, Vernon's Texas Civil Statutes).

6 (b) If [~~Except as provided by Section 334.0855, if~~] a
7 municipality or county is included within the boundaries of another
8 taxing authority and the adoption or increase of the tax under this
9 subchapter would result in a combined tax rate of more than two
10 percent in any location in the municipality or county, the election
11 to approve or increase the tax under this chapter is to be treated
12 for all purposes as an election to reduce the tax rate of the other
13 taxing authority [~~(except a rapid transit authority created under~~
14 ~~Chapter 451, Transportation Code)~~] to the highest rate that will
15 not result in a combined tax rate of more than two percent in any
16 location in the municipality or county. If the municipality or
17 county is located within the boundaries of only one taxing
18 authority, and the adoption or increase of the tax under this
19 subchapter will result in a decrease of the tax rate of the taxing
20 authority, the ballot at an election to impose or increase the tax
21 must clearly state that the adoption or increase of the tax will
22 result in a reduction of the tax rate of the taxing authority. If
23 the municipality or county is included within the boundaries of
24 more than one taxing authority, the election to impose or increase
25 the tax under this subchapter must allow the voters to choose which
26 taxing authority's tax will be reduced.

27 SECTION 23. Sections 383.106(a) and (b), Local Government

1 Code, are amended to read as follows:

2 (a) A district may adopt a tax under this subchapter only if
3 as a result of adoption of the tax the combined rate of all local
4 sales and use taxes, other than transit sales and use taxes
5 primarily for the support of transportation services authorized
6 under the Transportation Code, imposed by political subdivisions
7 having territory in the district will not exceed two percent at any
8 location in the district.

9 (b) If, as a result of the imposition or increase in a sales
10 and use tax by a municipality in which there is located a district
11 with an existing sales and use tax or as a result of the annexation
12 by a municipality of the territory in a district with an existing
13 sales and use tax, the overlapping local sales and use taxes in the
14 area, other than transit sales and use taxes primarily for the
15 support of transportation services authorized under the
16 Transportation Code, in the district will exceed two percent at any
17 location, the district's sales and use tax rate is automatically
18 reduced to a rate that when added to the combined rate of local
19 sales and use taxes will equal two percent.

20 SECTION 24. Sections 385.111(f) and (h), Local Government
21 Code, are amended to read as follows:

22 (f) On adoption of the tax authorized by this section, there
23 is imposed a tax of two percent, or the maximum rate at which the
24 combined tax rate of all local sales and use taxes, other than
25 transit sales and use taxes primarily for the support of
26 transportation services authorized under the Transportation Code,
27 in any location in the district does not exceed two percent, on the

1 receipts from the sale at retail of taxable items within the
2 district, and an excise tax on the use, storage, or other
3 consumption within the district of taxable items purchased, leased,
4 or rented from a retailer within the district during the period that
5 the tax is in effect. The rate of the excise tax is the same as the
6 rate of the sales tax portion of the tax and is applied to the sales
7 price of the taxable item. With respect to a taxable service, "use"
8 means the derivation in the district of direct or indirect benefit
9 from the service.

10 (h) If all or part of the territory of the district is
11 annexed by a municipality that has adopted and is imposing a sales
12 and use tax, the sales and use tax imposed by the district in the
13 annexed territory shall be reduced, if required, in even multiples
14 of one-eighth percent, and without the necessity for an election,
15 so that the combined rate of all sales and use taxes, other than
16 transit sales and use taxes primarily for the support of
17 transportation services authorized under the Transportation Code,
18 imposed by the county, the annexing municipality, and all other
19 political subdivisions within the annexed territory of the district
20 will not exceed two percent at any location, provided that a sales
21 and use tax previously adopted by the district for the annexed
22 territory shall not be reduced to less than one-half percent, and
23 provided further that no reduction of the district's sales and use
24 tax in the portions of the district not so annexed shall be
25 required.

26 SECTION 25. Sections 3817.154(b) and (c), Special District
27 Local Laws Code, are amended to read as follows:

1 (b) The district may not adopt a sales and use tax if as a
2 result of the adoption of the tax the combined rate of all sales and
3 use taxes, other than transit sales and use taxes primarily for the
4 support of transportation services authorized under the
5 Transportation Code, imposed by the district and other political
6 subdivisions of this state having territory in the district would
7 exceed two percent at any location in the district.

