

BILL ANALYSIS

C.S.H.B. 1511
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law sets the maximum rate at which all combined local sales and use taxes may be imposed. 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, and crime control. Some cities believe that these additional restrictions, in conjunction with the maximum combined rate, place an excessive burden on local communities by inhibiting the communities' fiscal flexibility in responding to unique local needs. C.S.H.B. 1511 seeks to address these concerns by removing certain restrictions on municipal sales and use tax rates.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1511 amends the Local Government Code to change the rates at which the following municipal sales and use taxes may be imposed from various fractional increments of one percent 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 rate that when combined with all other sales and use taxes imposed by the municipality and other political subdivisions of the state having territory in the municipality would exceed a maximum combined rate of two percent:

- the sales and use tax imposed to finance an approved venue project
- an increase in the rate of the sales and use tax imposed to finance an approved venue project, on approval of the municipality's voters
- the sales and use tax imposed to finance a crime control and prevention district
- the sales tax imposed for the benefit of a Type A corporation
- an increase or reduction in the rate of the sales and use tax imposed for the benefit of a Type A corporation, on approval of the municipality's voters
- the sales tax imposed for the benefit of a Type B corporation

C.S.H.B. 1511 includes the sales and use tax imposed by a municipality or county to finance an approved venue project 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.

C.S.H.B. 1511 caps at two percent the rate, when added to the rates of all other sales and use taxes imposed by the authorizing municipality and other political subdivisions of the state having territory in the authorizing municipality, at which an authorizing municipality may adopt a sales and use tax for the benefit of a Type B corporation. The bill specifies that the election requirement applicable to such a tax is satisfied for a proposed tax at a rate that does not exceed one-half of one percent.

C.S.H.B. 1511 amends the Tax Code to authorize a municipality to reduce or increase the rate of a sales and use tax at an election in which a majority of the qualified voters of the municipality approve the reduction or increase and establishes the date such a tax increase or decrease takes effect if adopted. The bill changes the rate of the municipal sales tax of a municipality that has adopted a sales and use tax, including an additional sales and use tax, from various increments up to one percent to 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 of two percent, and that is approved by the voters. The bill authorizes a municipality that has adopted an additional sales and use tax to reduce the rate of the tax to any amount, rather than to a minimum of one-eighth of one percent, and to increase the rate of the tax to any amount, rather than to a maximum of one-half of one percent. The bill changes the rate at which a board of directors of a crime control and prevention district may increase a sales and use tax adopted by a municipality for the district from increments of one-eighth of one percent not to exceed a total tax rate of one-half percent to any rate that is an increment of one-eighth of one percent, the board determines is appropriate, would not result in a combined rate that exceeds the maximum combined rate of two percent, and is approved by a majority of voters in the district.

C.S.H.B. 1511 changes the rate at which a sales and use tax adopted by a municipality for street maintenance may be imposed or increased from various fractional increments of one percent 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 of two percent. The bill authorizes a municipality to decrease the rate of the tax to any amount that is an increment of one-eighth of one percent, rather than to one-eighth of one percent. The bill 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 or the first day of the first calendar quarter occurring after the fourth anniversary of the date the tax was last reauthorized to the eighth anniversary of the date the tax originally took effect or the first day of the first calendar quarter occurring after the eighth anniversary of the date the tax was last reauthorized.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1511 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 334.082(d), Local Government Code, is amended.

SECTION 2. Section 334.083(a), Local Government Code, is amended to read as follows:

(a) The rate of a tax adopted by a county under this subchapter must be one-eighth, one-fourth, three-eighths, or one-half of one percent. The rate of the tax adopted by a

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 334.083(a), Local Government Code, is amended to read as follows:

(a) The rate of a tax adopted by a county under this subchapter must be one-eighth, one-fourth, three-eighths, or one-half of one percent. The rate of the tax adopted

municipality may be imposed at 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.

SECTION 3. Section 334.084, Local Government Code, is amended to read as follows:

Sec. 334.084. RATE INCREASE. (a) 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, may 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) The county tax may 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. The municipal tax may be increased under Subsection (a) 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) The ballot for an election to increase the tax shall be printed to permit voting for or against the proposition: "The adoption of a sales and use tax for the purpose of financing _____ (insert description of venue project) at the rate of _____ [~~of one~~] percent (insert [~~one fourth, three eighths, or one half, as~~] appropriate rate)."

SECTION 4. Section 363.055(a), Local Government Code, is amended to read as follows:

(a) The proposed rate for the district sales and use tax imposed under Subchapter B, Chapter 321, Tax Code, may be 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.

by a municipality may 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.

