

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

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

**March 11, 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:** **HB705** by Geren (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.), **Committee Report 1st House, Substituted**

**The fiscal implications of the bill cannot be determined at this time because the number and timing of municipality and county adoptions of sales taxes under provisions of the bill is unknown. The bill could potentially reduce state tax revenue by a significant amount. Additionally, administrative costs to the Comptroller would total \$185,000 per year.**

The bill would add Chapter 328 to Subtitle C, Title 3, Tax Code, to provide for substitution of local sales and use taxes for the maintenance and operation property taxes of certain municipalities and counties.

Chapter 328 would provide authority for any municipality or county to adopt, before June 30 of a year, an ordinance or order providing that, beginning January 1 of the following year, it will not impose a property tax for the purpose of funding maintenance and operation expenditures but instead elects to impose a supplemental sales and use tax for those purposes. The adoption of the tax would take effect on the next January 1 that is at least six months after the date the comptroller receives notice of the ordinance or order.

The bill would provide an exception for 2019, during which year it would be sufficient for a local government to adopt the ordinance or order and provide notice to the comptroller by December 1, for a sales tax to take effect January 1, 2020.

The rate of tax imposed under the chapter would be excluded from determination of the combined rate in any area. Imposition of tax under Chapter 328 would thus not be subject to provisions that limit the combined local sales and use tax rate to 2 percent.

The maximum rate of the supplemental sales and use tax would be two percent.

In the first year in which a local government imposes the supplemental sales tax, the rate of tax is to equal to the rate that, when applied to the estimated sales tax base within the jurisdiction, would produce an amount of revenue equal to the property tax revenue foregone by not imposing property tax for maintenance and operation purposes. Subsequently, the jurisdiction could annually increase or reduce the rate of tax by ordinance or order.

Revenue from the supplemental sales tax could be used for any purpose for which the general

funds of the local government may be used.

Adoption, increase, reduction, or abolishment of a supplemental sales tax would be by ordinance or order of the governing body of a local government and would not require an election. However, the registered voters of a municipality or county could petition the governing body of the jurisdiction to call an election on the question of adoption of a supplemental sales tax.

The provision that adoption and notice to the comptroller by no later than December 1, 2019 for a tax to be imposed January 1, 2020 may be problematic; one month may not be sufficient for all affected businesses to receive notice from the comptroller of the changes in applicable tax rates and for adjustment of their payment and accounting systems.

Based on comparison of tax year 2017 M&O property tax levies by cities and counties to corresponding local sales tax allocations (or estimates of sales tax base for jurisdictions that do not impose a local sales tax), 535 cities and 36 counties appear to have sufficient sales tax base to allow for replacement of M&O property tax revenue with imposition of a supplemental sales tax at a rate of two percent or less.

In 2017, those 535 cities accounted for \$3.69 billion in M&O property tax levies, and those 36 counties accounted for \$5.14 billion in M&O property tax levies. In fiscal 2017, total state and local sales and use tax collections were \$37.35 billion. Thus, full replacement of M&O property taxes by those jurisdictions with supplemental sales taxes would suggest that total state and local sales tax levies would increase by about 24 percent.

As the number and timing of municipal and county adoptions of sales taxes under provisions of the bill is not known, the fiscal implications of the bill cannot be estimated.

To the extent that increasing the sales tax rate up to an additional two percent, or up to four percent in places where both a city and county adopt a supplemental sales tax, would result in reduced spending on taxable items, there would be a negative effect on state sales tax revenue, and a negative effect on local sales tax revenue for taxing units other than the adopting jurisdictions.

There could also be significant displacement of taxable sales from jurisdictions that adopt a supplemental sales tax to other jurisdictions that do not adopt the tax, resulting in lower revenues from the tax than adopting jurisdictions might otherwise anticipate based on historical sales tax data.

While an estimate of probable fiscal impact of the bill is not being adopted by the comptroller at this time, it is probable that adoption of the supplemental sales taxes by jurisdictions accounting for a substantial portion of the amounts of M&O property taxes indicated above would result in reduced expenditures on taxable items sufficient to reduce state general revenue by several hundred million dollars annually.

The Comptroller's office reports that administrative costs to implement provisions of the bill would total \$185,000 per year starting in fiscal year 2020. The administrative cost estimate reflects the funds that would be necessary to hire three accounts examiner IIIs for the anticipated increased workload. It is estimated that approximately 570 cities and counties would qualify for the supplemental sales and use tax. Potentially adding a new tax for 570 entities would require additional staff on an ongoing basis to ensure proper collections from taxpayers, including address and tax allocation verifications, allocation paybacks and refunds, and taxpayer education and customer service.

The bill would take effect immediately if it receives the requisite two-thirds vote of the membership of each house of the Legislature, otherwise it would take effect September 1, 2019.

### **Local Government Impact**

To the extent that increasing the sales tax rate up to an additional two percent, or up to four percent in places where both a city and county adopt a supplemental sales tax, would result in reduced spending on taxable items, there would be a negative effect on local sales tax revenue for taxing units other than the adopting jurisdictions.

There could also be significant displacement of taxable sales from jurisdictions that adopt a supplemental sales tax to other jurisdictions that do not adopt the tax, resulting in lower revenues from the tax than adopting jurisdictions might otherwise anticipate based on historical sales tax data.

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

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