BILL ANALYSIS

Senate Research Center

H.B. 1511

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By: Larson (Eltife)

Finance

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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law sets the maximum rate at which all combined local sales and use taxes may be imposed, which is two percent. 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. For example, a city may only impose a sales and use tax dedicated for street maintenance at one-fourth or one-eighth of one percent. Other dedicated purposes are allowed to be imposed at one-eighth, one-fourth, three-eighth, or one-half of one percent.

H.B. 1511 provides flexibility for cities by allowing them to set tax rates for street maintenance, venue projects, property tax relief, crime control and prevention, and economic development in varying increments of one-eighth of one percent, as long as the two percent cap is not exceeded. Voter approval will be required for adjustments in the rates.

H.B. 1511 changes the expiration date of a municipal sales and use tax for street maintenance, if the tax is not reauthorized, from the fourth anniversary of the date the tax originally took effect to the eighth anniversary of the date the tax originally took effect.

H.B. 1511 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, as follows:

(d) Provides that the tax imposed by this subchapter is in addition to a tax imposed under other law, including Chapters 321 (Municipal Sales and Use Tax Act) 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 (Sales and Use Tax) be one-eighth, one-fourth, three-eighths, or one-half of one percent. Authorizes that the rate of the tax adopted by a municipality 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) (relating to prohibiting a municipality from adopting or increasing a sales and use tax or an additional sales and use tax under this section under certain conditions), 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) Authorizes that the county tax 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. Authorizes that the municipal tax 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) Sets forth the required language of the ballot for an election to increase the tax.

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

(a) Authorizes that 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, 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. Authorizes that the proposed rate for the district sales and use tax under Subchapter B (Imposition of Sales and Use Taxes by Counties), Chapter 323, Tax Code, rather than Subchapter B, Chapter 321, Tax Code, or Subchapter B, Chapter 323, Tax Code, be a certain amount of one percent.

SECTION 5. Amends Section 504.252(b), Local Government Code, to authorize that the rate of the tax imposed under Subsection (a) 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) (relating to prohibiting 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), rather than 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, to set forth the required language of the ballot in an election to adopt the sales and use tax under this chapter (Type A Corporations).

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

(c) Authorizes that the tax rate 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 that the tax rate be reduced in certain increments or increased in certain increments.

SECTION 8. Amends Section 504.261(b), Local Government Code, to set forth the required language of the ballot in an election to impose, reduce, increase, or abolish the tax under this chapter and the additional sales and use tax.

SECTION 9. Amends Section 505.252(b), Local Government Code, to authorize that the rate of a tax adopted under this chapter (Type B Corporations) to 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), rather than requiring that the rate of the 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, to prohibit 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, to provide that for a tax under this subchapter (Sales and Use Tax) at a rate that does not exceed one-half of one percent, the election requirement under Section 505.251 (Tax Authorized) 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, if certain conditions were met.

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 to 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, to provide 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 of public accounts of the State of Texas receives a notice of the action as required by Section 321.405(b) (relating to requiring the municipal secretary to send to the comptroller by certified or registered mail a certified copy of the resolution along with a map of the municipality clearly showing its boundaries if the application of the taxes that are authorized to be imposed under this chapter is changed by the results of the election).

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 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 existing text providing 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 the rate of one percent and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use.
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> > (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, 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, rather than providing that in a municipality that has adopted the additional municipal sales and use tax, the tax is imposed at the rate approved by the voters. Authorizes that the rate 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, rather than authorizing that the rate 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 is

authorized to be abolished. Deletes existing text requiring that the rate, when the tax is adopted, be equal to either one-eight, one-fourth, three-eighths, or one-half of one percent.

SECTION 15. Amends Section 321.108(d), Tax Code, as follows:

(d) Authorizes that the rate of a tax adopted for a district under this section be increased to any rate that is an increment of one-eighth of one 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. Deletes existing text authorizing that the rate of a tax adopted for a district under this section be increased in increments of one-eighth of one percent, not to exceed a total tax rate of one-half percent under certain conditions.

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

(a) Sets forth the required language of the ballot in an election to adopt the tax.

(c) Sets forth the required language of the ballot to adopt the additional municipal sales and use tax in a municipality that does not impose a property tax.

(d) Sets forth the required language of the ballot in an election to reduce or increase the tax.

SECTION 17. Amends Section 321.405(a), Tax Code, to require 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, by resolution or ordinance entered in its minutes of proceedings, to declare the results of the election.

SECTION 18. Amends Section 327.004, Tax Code, to authorize that the tax authorized by this chapter 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) (relating to prohibiting a municipality from adopting a tax under this chapter or increasing the rate of the tax if as a result of the adoption of the tax or the increase in the rate 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), rather than authorizing that the tax authorized by this chapter 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, to set forth the required language of the ballot at an election to adopt the tax.

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 (Municipal Sales and Use Tax for Street Maintenance) to by ordinance decrease the rate of the tax in increments of one-eighth of one percent, rather than 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, rather than 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) Sets forth the required language of the ballot for an election to increase the tax.

SECTION 21. Amends Section 327.007(a), Tax Code, to provide that unless imposition of the sales and use tax authorized by this chapter is reauthorized as provided by this section, the tax expires on the eight anniversary of the date the tax originally took effect under Section 327.005 (Sales and Use Tax Effective Date) or the first day of the first calendar quarter occurring after the eighth anniversary of the date the tax was last reauthorized under this section, rather than the fourth anniversary of the date the tax originally took effect under Section 327.005 or the first day of the first calendar quarter occurring after the fourth anniversary of the date the tax was last reauthorized under this section.

SECTION 22. (a) 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 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.

(b) Provides that the change in law made by this Act to Section 327.007(a), Tax Code, applies only to the expiration of a sales and use tax under Chapter 327, Tax Code, that is adopted or reauthorized on or after the effective date of this Act. Provides that the expiration of a sales and use tax that was adopted or last reauthorized before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 23. Effective date: September 1, 2013.