

1-1 By: Eltife S.B. No. 402  
1-2 (In the Senate - Filed January 5, 2009; February 17, 2009,  
1-3 read first time and referred to Committee on Finance;  
1-4 April 14, 2009, reported favorably by the following vote: Yeas 13,  
1-5 Nays 0; April 14, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the authority of the voters of a municipality or a  
1-9 county to adopt a one-quarter cent sales and use tax in the  
1-10 municipality or county to provide property tax relief.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle C, Title 3, Tax Code, is amended by  
1-13 adding Chapter 326 to read as follows:

1-14 CHAPTER 326. MUNICIPAL AND COUNTY SALES AND USE TAX FOR PROPERTY  
1-15 TAX RELIEF

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 326.001. APPLICABLE LAW. Except as otherwise provided  
1-18 by this chapter:

1-19 (1) Chapter 321 applies to the municipal tax  
1-20 authorized by this chapter in the same manner as that chapter  
1-21 applies to the tax authorized by that chapter; and

1-22 (2) Chapter 323 applies to the county tax authorized  
1-23 by this chapter in the same manner as that chapter applies to the  
1-24 tax authorized by that chapter.

1-25 Sec. 326.002. EFFECT ON COMBINED LOCAL TAX RATE.

1-26 (a) Sections 321.101 and 323.101 do not apply to the municipal or  
1-27 county tax authorized by this chapter.

1-28 (b) The rate of a municipal or county sales and use tax  
1-29 imposed under this chapter may not be considered in determining the  
1-30 combined or overlapping rate of local sales and use taxes in any  
1-31 area under this subtitle or another law, including:

1-32 (1) the Health and Safety Code;

1-33 (2) the Local Government Code;

1-34 (3) the Special District Local Laws Code; or

1-35 (4) the Transportation Code.

1-36 [Sections 326.003-326.050 reserved for expansion]

1-37 SUBCHAPTER B. IMPOSITION OF TAX

1-38 Sec. 326.051. TAX AUTHORIZED. (a) A municipality or a  
1-39 county may adopt or abolish the sales and use tax authorized by this  
1-40 chapter at an election held in the municipality or county.

1-41 (b) The adoption of the tax authorized by this chapter by  
1-42 one political subdivision does not affect the authority of another  
1-43 political subdivision that has overlapping boundaries to also adopt  
1-44 the tax authorized by this chapter.

1-45 Sec. 326.052. TAX RATE. The rate of the tax authorized by  
1-46 this chapter is one-fourth of one percent.

1-47 Sec. 326.053. SALES AND USE TAX EFFECTIVE DATE. (a) The  
1-48 adoption or abolition of the tax takes effect on the first day of  
1-49 the first calendar quarter occurring after the expiration of the  
1-50 first complete calendar quarter occurring after the date on which  
1-51 the comptroller receives a notice of the results of the election  
1-52 from the municipality or county.

1-53 (b) If the comptroller determines that an effective date  
1-54 provided by Subsection (a) will occur before the comptroller can  
1-55 reasonably take the action required to begin collecting the tax or  
1-56 to implement the abolition of the tax, the effective date may be  
1-57 extended by the comptroller until the first day of the next  
1-58 succeeding calendar quarter.

1-59 [Sections 326.054-326.100 reserved for expansion]

1-60 SUBCHAPTER C. TAX ELECTION PROCEDURES

1-61 Sec. 326.101. CALLING ELECTION. (a) An election  
1-62 authorized by this chapter in a municipality is called by the  
1-63 adoption of an ordinance by the governing body of the municipality.

1-64 (b) An election authorized by this chapter in a county is

2-1 called by the adoption of an order by the commissioners court of the  
 2-2 county.

2-3 Sec. 326.102. ELECTION DATE. An election under this  
 2-4 chapter must be held on the next uniform election date that occurs  
 2-5 after the date of the election order and that allows sufficient time  
 2-6 to comply with the requirements of other law.

2-7 Sec. 326.103. BALLOT. (a) At an election to adopt the tax,  
 2-8 the ballot shall be prepared to permit voting for or against the  
 2-9 proposition: "The adoption of a local sales and use tax in (name of  
 2-10 municipality or county) at the rate of one-fourth of one percent to  
 2-11 reduce the (municipal or county) property tax rate."

2-12 (b) At an election to abolish the tax, the ballot shall be  
 2-13 prepared to permit voting for or against the proposition: "The  
 2-14 abolition of the one-fourth of one percent sales and use tax in  
 2-15 (name of municipality or county) used to reduce the (municipal or  
 2-16 county) property tax rate."

2-17 [Sections 326.104-326.150 reserved for expansion]

2-18 SUBCHAPTER D. USE OF TAX REVENUE

2-19 Sec. 326.151. USE OF REVENUE. Any amount derived by a  
 2-20 municipality or county from the sales and use tax under this chapter  
 2-21 is additional sales and use tax revenue for purposes of Section  
 2-22 26.041.

2-23 Sec. 326.152. CALCULATION OF MUNICIPAL OR COUNTY ROLLBACK  
 2-24 TAX RATE. For a municipality or county in which the voters have  
 2-25 approved the imposition of the sales and use tax under this chapter,  
 2-26 for an ad valorem tax year that begins on or after the date the sales  
 2-27 and use tax takes effect, in the formula for calculating the  
 2-28 rollback tax rate of the municipality or county, the officer or  
 2-29 employee designated by the governing body of the municipality or  
 2-30 the commissioners court of the county to make the calculation shall  
 2-31 substitute 1.05 for 1.08.

2-32 SECTION 2. Subdivision (1), Section 26.012, Tax Code, is  
 2-33 amended to read as follows:

2-34 (1) "Additional sales and use tax" means an additional  
 2-35 sales and use tax imposed by:

2-36 (A) a municipality [~~city~~] under Section  
 2-37 321.101(b) or Chapter 326;

2-38 (B) a county under Chapter 323 or 326; or

2-39 (C) a hospital district, other than a hospital  
 2-40 district created on or after September 1, 2001, that:

2-41 (i) imposes the sales and use tax under  
 2-42 Subchapter I, Chapter 286, Health and Safety Code; or

2-43 (ii) imposes the sales and use tax under  
 2-44 Subchapter L, Chapter 285, Health and Safety Code.

2-45 SECTION 3. Subsection (i), Section 31.01, Tax Code, is  
 2-46 amended to read as follows:

2-47 (i) For a municipality [~~city or town~~] that imposes an  
 2-48 additional sales and use tax under Section 321.101(b) or Chapter  
 2-49 326 [~~of this code~~], or a county that imposes a sales and use tax  
 2-50 under Chapter 323 or 326 [~~of this code~~], the tax bill shall indicate  
 2-51 the amount of additional ad valorem taxes, if any, that would have  
 2-52 been imposed on the property if additional ad valorem taxes had been  
 2-53 imposed in an amount equal to the amount of revenue estimated to be  
 2-54 collected from the additional municipal [~~city~~] sales and use tax or  
 2-55 from the county sales and use tax, as applicable, for the year  
 2-56 determined as provided by Section 26.041 [~~of this code~~].

2-57 SECTION 4. Sections 2 and 3 of this Act apply only to ad  
 2-58 valorem taxes that are imposed for an ad valorem tax year that  
 2-59 begins on or after January 1, 2010.

2-60 SECTION 5. (a) Except as provided by Subsection (b) of this  
 2-61 section, this Act takes effect September 1, 2009.

2-62 (b) Sections 2 and 3 of this Act take effect January 1, 2010.

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