

By: Eltife

S.B. No. 402

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the voters of a municipality or a county to adopt a one-quarter cent sales and use tax in the municipality or county to provide property tax relief.

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

SECTION 1. Subtitle C, Title 3, Tax Code, is amended by adding Chapter 326 to read as follows:

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

TAX RELIEF

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 326.001. APPLICABLE LAW. Except as otherwise provided by this chapter:

(1) Chapter 321 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

(2) Chapter 323 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) Sections 321.101 and 323.101 do not apply to the municipal or county tax authorized by this chapter.

(b) The rate of a municipal or county sales and use tax imposed under this chapter may not be considered in determining the combined or overlapping rate of local sales and use taxes in any

1 area under this subtitle or another law, including:

2 (1) the Health and Safety Code;

3 (2) the Local Government Code;

4 (3) the Special District Local Laws Code; or

5 (4) the Transportation Code.

6 [Sections 326.003-326.050 reserved for expansion]

7 SUBCHAPTER B. IMPOSITION OF TAX

8 Sec. 326.051. TAX AUTHORIZED. (a) A municipality or a  
9 county may adopt or abolish the sales and use tax authorized by this  
10 chapter at an election held in the municipality or county.

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

15 Sec. 326.052. TAX RATE. The rate of the tax authorized by  
16 this chapter is one-fourth of one percent.

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

23 (b) If the comptroller determines that an effective date  
24 provided by Subsection (a) will occur before the comptroller can  
25 reasonably take the action required to begin collecting the tax or  
26 to implement the abolition of the tax, the effective date may be  
27 extended by the comptroller until the first day of the next

1 succeeding calendar quarter.

2 [Sections 326.054-326.100 reserved for expansion]

3 SUBCHAPTER C. TAX ELECTION PROCEDURES

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

7 (b) An election authorized by this chapter in a county is  
8 called by the adoption of an order by the commissioners court of the  
9 county.

10 Sec. 326.102. ELECTION DATE. An election under this  
11 chapter must be held on the next uniform election date that occurs  
12 after the date of the election order and that allows sufficient time  
13 to comply with the requirements of other law.

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

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

24 [Sections 326.104-326.150 reserved for expansion]

25 SUBCHAPTER D. USE OF TAX REVENUE

26 Sec. 326.151. USE OF REVENUE. Any amount derived by a  
27 municipality or county from the sales and use tax under this chapter

1 is additional sales and use tax revenue for purposes of Section  
2 26.041.

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

12 SECTION 2. Section 26.012(1), Tax Code, is amended to read  
13 as follows:

14 (1) "Additional sales and use tax" means an additional  
15 sales and use tax imposed by:

16 (A) a municipality [~~city~~] under Section  
17 321.101(b) or Chapter 326;

18 (B) a county under Chapter 323 or 326; or

19 (C) a hospital district, other than a hospital  
20 district created on or after September 1, 2001, that:

21 (i) imposes the sales and use tax under  
22 Subchapter I, Chapter 286, Health and Safety Code; or

23 (ii) imposes the sales and use tax under  
24 Subchapter L, Chapter 285, Health and Safety Code.

25 SECTION 3. Section 31.01(i), Tax Code, is amended to read as  
26 follows:

27 (i) For a municipality [~~city or town~~] that imposes an

1 additional sales and use tax under Section 321.101(b) or Chapter  
2 326 [~~of this code~~], or a county that imposes a sales and use tax  
3 under Chapter 323 or 326 [~~of this code~~], the tax bill shall indicate  
4 the amount of additional ad valorem taxes, if any, that would have  
5 been imposed on the property if additional ad valorem taxes had been  
6 imposed in an amount equal to the amount of revenue estimated to be  
7 collected from the additional municipal [~~city~~] sales and use tax or  
8 from the county sales and use tax, as applicable, for the year  
9 determined as provided by Section 26.041 [~~of this code~~].

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

13 SECTION 5. (a) Except as provided by Subsection (b) of this  
14 section, this Act takes effect September 1, 2009.

15 (b) Sections 2 and 3 of this Act take effect January 1, 2010.