SECTION 3. Section 334.084, Local Government Code, is amended to read as follows:

Sec. 334.084. RATE INCREASE. (a) 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, may 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) The county tax may 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. The municipal tax may 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) The ballot for an election to increase the tax shall be printed to permit voting for or against the proposition: "The adoption of a sales and use tax for the purpose of financing _____ (insert description of venue project) at the rate of _____ [~~of one~~] percent (insert [~~one fourth, three eighths, or one half, as~~] appropriate rate)."

SECTION 4. Section 363.055(a), Local Government Code, is amended to read as follows:

(a) The proposed rate for the district sales and use tax imposed under Subchapter B, Chapter 321, Tax Code, may 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

The proposed rate for the district sales and use tax imposed under [~~Subchapter B, Chapter 321, Tax Code, or~~] Subchapter B, Chapter 323, Tax Code, may be only:

- (1) one-eighth of one percent;
- (2) one-fourth of one percent;
- (3) three-eighths of one percent; or
- (4) one-half of one percent.

SECTION 5. Section 504.252(b), Local Government Code, is amended to read as follows:

(b) The rate of the tax imposed under Subsection (a) may be any rate 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) [~~must be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent~~].

SECTION 6. Section 504.256, Local Government Code, is amended.

SECTION 7. Section 504.258(c), Local Government Code, is amended to read as follows:

(c) The tax rate may be reduced or increased to any rate 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)[-:

~~[(1) reduced in one or more increments of one-eighth of one percent, to a minimum rate of one-eighth of one percent; or~~

~~[(2) increased in one or more increments of one-eighth of one percent, to a maximum rate of one-half of one percent].~~

SECTION 8. Section 504.261(b), Local Government Code, is amended.

SECTION 9. Section 505.252(b), Local Government Code, is amended to read as follows:

rate that exceeds the maximum combined rate prescribed by Section 321.101(f), Tax Code. The proposed rate for the district sales and use tax imposed under [~~Subchapter B, Chapter 321, Tax Code, or~~] Subchapter B, Chapter 323, Tax Code, may be only:

- (1) one-eighth of one percent;
- (2) one-fourth of one percent;
- (3) three-eighths of one percent; or
- (4) one-half of one percent.

SECTION 5. Section 504.252(b), Local Government Code, is amended to read as follows:

(b) The rate of the tax imposed under Subsection (a) may 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) [~~must be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent~~].

SECTION 6. Same as introduced version.

SECTION 7. Section 504.258(c), Local Government Code, is amended to read as follows:

(c) The tax rate may 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)[-:

~~[(1) reduced in one or more increments of one-eighth of one percent, to a minimum rate of one-eighth of one percent; or~~

~~[(2) increased in one or more increments of one-eighth of one percent, to a maximum rate of one-half of one percent].~~

SECTION 8. Same as introduced version.

SECTION 9. Section 505.252(b), Local Government Code, is amended to read as follows:

(b) The rate of a tax adopted under this chapter may be any rate 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) [must be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent].

SECTION 10. Section 505.256(a), Local Government Code, is amended.

SECTION 11. Section 505.259, Local Government Code, is amended.

SECTION 12. Section 321.101(a), Tax Code, is amended.

SECTION 13. Section 321.102(a), Tax Code, is amended.

SECTION 14. Section 321.103, Tax Code, is amended to read as follows:

Sec. 321.103. SALES TAX. (a) 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 [the] rate 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. The tax is imposed [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.

(b) In a municipality that has adopted the additional municipal sales and use tax, the tax is imposed at any [the] rate 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.

~~[The rate, when the tax is adopted, must be equal to either one-eighth, one-fourth, three-eighths, or one-half of one percent. The rate may be reduced in one or more increments of~~

(b) The rate of a tax adopted under this chapter may 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) [must be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent].

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 13. Same as introduced version.

SECTION 14. Section 321.103, Tax Code, is amended to read as follows:

Sec. 321.103. SALES TAX. (a) 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 [the] 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. The tax is imposed [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.

(b) In a municipality that has adopted the additional municipal sales and use tax, the tax is imposed at any [the] 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. [The rate, when the tax is adopted, must be equal to either one-eighth, one-fourth, three-eighths, or one-half of one percent.] The rate may be

~~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 may be abolished.]~~ The rate that the municipality adopts is on the receipts from the sale at retail of all taxable items within the municipality and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use unless the residential use of gas and electricity is exempted from the tax imposed under Section 321.101(a), in which case the residential use of gas and electricity is exempted under this subsection also.

SECTION 15. Sections 321.108(b), (c), and (d), Tax Code, are amended to read as follows:

(b) A tax adopted for a district under this section for financing the operation of the district may be decreased ~~[in increments of one-eighth of one percent]~~ by order of the board of directors of the district.

