Senate Research Center

S.B. 1319
By: Birdwell; Watson
Natural Resources & Economic Development
6/17/2019
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, municipalities that levy a hotel occupancy tax are required to annually report certain information about that the collection and use of that tax to the Office of the Comptroller of Public Accounts of the State of Texas (comptroller's office). No such requirement exists for counties. In an effort to continue to increase transparency around the hotel occupancy tax, S.B. 1319 would require counties that levy the hotel occupancy tax to submit very similar information annually to the comptroller's office.

S.B. 1319 would amend Chapter 352, Tax Code, by adding Section 352.009. This new section would require counties that levy a hotel occupancy tax to submit information annually to the comptroller of public accounts of the State of Texas (comptroller) indicating: (1) the rate of the hotel occupancy tax imposed by that county (2 percent, 3 percent, 4 percent, etc.); (2) the dollar amount of revenue collected during the preceding fiscal year from the hotel occupancy tax imposed by that county; (3) whether or not the county levies a sports and community venue tax and at what rate; and (4) the dollar amount of revenue collected during the preceding fiscal year from the sports and community venue tax imposed by that county. The county would be required to either submit the requested information to the comptroller on a form provided by the comptroller, or provide the comptroller a direct link to, or detailed information describing the location of, the information on the county's internet website.

By requiring counties to mirror the reporting requirements imposed on municipalities that impose the hotel occupancy tax, greater transparency in the tax's collection and use could be established for state and local taxpayers. (Original Author's/Sponsor's Statement of Intent)

S.B. 1319 amends current law relating to certain taxes and to an annual report submitted to the comptroller concerning those taxes.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 5 (Section 352.009, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 334.089(a), Local Government Code, as follows:

(a) Prohibits a sales and use tax imposed under this subchapter (Sales and Use Tax), except as provided by Section 334.090, from being collected after the last day of the first calendar quarter occurring after notification to comptroller of public accounts of the State of Texas (comptroller) by the municipality or county that the municipality or county has abolished the tax or that all bonds or other obligations of the municipality or county that are payable in whole or in part from money in the venue project fund, including any refunding bonds or other obligations, have been paid in full or the full amount of money, exclusive of guaranteed interest, necessary to pay in full the bonds and other obligations has been set aside in a trust account dedicated to the payment of the bonds and other obligations.

SECTION 2. Amends Subchapter D, Chapter 334, Local Government Code, by adding Section 334.090, as follows:

Sec. 334.090. CONVERSION OF TAX. (a) Provides that a sales and use tax imposed under this subchapter is abolished or the rate of the tax is reduced, as applicable, on the date a conversion of all or a portion of the tax under Section 504.263 or 505.260 takes effect.

(b) Requires a municipality or county to notify the comptroller of a conversion described by Subsection (a) not later than the 60th day before the date the conversion takes effect.

(c) Requires the abolition or reduction by a county of the rate of a sales and use tax imposed under this section to be included in the report submitted to the comptroller by the county under Section 352.009.

SECTION 3. Amends Subchapter F, Chapter 504, Local Government Code, by adding Section 504.263, as follows:

Sec. 504.263. ELECTION TO CONVERT CERTAIN SALES AND USE TAX AUTHORITY. (a) Provides that this section applies only to:

(1) a municipality with a population of more than 200,000 that borders the United Mexican States and that:

(A) has adopted a sales and use tax under Subchapter D, Chapter 334; and

(B) on September 1, 2019, has or will have outstanding bonded indebtedness for bonds issued under Section 334.043 (Bonds and Other Obligations) that are payable wholly or partly from the sales and use tax; or

(2) a county that borders the United Mexican States that:

(A) has a population of less than 300,000; and

(B) contains one or more municipalities with a population of 200,000 or more that hold an annual jalapeño festival.

(b) Authorizes a municipality or county to convert all or a portion of a sales and use tax originally adopted under Subchapter D, Chapter 334, to a sales and use tax under this subchapter if the conversion is approved by a majority of the voters of the municipality or county voting at an election held for that purpose.

(c) Requires the ballot, in an election to convert all or a portion of a municipal sales and use tax as provided by this section, to be printed to provide for voting for or against the proposition. Sets forth the required language of the ballot.

(d) Provides that, for purposes of Chapter 321 (Municipal Sales and Use Tax Act), Tax Code, an election under this section is an election to adopt a sales and use tax under this subchapter and, as applicable, to abolish or reduce the rate of the tax under Subchapter D, Chapter 334.

(e) Provides that, notwithstanding Section 321.102 (Effective Dates: New Tax, Tax Repeal, Boundary Change), Tax Code, a conversion by a municipality under this section takes effect on the first day after the date all bonds described by Subsection (a)(1)(B), including any refunding bonds, have been paid in full or the full amount of money, exclusive of guaranteed interest, necessary to pay the

bonds in full has been set aside in a trust account dedicated to the payment of the bonds.

(f) Requires a municipality that converts all or a portion of a tax under this section, notwithstanding Section 321.405(a) (relating to requiring 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, to by resolution or ordinance entered in its minutes of proceedings, declare the results of the election), Tax Code, to comply with Section 321.405 (Official Results of Election), Tax Code, not later than the 60th day before the date the conversion takes effect.

(g) Provides that the conversion of all or a portion of a sales and use tax under this section:

(1) abolishes or reduces the rate of a tax adopted under Subchapter D, Chapter 334, as applicable; and

(2) imposes a sales and use tax under this subchapter:

(A) at the same rate as the tax under Subchapter D, Chapter 334, was imposed, if that tax is abolished; or

(B) at a rate equal to the reduction in the rate of the tax under Subchapter D, Chapter 334, if that rate is reduced.

