

## **BILL ANALYSIS**

Senate Research Center  
87R5045 CJC-F

S.B. 402  
By: Johnson  
Local Government  
4/26/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Chapter 327 of the Tax Code allows a municipality to impose a local sales tax (part of the combined local two percent sales tax rate) for maintenance and repair of streets and sidewalks, provided that the tax is authorized by voters for a four-year period. Without the municipal street sales tax, cities would not have the funds necessary to maintain these important components of mobility infrastructure in their communities.

Under current Texas law, the street sales tax expires for most cities four years after it is approved by voters, unless voters choose to reauthorize the tax in a subsequent election. There are some exceptions to the four-year reauthorization period for certain cities, and the reauthorization term length for those cities is either eight or 10 years.

S.B. 402 would permit all cities that utilize the municipal street sales tax to renew the tax for either eight or 10 years if the majority of voters voting in each of the last two consecutive elections approved its adoption or reauthorization. In addition, S.B. 402 affirms the use of the tax by allowing proceeds to be used for maintenance and repairs to streets, sidewalks, and water infrastructure located directly beneath the roadway.

Support includes the City of Coppell, the City of Baytown, the City of Port Arthur, and the Texas Municipal League.

As proposed, S.B. 402 amends current law relating to the municipal sales and use tax for street maintenance.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 327.007, Tax Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Provides that, unless imposition of the sales and use tax authorized by Chapter 327 (Municipal Sales and Use Tax for Street Maintenance) is reauthorized as provided by Section 327.007 (Reauthorization of Tax), the tax expires on:

(1) Makes no changes to this subdivision;

(2) the first day of the first calendar quarter occurring after the fourth anniversary of the date the tax was last reauthorized at an election under Subsection (b), rather than under this section, if, at that election, the voters approved the imposition of the tax for a period that expires on that anniversary;

(2-a) Deletes this previously existing subdivision, providing that if the tax is imposed in a municipality that is intersected by two interstate highways, that has a population of 150,000 or more, and in which at least 66 percent of the voters

voting in each of the last two consecutive elections concerning the adoption or reauthorization of the tax favored adoption or reauthorization, and that tax has not expired as provided by Subdivision (1) or (2) since the first of those two consecutive elections, the tax expires the last day of the first calendar quarter occurring after the eighth anniversary of the date the tax was last reauthorized under this section if, at that election, the voters approved the imposition of the tax for a period that expires on that anniversary instead of the period described by Subdivision (2); or

(3) the last day of the first calendar quarter occurring after the 8th or 10th anniversary of the date the tax was last reauthorized at an election under Subsection (b-1), rather than under this section, if, at that election, the voters approved the imposition of the tax for a period that expires on that anniversary instead of the period described by Subdivision (2). Deletes existing text providing that the tax expires on the last day of the first calendar quarter occurring after the 8th or 10th anniversary of the date the tax was last reauthorized, if the tax is imposed in a general-law municipality with a population of 10,000 or more surrounded entirely by a municipality with a population of 1.3 million or more.

(b) Provides that an election to reauthorize the tax for a period of four years is called and held in the same manner as an election to adopt the tax under Section 327.006 (Election Procedure), except the ballot proposition is required to be prepared to permit voting for or against the proposition. Sets forth the required language of the ballot proposition.

(b-1) Provides that this subsection applies only to a municipality in which a majority of the voters voting in each of the last two consecutive elections concerning the adoption or reauthorization of the tax authorized by this chapter favored adoption or reauthorization of the tax and in which the tax has not expired as provided by Subsection (a) since the first of those two consecutive elections. Authorizes a municipality to which this subsection applies to call an election to reauthorize the tax for a period of 8 or 10 years instead of 4 years. Provides that the election is called and held in the same manner as an election to adopt the tax under Section 327.006, except the ballot proposition is required to be prepared to permit voting for or against the proposition. Sets forth the required language of the ballot proposition.

SECTION 2. Amends Section 327.008, Tax Code, to authorize that revenue from the tax imposed under this chapter be used only to maintain and repair a municipal street or sidewalk, or water, wastewater, or stormwater system located in the width of a way of a municipal street, rather than streets or sidewalks existing on the date of the election to adopt the tax. Makes a conforming change.

SECTION 3. (a) Makes application of Section 327.007(a), Tax Code, as amended by this Act, prospective.

(b) Makes application of Section 327.007(b), Tax Code, as amended by this Act, and Section 327.007(b-1), Tax Code, as added by this Act, prospective.

SECTION 4. Effective date: upon passage or September 1, 2021.