(c) The governing body of the municipality that proposed the creation of the crime control and prevention district may call an election in the district on the question of decreasing the tax rate ~~[in increments of one-eighth of one percent in the district]~~. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The decrease of the _____ Crime Control and Prevention District sales and use tax rate to _____ percent."

(d) The rate of a tax adopted for a district under this section may be increased to any rate ~~[in increments of one-eighth of one percent, not to exceed a total tax rate of one-half 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. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The increase of the _____ Crime

~~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 may be abolished].~~ The rate that the municipality adopts is on the receipts from the sale at retail of all taxable items within the municipality and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use unless the residential use of gas and electricity is exempted from the tax imposed under Section 321.101(a), in which case the residential use of gas and electricity is exempted under this subsection also.

SECTION 15. Section 321.108(d), Tax Code, is amended to read as follows:

(d) The rate of a tax adopted for a district under this section may be increased to any rate that is an increment ~~[in increments]~~ of one-eighth of one percent~~;~~ not to exceed a total tax rate of one-half 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. At the election, the ballot shall be printed to

Control and Prevention District sales and use tax rate to _____ percent." If there is an increase or decrease under this subsection in the rate of a tax imposed under this section, the new rate takes effect on the first day of the next calendar quarter after the expiration of one calendar quarter after the comptroller receives notice of the increase or decrease. However, if the comptroller notifies the president of the board of directors of the district in writing within 10 days after receipt of the notification that the comptroller requires more time to implement reporting and collection procedures, the comptroller may delay implementation of the rate change for another calendar quarter, and the new rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

SECTION 16. Section 321.404, Tax Code, is amended.

SECTION 17. Section 321.405(a), Tax Code, is amended.

SECTION 18. Section 327.004, Tax Code, is amended to read as follows:

Sec. 327.004. TAX RATE. The tax authorized by this chapter may be imposed at 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 327.003(b) [~~the rate of one-eighth of one percent or one-fourth of one percent~~].

SECTION 19. Section 327.006(b), Tax Code, is amended.

SECTION 20. Section 327.0065, Tax Code, is amended to read as follows:

Sec. 327.0065. RATE CHANGE. (a) A municipality that has adopted a sales and use tax under this chapter [~~at a rate of one-fourth of one percent~~] may by ordinance decrease the rate of the tax [to one-eighth of one percent].

provide for voting for or against the following proposition: "The increase of the _____ Crime Control and Prevention District sales and use tax rate to _____ percent." If there is an increase or decrease under this subsection in the rate of a tax imposed under this section, the new rate takes effect on the first day of the next calendar quarter after the expiration of one calendar quarter after the comptroller receives notice of the increase or decrease. However, if the comptroller notifies the president of the board of directors of the district in writing within 10 days after receipt of the notification that the comptroller requires more time to implement reporting and collection procedures, the comptroller may delay implementation of the rate change for another calendar quarter, and the new rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

SECTION 16. Same as introduced version.

SECTION 17. Same as introduced version.

SECTION 18. Section 327.004, Tax Code, is amended to read as follows:

Sec. 327.004. TAX RATE. The tax authorized by this chapter may 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) [~~the rate of one-eighth of one percent or one-fourth of one percent~~].

SECTION 19. Same as introduced version.

SECTION 20. Section 327.0065, Tax Code, is amended to read as follows:

Sec. 327.0065. RATE CHANGE. (a) A municipality that has adopted a sales and use tax under this chapter [~~at a rate of one-fourth of one percent~~] may by ordinance decrease the rate of the tax in increments of [to] one-eighth of one

(b) A municipality that has adopted a sales and use tax under this chapter [~~at a rate of one-eighth of one percent~~] may by ordinance increase the rate of the tax 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 327.003(b) [~~to one-fourth of one percent~~] if the increase is authorized at an election held in the municipality.

(c) The ballot for an election to increase the tax shall be printed to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of municipality) at the rate of (insert appropriate rate) [~~one-fourth of one percent~~] to provide revenue for maintenance and repair of municipal streets."

SECTION 21. Section 327.007(a), Tax Code, is amended.

SECTION 22. (a) 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. 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) 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. 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. This Act takes effect September 1, 2013.

percent.

(b) A municipality that has adopted a sales and use tax under this chapter [~~at a rate of one-eighth of one percent~~] may 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) [~~to one-fourth of one percent~~] if the increase is authorized at an election held in the municipality.

(c) The ballot for an election to increase the tax shall be printed to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of municipality) at the rate of (insert appropriate rate) [~~one-fourth of one percent~~] to provide revenue for maintenance and repair of municipal streets."

SECTION 21. Same as introduced version.

SECTION 22. Same as introduced version.

SECTION 23. Same as introduced version.