

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

1 ordinance or order described by Subparagraph (i) to the
2 comptroller; or

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

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

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

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

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

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

17 (1) Sections 321.101 and 323.101;

18 (2) Subchapter E, Chapter 321, Subchapter E, Chapter
19 323, and the other provisions of Chapters 321 and 323 relating to an
20 election;

21 (3) Sections 321.506-321.508; and

22 (4) Section 323.505.

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

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

1 SUBCHAPTER B. IMPOSITION OF TAX

2 Sec. 328.0051. TAX AUTHORIZED. (a) Subject to Section
3 328.0052, a qualifying local government by adoption of an ordinance
4 or order may adopt, increase, reduce, or abolish the supplemental
5 sales and use tax. The tax is in addition to any other sales and use
6 tax authorized by law, but may be imposed only during a period
7 during which the qualifying local government does not impose a
8 property tax for purposes of funding the local government's
9 maintenance and operations expenditures.

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

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

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

25 (c) A qualifying local government that imposes the
26 supplemental sales and use tax may by adoption of an ordinance or
27 order annually increase or reduce the rate of the tax. An increase

1 in the rate of the tax is subject to the limitation prescribed by
2 Subsection (a). A reduction in the rate of the tax may not impair
3 any outstanding debt or other obligation payable from the tax.

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

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

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

18 SUBCHAPTER C. PETITION FOR ELECTION

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

24 (b) A petition under this section must be:

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

27 (2) submitted to the governing body of the

1 municipality or county.

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

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

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

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

22 Sec. 328.0105. ELECTION RESULTS. If a majority of the
23 voters voting in the election favor the proposition, the governing
24 body of the municipality or county shall take the actions necessary
25 to become a qualifying local government on the earliest date
26 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;

1 and

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

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

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

13 SECTION 6. Notwithstanding Sections 328.0001(2),
14 328.0052(e), and 328.0053, Tax Code, as added by this Act:

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

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

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