(h) Provides that, if a sales and use tax conversion under this section is not approved, the election does not affect the county's or municipality's authority to impose the sales and use tax adopted under Chapter 334, or the rate of that tax, as provided by that chapter.

(i) Authorizes the county or municipality, if conversion of a portion of a sales and use tax is approved under this section, to continue to impose the portion of the tax under Subchapter D, Chapter 334, that was not converted as provided by that chapter.

(j) Provides that, for a municipal tax converted under this subchapter, the election requirement under Subsection (b) is satisfied and another election is not required if the voters of the authorizing municipality approved the conversion at an election called or held before the effective date of the Act enacting this section under an ordinance calling the election that:

(1) was published in a newspaper of general circulation in the municipality at least 14 days before the date of the election; and

(2) expressly stated that the election was being called or held in anticipation of the enactment of enabling and implementing legislation without further elections.

SECTION 4. Amends Subchapter F, Chapter 505, Local Government Code, by adding Section 505.260, as follows:

Sec. 505.260. ELECTION TO CONVERT CERTAIN SALES AND USE TAX AUTHORITY. (a) Provides that this section applies only to:

(1) a municipality with a population of more than 200,000 that borders the United Mexican States and that:

(A) has adopted a sales and use tax under Subchapter D, Chapter 334; and

(B) on September 1, 2019, has or will have outstanding bonded indebtedness for bonds issued under Section 334.043 that are payable wholly or partly from the sales and use tax; or

(2) a county that borders the United Mexican States that:

(A) has a population of less than 300,000; and

(B) contains one or more municipalities with a population of 200,000 or more that hold an annual jalapeño festival.

(b) Authorizes a municipality or county to convert all or a portion of a sales and use tax originally adopted under Subchapter D, Chapter 334, to a sales and use tax under this subchapter if the conversion is approved by a majority of the voters of the municipality or county voting at an election held for that purpose.

(c) Requires a ballot, in an election to convert all or a portion of a municipal sales and use tax as provided by this section, to be printed to provide for voting for or against the proposition. Sets forth the required language of the ballot.

(d) Provides that, for purposes of Chapter 321, Tax Code, an election under this section is an election to adopt a sales and use tax under this subchapter and, as applicable, to abolish or reduce the rate of the tax under Subchapter D, Chapter 334.

(e) Provides that, notwithstanding Section 321.102, Tax Code, a conversion by a municipality under this section takes effect on the first day after the date all bonds described by Subsection (a)(1)(B), including any refunding bonds, have been paid in full or the full amount of money, exclusive of guaranteed interest, necessary to pay the bonds in full has been set aside in a trust account dedicated to the payment of the bonds.

(f) Requires a municipality that converts all or a portion of a tax under this section, notwithstanding Section 321.405(a), Tax Code, to comply with Section 321.405, Tax Code, not later than the 60th day before the date the conversion takes effect.

(g) Provides that the conversion of all or a portion of a sales and use tax under this section:

(1) abolishes or reduces the rate of a tax adopted under Subchapter D, Chapter 334, as applicable; and

(2) imposes a sales and use tax under this subchapter:

(A) at the same rate as the tax under Subchapter D, Chapter 334, was imposed, if that tax is abolished; or

(B) at a rate equal to the reduction in the rate of the tax under Subchapter D, Chapter 334, if that rate is reduced.

(h) Provides that, if a sales and use tax conversion under this section is not approved, the election does not affect the county's or municipality's authority to impose the sales and use tax adopted under Chapter 334, or the rate of that tax, as provided by that chapter.

(i) Authorizes the county or municipality, if conversion of a portion of a sales and use tax is approved under this section, to continue to impose the portion of the tax

under Subchapter D, Chapter 334, that was not converted as provided by that chapter.

(j) Provides that, for a municipal tax converted under this subchapter, the election requirement under Subsection (b) is satisfied and another election is not required if the voters of the authorizing municipality approved the conversion at an election called or held before the effective date of the Act enacting this section under an ordinance calling the election that:

(1) was published in a newspaper of general circulation in the municipality at least 14 days before the date of the election; and

(2) expressly stated that the election was being called or held in anticipation of the enactment of enabling and implementing legislation without further elections.

SECTION 5. Amends Subchapter A, Chapter 352, Tax Code, by adding Section 352.009, as follows:

Sec. 352.009. ANNUAL REPORT TO COMPTROLLER. (a) Requires a county that imposes the tax authorized by this chapter (County Hotel Occupancy Taxes), not later than February 20 of each year, to report to the comptroller certain information.

(b) Requires the county to make the report required by this section by:

(1) submitting the report to the comptroller on a form prescribed by the comptroller; or

(2) providing the comptroller a direct link to, or a clear statement describing the location of, the information required to be reported that is posted on the Internet website of the county.

(c) Requires the comptroller, subject to Subsection (b)(2), to prescribe the form a county is required to use for the report required to be submitted under this section.

(d) Authorizes the comptroller to adopt rules necessary to administer this section.

SECTION 6. Requires the comptroller, as soon as practicable, but not later than January 1, 2020, to prescribe the form required by Section 352.009(c), Tax Code, as added by this Act.

SECTION 7. Requires a county to submit the initial report or otherwise provide the initial information required by Section 352.009, Tax Code, as added by this Act, not later than February 20, 2020.

SECTION 8. Effective date: upon passage or September 1, 2019.