

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017

August 2, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB301 by Krause (Relating to the substitution of a local sales and use tax for property taxes imposed by certain local governments; authorizing the imposition of a tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB301, As Introduced: a negative impact of (\$396,000) through the biennium ending August 31, 2019.

Additionally, the bill could result in reduced state sales tax collections, however those amounts cannot be determined at this time.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$198,000)
2019	(\$198,000)
2020	(\$198,000)
2021	(\$198,000)
2022	(\$198,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2017
2018	(\$198,000)	3.0
2019	(\$198,000)	3.0
2020	(\$198,000)	3.0
2021	(\$198,000)	3.0
2022	(\$198,000)	3.0

Fiscal Analysis

This bill would add new Chapter 328 to the Tax Code, to provide for the imposition of a supplemental sales and use tax by certain local governments.

A municipality or county would be authorized to provide, by ordinance or order, that it not impose a property tax and instead elect to impose a supplemental sales and use tax. It would not be required to call an election to adopt, increase, reduce, or abolish the supplemental sales and use tax.

The supplemental tax would be in addition to any other sales and use tax authorized by law, and would not be subject to nor count in the calculation of the 2 percent limit on the cumulative rate of local sales and use taxes.

In the first year of imposition, the rate of tax would be the rate that, when applied to the estimated sales and use tax base for the jurisdiction, produces an amount of revenue equal to 1.08 times the property tax revenue foregone. In years thereafter, the jurisdiction by ordinance or order could annually increase or reduce the rate of the tax, in increments of one-eighth of one percent.

The provisions of Chapters 321 and 323 of the Tax Code, regarding current municipal and county sales and use taxes, would apply for the supplemental tax, with exceptions of certain sections pertaining to elections, rate limitations, and pledge of local sales and use taxes for bonded indebtedness.

The adoption of the supplemental tax and any subsequent adjustments of the rate would take effect on the next January 1 that is at least six months after the qualifying local government notifies the Comptroller of the ordinance or order adopting, increasing, reducing, or abolishing the tax.

Revenue from the supplemental tax would be available for use for any purpose for which the general funds of the taxing jurisdiction may be used.

This bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect December 1, 2017.

Methodology

Significantly higher sales tax rates might induce shifting of taxable purchases from vendors with nexus that collect tax to remote sellers that do not collect Texas taxes. This would result in reduced state sales tax collections, however because the cities and counties that would choose to substitute sales tax for property tax is unknown.

The administrative cost estimate reflects the funds that would be necessary to hire three accounts examiner IIIs for the anticipated increase in local sales tax allocations. This is a supplemental sales and use tax that cannot be combined with the existing local sales and use tax, therefore separate tax allocations will need to occur. Accounts examiners will also need to verify adopted ordinances, determine whether a city or county taxing jurisdictions did not assess a property tax and are therefore eligible to assess a supplemental sales tax, and make adjustments any time a jurisdiction adds, removes, or changes the supplemental sales tax.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time because the cities and counties that would choose to substitute sales tax for property tax is unknown.

There could be significant displacement of taxable sales from jurisdictions that opt for

supplemental sales taxes to jurisdictions that do not, with the result that the necessary tax rates to meet property tax revenue replacement targets might be significantly higher than the sample illustrative rates indicated below.

Due to the timing requirements provided for action by local governments to adopt a supplemental tax, no such tax could be imposed before January 1, 2019.

Illustrative estimated sales tax rates sufficient to meet the property tax revenue replacement targets as provided by the bill are indicated below for selected major metropolitan areas of the state. These rates would be in addition to all other state and local rates in place. For example, the total rate in Austin would be 8.250 plus 3.125 = 11.375 percent. These estimates are based on 2016 property tax levies and sales tax data for the sample jurisdictions. These estimates do not assume significant change in the behavior of taxpayers; i.e., these estimated rates do not reflect any assumptions regarding the extent of shifting of taxable purchases between taxing jurisdictions that adopt supplemental taxes and those that do not, nor any assumptions regarding the extent of shifting of purchases from vendors who collect tax to out-of-state vendors that do not collect tax. Accordingly, actual supplemental sales tax rates would be likely to be higher than these illustrative rates.

City	Supplemental Sales Tax Rate
Austin	3.125%
Dallas	3.625
Fort Worth	4.625
Houston	2.25
San Antonio	2.50

County	Supplemental Sales Tax Rate
Bexar	1.75%
Dallas	1.125
Harris	2.50
Tarrant	1.625
Travis	3.0

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD