

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

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**April 25, 2023**

**TO:** Honorable Morgan Meyer, Chair, House Committee on Ways & Means

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB5089** by Meyer (relating to the location at which certain sales are consummated for purposes of local sales and use taxes.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend, and repeal certain provisions of the Tax Code and the Special District Local Laws Code concerning municipal and county sales and use tax sourcing.

The bill would amend and repeal certain provisions of Chapters 321 and 323 of the Tax Code and repeal Section 3853.202 of the Special District Local Laws Code and certain provisions of Section 323.203 of the Tax Code to provide that, for purposes of local sales and use taxes, sales of taxable items are consummated at the location in Texas to which the item is shipped or delivered or where the purchaser takes possession.

The bill would provide that the term “place of business” does not include a computer server, Internet protocol address, domain name, website, or software application.

The provisions of the bill would not apply to a small business, defined as a sales tax permit holder that is located in Texas, has fewer than 20 employees, and had less than \$500,000 in gross sales of tangible personal property and services in the preceding 12 calendar months. The employment and gross sales limitations would be inclusive of the employees and gross sales of all members of an affiliated group that includes the permit holder.

The bill would allow a retailer that has an active economic development agreement, as defined by the bill, with a municipality and has a single place of business in the state located in that municipality, or that has a location within that municipality from which items are shipped to purchasers, to elect to source sales tax to the location within that municipality until December 31, 2028.

The bill's changes in law would not affect tax liability accruing before January 1, 2024.

The bill would have no significant fiscal implications for state tax revenue; there could be effects for state service fees assessed on local sales tax allocations.

The bill would take effect January 1, 2024.

**Local Government Impact**

There could be changes in total amounts of local sales taxes paid and in the distribution of amounts allocated among local taxing jurisdictions, in significant amounts for some jurisdictions, in amounts that cannot be determined. If net change results in increased share of taxable sales in unincorporated areas that are not subject to limited purpose annexation agreements where municipal sales taxes apply, there could be aggregate tax reduction for residents and businesses in those areas and corresponding reduction in aggregate local tax collections and service fee revenue to the state.

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

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