

1-1 By: Burrows (Senate Sponsor - Nelson) H.B. No. 2153  
 1-2 (In the Senate - Received from the House April 11, 2019;  
 1-3 April 15, 2019, read first time and referred to Committee on  
 1-4 Finance; April 25, 2019, reported favorably by the following vote:  
 1-5 Yeas 14, Nays 0; April 25, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Hinojosa	X			
1-9 Bettencourt	X			
1-10 Birdwell			X	
1-11 Campbell	X			
1-12 Flores	X			
1-13 Hancock	X			
1-14 Huffman	X			
1-15 Kolkhorst	X			
1-16 Nichols	X			
1-17 Perry	X			
1-18 Taylor	X			
1-19 Watson	X			
1-20 West	X			
1-21 Whitmire	X			

1-23 A BILL TO BE ENTITLED  
 1-24 AN ACT

1-25 relating to a single local use tax rate as an alternative to  
 1-26 combined local use tax rates for computing the amount of local use  
 1-27 taxes remote sellers are required to collect and to the allocation  
 1-28 of tax revenue collected at that rate.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. The purpose of this Act is to provide an  
 1-31 optional, simplified means of computing the amount of local use tax  
 1-32 remote sellers are required to collect following the decision of  
 1-33 the United States Supreme Court in *South Dakota v. Wayfair, Inc.*,  
 1-34 138 S. Ct. 2080 (2018).

1-35 SECTION 2. Subchapter C, Chapter 151, Tax Code, is amended  
 1-36 by adding Section 151.0595 to read as follows:

1-37 Sec. 151.0595. SINGLE LOCAL TAX RATE FOR REMOTE SELLERS.

1-38 (a) In this section, "remote seller" means a seller whose only  
 1-39 activities in this state are described by Section 151.107(a)(4) or  
 1-40 (5).

1-41 (b) A remote seller required to collect and remit one or  
 1-42 more local use taxes in connection with a sale of a taxable item  
 1-43 made by the remote seller shall compute the amount to collect and  
 1-44 remit using:

1-45 (1) the combined rate of all applicable local use  
 1-46 taxes authorized or governed by Title 3; or

1-47 (2) at the remote seller's election, the single local  
 1-48 use tax rate published in the Texas Register as required by  
 1-49 Subsection (d).

1-50 (c) A remote seller who elects under Subsection (b)(2) to  
 1-51 use the single local use tax rate shall notify the comptroller of  
 1-52 the election before using that rate. The election applies to all  
 1-53 sales of taxable items made by the remote seller unless the remote  
 1-54 seller revokes the election by notifying the comptroller. Notice to  
 1-55 the comptroller under this subsection must be in the form and manner  
 1-56 provided by the comptroller.

1-57 (d) The single local use tax rate effective in a calendar  
 1-58 year is equal to the estimated average rate of local sales and use  
 1-59 taxes imposed in this state during the preceding state fiscal year,  
 1-60 as determined under Subsection (e). Before the beginning of a  
 1-61 calendar year, the comptroller shall publish in the Texas Register

2-1 notice of the single local use tax rate that will be in effect for  
 2-2 that calendar year.

2-3 (e) As soon as practicable after the end of a state fiscal  
 2-4 year, the comptroller shall determine the estimated average rate of  
 2-5 local sales and use taxes imposed in this state during the preceding  
 2-6 state fiscal year by:

2-7 (1) dividing the total amount of net local sales and  
 2-8 use taxes remitted to the comptroller under this section and Title 3  
 2-9 during that state fiscal year by the total amount of net state sales  
 2-10 and use taxes remitted to the comptroller under this chapter during  
 2-11 that state fiscal year;

2-12 (2) multiplying the amount computed under Subdivision  
 2-13 (1) by the rate provided by Section 151.051; and

2-14 (3) rounding the amount computed under Subdivision (2)  
 2-15 to the nearest .0025.

2-16 (f) Notwithstanding Section 111.104(b), a purchaser may  
 2-17 annually apply for a refund of any amount by which the amount of use  
 2-18 tax computed using the rate described by Subsection (b)(2) and paid  
 2-19 by the purchaser exceeds the amount the purchaser would have paid if  
 2-20 that tax had been computed using the rate described by Subsection  
 2-21 (b)(1). The comptroller may adopt rules regarding the procedure  
 2-22 and proof required for the refund.

2-23 (g) A person storing, using, or consuming in this state a  
 2-24 taxable item purchased from a remote seller is not liable for any  
 2-25 additional amount of local use tax authorized or governed by Title 3  
 2-26 if the remote seller elects under Subsection (b)(2) to use the  
 2-27 single local use tax rate and the person pays to the remote seller  
 2-28 the amount of local use tax computed on the purchase using the  
 2-29 single local use tax rate.

2-30 (h) The comptroller shall administer, collect, and enforce  
 2-31 local use taxes computed using the single local use tax rate.

2-32 (i) The comptroller shall apportion and distribute revenue  
 2-33 from local use taxes computed using the single local use tax rate as  
 2-34 provided by Section 403.107, Government Code.

2-35 (j) The comptroller may adopt rules to administer this  
 2-36 section.

