86R16512 CJC-D

By:  Geren, Krause, Darby, et al. H.B. No. 705

Substitute the following for H.B. No. 705:

By:  Bohac C.S.H.B. No. 705

A BILL TO BE ENTITLED

AN ACT

relating to the substitution of a local sales and use tax for maintenance and operations property taxes imposed by certain local governments; authorizing the imposition of a tax.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subtitle C, Title 3, Tax Code, is amended by adding Chapter 328 to read as follows:

CHAPTER 328. SUPPLEMENTAL LOCAL SALES AND USE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 328.0001.  DEFINITIONS. In this chapter:

(1)  "Lost property tax revenue" means the estimated amount of property tax revenue to be received by a qualifying local government for maintenance and operations purposes for the tax year in which the local government adopts an ordinance or order described by Subdivision (2)(A).

(2)  "Qualifying local government" means a municipality or county that:

(A)  before June 30 of a year:

(i)  adopts an ordinance or order providing that, beginning January 1 of the following year, the local government will not impose a property tax for purposes of funding maintenance and operations expenditures and instead elects to impose a supplemental sales and use tax for those purposes; and

(ii)  forwards a certified copy of the ordinance or order described by Subparagraph (i) to the comptroller; or

(B)  in a preceding year, adopted and forwarded to the comptroller an ordinance or order described by Paragraph (A) but has not subsequently adopted an ordinance or order abolishing the supplemental sales and use tax imposed by the government.

(3)  "Supplemental sales and use tax" means a sales and use tax authorized by this chapter.

Sec. 328.0002.  APPLICABILITY OF OTHER LAW. (a) Except as otherwise provided by this chapter:

(1)  Chapter 321 applies to a supplemental sales and use tax imposed by a municipality; and

(2)  Chapter 323 applies to a supplemental sales and use tax imposed by a county.

(b)  The following provisions do not apply to a supplemental sales and use tax:

(1)  Sections 321.101 and 323.101;

(2)  Subchapter E, Chapter 321, Subchapter E, Chapter 323, and the other provisions of Chapters 321 and 323 relating to an election;

(3)  Sections 321.506-321.508; and

(4)  Section 323.505.

(c)  A supplemental sales and use tax is not an additional sales and use tax for purposes of Section 321.101 or any other law.

Sec. 328.0003.  EFFECT ON COMBINED LOCAL TAX RATE. The rate of a supplemental sales and use tax may not be considered for purposes of determining the combined local tax rate in any area.

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 328.0051.  TAX AUTHORIZED. (a) Subject to Section 328.0052, a qualifying local government by adoption of an ordinance or order may adopt, increase, reduce, or abolish the supplemental sales and use tax. The tax is in addition to any other sales and use tax authorized by law, but may be imposed only during a period during which the qualifying local government does not impose a property tax for purposes of funding the local government's maintenance and operations expenditures.

(b)  Except as provided by Subchapter C, a qualifying local government is not required to call an election to adopt, increase, reduce, or abolish the supplemental sales and use tax.

Sec. 328.0052.  TAX RATE; INCREASE, REDUCTION, OR ABOLITION OF TAX. (a) The supplemental sales and use tax rate may not exceed two percent.

(b)  Subject to Subsection (a), in the first year in which a qualifying local government imposes the supplemental sales and use tax, the rate of the tax is equal to a rate that, when applied to the estimated cumulative sales price of the sale, use, storage, or other consumption of taxable items within the local government during that year, would produce an amount equal to the local government's lost property tax revenue. The ordinance or order authorizing the tax and adopted under Section 328.0051 must specify the tax rate.

(c)  A qualifying local government that imposes the supplemental sales and use tax may by adoption of an ordinance or order annually increase or reduce the rate of the tax. An increase in the rate of the tax is subject to the limitation prescribed by Subsection (a). A reduction in the rate of the tax may not impair any outstanding debt or other obligation payable from the tax.

(d)  A qualifying local government that imposes the supplemental sales and use tax may by adoption of an ordinance or order abolish the tax if there is no outstanding debt secured by the tax.

(e)  A certified copy of an ordinance or order described by this section must be forwarded to the comptroller before June 30 of the year preceding the January 1 on which the action approved in the ordinance or order is to take effect.