8 (c) If the voters of the district approve the adoption of
9 the tax at an election held on the same election date on which
10 another political subdivision adopts a sales and use tax or
11 approves an increase in the rate of its sales and use tax and as a
12 result the combined rate of all sales and use taxes, other than
13 transit sales and use taxes primarily for the support of
14 transportation services authorized under the Transportation Code,
15 imposed by the district and other political subdivisions of this
16 state having territory in the district would exceed two percent at
17 any location in the district, the election to adopt a sales and use
18 tax under this chapter has no effect.

19 SECTION 26. Section 3828.205(a), Special District Local
20 Laws Code, is amended to read as follows:

21 (a) On adoption of the tax authorized by this subchapter,
22 there is imposed a tax of two percent, or the maximum rate at which
23 the combined tax rate of all local sales and use taxes, other than
24 transit sales and use taxes primarily for the support of
25 transportation services authorized under the Transportation Code,
26 in any location in the district does not exceed two percent, on the
27 receipts from the sale at retail of taxable items within the

1 district, and an excise tax on the use, storage, or other
2 consumption within the district of taxable items purchased, leased,
3 or rented from a retailer within the district during the period that
4 the tax is in effect.

5 SECTION 27. Section 3828.206(a), Special District Local
6 Laws Code, is amended to read as follows:

7 (a) If all or part of the district territory is annexed by a
8 municipality that has adopted and is imposing a sales and use tax,
9 the sales and use tax imposed by the district in the annexed
10 territory shall be reduced, if required, in even multiples of
11 one-eighth percent, and without the necessity of an election, so
12 that the combined rate of all sales and use taxes, other than
13 transit sales and use taxes primarily for the support of
14 transportation services authorized under the Transportation Code,
15 imposed by Henderson County, the annexing municipality, and all
16 other political subdivisions within the annexed territory of the
17 district will not exceed two percent at any location, except that:

18 (1) a sales and use tax previously adopted by the
19 district for the annexed territory may not be reduced to less than
20 one-half percent; and

21 (2) a reduction of the district's sales and use tax in
22 the portions of the district that are not annexed is not required.

23 SECTION 28. Sections 3847.154(b) and (c), Special District
24 Local Laws Code, are amended to read as follows:

25 (b) The district may not adopt a sales and use tax if as a
26 result of the adoption of the tax the combined rate of all sales and
27 use taxes, other than transit sales and use taxes primarily for the

1 support of transportation services authorized under the
2 Transportation Code, imposed by the district and other political
3 subdivisions of this state having territory in the district would
4 exceed two percent at any location in the district.

5 (c) If the voters of the district approve the adoption of
6 the tax at an election held on the same election date on which
7 another political subdivision adopts a sales and use tax or
8 approves an increase in the rate of its sales and use tax and as a
9 result the combined rate of all sales and use taxes, other than
10 transit sales and use taxes primarily for the support of
11 transportation services authorized under the Transportation Code,
12 imposed by the district and other political subdivisions of this
13 state having territory in the district would exceed two percent at
14 any location in the district, the election to adopt a sales and use
15 tax under this chapter has no effect.

16 SECTION 29. Section 4A(d), Development Corporation Act of
17 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to
18 read as follows:

19 (d) The city may levy a sales and use tax for the benefit of
20 a corporation under this section if the tax is authorized by a
21 majority of the qualified voters of the city voting at an election
22 called and held for that purpose. If the city adopts the tax, there
23 is imposed a tax on the receipts from the sale at retail of taxable
24 items within the city at the rate approved by the voters. The rate
25 must be equal to one-eighth, one-fourth, three-eighths, or one-half
26 of one percent. The city may not adopt a rate that would result in a
27 combined rate of all sales and use taxes, including the tax under

1 this section but not including transit sales and use taxes
2 primarily for the support of transportation services authorized
3 under the Transportation Code, imposed by the city and other
4 political subdivisions of this state having territory in the city
5 that exceeds two percent at any location. An election adopting a
6 rate that exceeds the limit on the combined rate has no effect.
7 There is also imposed an excise tax on the use, storage, or other
8 consumption within the city of taxable items purchased, leased, or
9 rented from a retailer during the period that the tax is effective
10 within the city. The rate of the excise tax is the same as the rate
11 of the sales tax portion of the tax and is applied to the sales price
12 of the taxable items.

13 SECTION 30. The following statutes are repealed:

- 14 (1) Section 321.1025, Tax Code;
- 15 (2) Section 334.085(b-1), Local Government Code; and
- 16 (3) Section 334.0855, Local Government Code.

17 SECTION 31. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2007.