2-37 SECTION 3. Section 403.107, Government Code, is reenacted  
 2-38 and amended to read as follows:

2-39 Sec. 403.107. SINGLE LOCAL USE TAXES COLLECTED BY REMOTE  
 2-40 SELLERS [SALES AND USE TAX FEES]. (a) The comptroller shall  
 2-41 deposit revenue remitted to the comptroller from taxes computed  
 2-42 using the single local use tax rate under Section 151.0595(b)(2)  
 2-43 [fees imposed under Section 151.059], Tax Code, in the state  
 2-44 treasury and shall keep records of the amount of money deposited  
 2-45 [collected] for each reporting period. Money deposited under this  
 2-46 subsection [Such fees] shall be held in trust for the benefit of  
 2-47 eligible taxing units, as determined under Subsection (b) [in the  
 2-48 suspense account of each eligible taxing unit]. The comptroller  
 2-49 shall distribute money held in trust [in the suspense accounts]  
 2-50 under this section to each eligible taxing unit in the amount and  
 2-51 manner provided by [federal law or] this section.

2-52 (b) A local taxing unit is an eligible taxing unit for  
 2-53 purposes of [to receive funds under] this section if it has adopted  
 2-54 a sales and use tax authorized or governed by Title 3, Tax Code  
 2-55 [under Chapter 321, Chapter 322, or Chapter 323, Tax Code, or has  
 2-56 adopted a local sales and use tax governed in part by any provision  
 2-57 of those chapters].

2-58 (c) Subject to Subsection (d), the [The] comptroller shall  
 2-59 transmit to each eligible taxing unit's treasurer, or to the  
 2-60 officer performing the functions of that office, on a monthly  
 2-61 [quarterly] basis, the taxing unit's share of money held in trust  
 2-62 under Subsection (a) [the fees remitted to the comptroller],  
 2-63 together with the pro rata share of any penalty or interest on  
 2-64 delinquent taxes computed using the single local use tax rate  
 2-65 [fees] that may be collected. Before transmitting the funds, the  
 2-66 comptroller shall deduct two percent of [the amount allocated to]  
 2-67 each taxing unit's share [unit] as a charge by the state for its  
 2-68 services under this section and deposit that amount into the state  
 2-69 treasury to the credit of the comptroller's operating fund.

3-1 Interest earned on all deposits made in the state treasury under  
3-2 this section shall be credited to the general revenue fund.

3-3 (d) The comptroller shall retain ~~[in the suspense account~~  
3-4 ~~for a taxing unit]~~ a portion of each eligible [the] taxing unit's  
3-5 share of money held in trust under Subsection (a) [the fees  
3-6 collected], not to exceed five percent of the amount eligible to be  
3-7 transmitted [remitted] to the taxing unit under Subsection (c).  
3-8 From the amounts retained [in a taxing unit's suspense account],  
3-9 the comptroller may make refunds for overpayments of taxes computed  
3-10 using the single local use tax rate, make refunds to purchasers as  
3-11 provided by Section 151.0595(f), Tax Code, and [to the account and  
3-12 to] redeem dishonored checks and drafts deposited under Subsection  
3-13 (a) [to the credit of the account].

3-14 (e) ~~The [Unless another method is required by federal law,~~  
3-15 ~~the] comptroller shall compute for each calendar month [quarter]~~  
3-16 the percentage of the total sales and use tax allocations made  
3-17 pursuant to Title 3, [of the] Tax Code, including any local sales  
3-18 and use taxes governed by any provision of Title 3, [of the] Tax  
3-19 Code, to each eligible taxing unit. The comptroller shall  
3-20 determine each eligible taxing unit's share of the money held in  
3-21 trust from deposits under Subsection (a) for that month by applying  
3-22 the percentage computed under this subsection for the eligible  
3-23 taxing unit [and shall apply that percentage] to the total amount  
3-24 held in trust from deposits for that month [fees collected under  
3-25 Section 151.059, Tax Code, and allocated to eligible taxing units  
3-26 in that quarter].

3-27 (f) The comptroller may combine an eligible taxing unit's  
3-28 share of the money held in trust under Subsection (a) [fees remitted  
3-29 or collected under Section 151.059, Tax Code, a suspense account  
3-30 under this section, or an allocation made under this section] with  
3-31 other money [trust or suspense accounts] held for that taxing unit  
3-32 [or other allocations made to that taxing unit under Title 3 of the  
3-33 Tax Code].

3-34 (g) The comptroller may adopt rules to administer this  
3-35 section.

3-36 SECTION 4. Sections 151.059 and 151.107(c), Tax Code, as  
3-37 added by Chapter 291 (H.B. 2215), Acts of the 71st Legislature,  
3-38 Regular Session, 1989, are repealed.

3-39 SECTION 5. The changes in law made by this Act do not affect  
3-40 tax liability accruing before the effective date of this Act. That  
3-41 liability continues in effect as if this Act had not been enacted,  
3-42 and the former law is continued in effect for the collection of  
3-43 taxes due and for civil and criminal enforcement of the liability  
3-44 for those taxes.

3-45 SECTION 6. (a) This Act does not require a remote seller,  
3-46 as defined by Section 151.0595, Tax Code, as added by this Act, to  
3-47 collect local use taxes on sales of taxable items made before  
3-48 October 1, 2019.

3-49 (b) Notwithstanding Section 151.0595(d), Tax Code, as added  
3-50 by this Act, the single local use tax rate in effect for the period  
3-51 beginning October 1, 2019, and ending December 31, 2019, is 1.75  
3-52 percent.

3-53 SECTION 7. This Act takes effect October 1, 2019.

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