Sec. 328.0053.  SALES AND USE TAX EFFECTIVE DATE. The adoption, increase, reduction, or abolition of the supplemental sales and use tax takes effect on the next January 1 that is at least six months after the date the qualifying local government forwards to the comptroller the copy of the ordinance or order adopting, increasing, reducing, or abolishing the tax, as applicable.

SUBCHAPTER C. PETITION FOR ELECTION

Sec. 328.0101.  PETITION FOR ELECTION. (a) The registered voters of a municipality or county may petition the governing body of the municipality or county to call an election on the question of adoption by the municipality or county of a supplemental sales and use tax.

(b)  A petition under this section must be:

(1)  signed by at least 20 percent of the registered voters of the municipality or county; and

(2)  submitted to the governing body of the municipality or county.

(c)  The governing body of the municipality or county shall validate the petition not later than the 30th day after the date the petition is submitted to the governing body.

Sec. 328.0102.  ELECTION. On receipt of a valid petition under Section 328.0101, the governing body of the municipality or county shall adopt an ordinance or order calling an election on the question of adoption by the municipality or county of a supplemental sales and use tax.

Sec. 328.0103.  ELECTION DATE. An election under this subchapter must be held on the next uniform election date that occurs after the date on which the governing body of the municipality or county adopts the ordinance or order calling the election and that allows sufficient time to comply with the requirements of other law.

Sec. 328.0104.  BALLOT. At the election, the ballot shall be prepared to permit voting for or against the proposition: "Requiring (name of municipality or county) to adopt a supplemental sales and use tax on the earliest date allowed by law to allow (name of municipality or county) to reduce its maintenance and operations property tax rate to zero."

Sec. 328.0105.  ELECTION RESULTS. If a majority of the voters voting in the election favor the proposition, the governing body of the municipality or county shall take the actions necessary to become a qualifying local government on the earliest date practicable under this chapter.

SUBCHAPTER D. USE OF TAX REVENUE

Sec. 328.0151.  USE OF TAX REVENUE. Revenue from a supplemental sales and use tax is for the use and benefit of the qualifying local government imposing the tax and may be used for any purpose for which the general funds of the local government may be used.

SECTION 2.  Section 26.04, Tax Code, is amended by adding Subsection (c-1) to read as follows:

(c-1)  Notwithstanding Subsection (c), the officer or employee designated by the governing body of a municipality or county that imposes a supplemental sales and use tax under Chapter 328 shall calculate only the municipality's or county's current debt rate.

SECTION 3.  Section 26.05, Tax Code, is amended by adding Subsection (h) to read as follows:

(h)  For purposes of this chapter, the tax rate of a municipality or county that imposes a supplemental sales and use tax under Chapter 328 is the municipality's or county's current debt rate.

SECTION 4.  Chapter 26, Tax Code, is amended by adding Section 26.0521 to read as follows:

Sec. 26.0521.  TAX RATE NOTICE OF MUNICIPALITY OR COUNTY IMPOSING SUPPLEMENTAL SALES AND USE TAX. A municipality or county that imposes a supplemental sales and use tax under Chapter 328:

(1)  shall provide notice of the municipality's or county's tax rate in the manner provided by Section 26.052 for the proposed tax rate of a taxing unit to which that section applies; and

(2)  is exempt from notice and publication requirements and is not subject to an injunction to the same extent as provided by Section 26.052(b) for a taxing unit to which that section applies.

SECTION 5.  Section 26.09, Tax Code, is amended by adding Subsection (f) to read as follows:

(f)  For purposes of calculating the tax imposed on property by a municipality or county that imposes a supplemental sales and use tax under Chapter 328, the tax rate of the municipality or county is considered to be the municipality's or county's current debt rate.

SECTION 6.  Notwithstanding Sections 328.0001(2), 328.0052(e), and 328.0053, Tax Code, as added by this Act:

(1)  in 2019, a municipality or county may adopt an ordinance or order adopting a supplemental sales and use tax and forward a certified copy of the ordinance or order to the comptroller of public accounts before December 1 of that year; and

(2)  a supplemental sales and use tax adopted by a municipality or county under Subdivision (1) of this section takes effect January 1, 2020.

SECTION 7.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.