

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 5, 2019**

**TO:** Honorable Dustin Burrows, Chair, House Committee on Ways & Means

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB648** 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**

**The fiscal implications of the bill cannot be determined at this time because the number and timing of local government adoptions of supplemental sales and use taxes under provisions of the bill is unknown. The bill could potentially reduce state sales and use tax revenue by a significant amount.**

Additionally, there would be administrative costs to account for the potential supplemental sales and use taxes.

The bill would add 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 or abolition of the tax 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 September 1, 2019.

The fiscal implications for the state and units of local government cannot be estimated because which cities and counties might choose to substitute sales tax for property tax as well as the timing of the adoptions 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.

Also, significantly higher sales tax rates might induce substitution of expenditures on non-taxable items (e.g., groceries) for expenditures on taxable items (e.g, restaurant meals). This would result in reduced state sales tax collections as well as necessitating higher local supplemental tax rates than the sample illustrative rates indicated below.

Due to the timing requirements provided for action by local governments to adopt a supplemental tax and notification of the comptroller, no such tax could take effect before January 1, 2021.

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 sales tax rate in Austin would be 8.25 (current rate) + 3.625 = 11.875 percent, if City of Austin adopted the tax but Travis County did not. If both City of Austin and Travis County adopted the supplemental sales taxes, the total rate in Austin would be 8.25 + 3.625 + 3.125 = 15.0 percent.

These estimates are based on 2017 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 taxable to non-taxable items. Accordingly, actual supplemental sales tax rates would be likely to be higher than these illustrative rates.

<b>City</b>	<b>Supplemental Sales Tax Rate</b>
Austin	3.625%
Dallas	4.125%
Fort Worth	5.000%
Houston	2.250%
San Antonio	3.000%

<b>County</b>	<b>Supplemental Sales Tax Rate</b>
Bexar	1.880%
Dallas	1.125%
Harris	2.500%
Tarrant	1.625%
Travis	3.125%

The Comptroller's Office estimates they would need 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, the Comptroller will need to provide for separate tax allocations. Accounts examiners also will need to verify adopted ordinances, determine whether city or county taxing jurisdictions do 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 for local governmental entities cannot be determined at this time, because the number and timing of local government adoptions of supplemental sales and use taxes under provisions of the bill is unknown.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** WP, KK, SD