

**SUBJECT:** Creating a second rate for municipal street maintenance sales and use taxes

**COMMITTEE:** Local Government Ways and Means — Favorable, without amendment

**VOTE:** 6 ayes — Hill, Hegar, Laubenberg, McReynolds, Mowery, Quintanilla

0 nays

1 absent — Puente

**WITNESSES:** For — Bennett Sandlin, Texas Municipal League

Against — None

**BACKGROUND:** In 2001, the state enacted HB 445 by Goodman, creating a one-fourth of one percent local option sales and use tax (Tax Code Ch. 327) that municipalities (incorporated cities, towns and villages) could levy, with voter approval, solely for repair and maintenance of city streets, not for designated state or federal highways or county roads. To date, 49 cities have enacted a street maintenance sales tax. Cities also may impose sales taxes to reduce property taxes, create crime control and prevention districts, and build professional sports arenas. Since 1989, many cities have been allowed to levy sales taxes for economic development purposes as well.

The state sales and use tax rate is 6.25 percent. In addition, cities and other local governmental entities may tax sales up to an additional 2 percent — up to 1 percent of their value in the aggregate for special purposes, and up to 1 percent for general purposes. The combined state and local rates may not exceed 8.25 percent.

**DIGEST:** HB 164 would amend Tax Code Sec. 327.004 to include a second possible street maintenance tax rate of one-eighth of one percent. Ballots in tax elections would have to specify which rate would be adopted. City councils would be able to reduce existing one-fourth of one percent rates to one-eighth of one percent by ordinance, but a rise in rates from one-eighth of one percent to one-quarter of one percent would require an election.

The bill would make several conforming changes to reflect the new one-eighth of one percent rate and preserve the state-mandated 2 percent aggregate cap on local sales tax rates.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

HB 164 would allow cities to customize the street maintenance tax to better fit their individual needs, while maintaining local control by requiring an election to raise rates, but not to lower them.

This bill would give cities the flexibility to generate appropriate amounts of revenue for street repair and maintenance while keeping their combined local option sales tax rates under the state-mandated 2 percent cap. For some cities, a one-fourth of one percent rate is too high, producing more revenue than needed, whereas a rate of one-eighth of one percent would be sufficient. Requiring cities to levy a rate higher than necessary not only penalizes taxpayers but also limits cities' capacity to levy sales taxes for other purposes.

This bill would not provide for any other rates in one-eighth increments, such as three-eighths of one percent. The maximum allowable rate would remain one-fourth of one percent.

**OPPONENTS  
SAY:**

Although this bill would not create a new tax, it would encourage use of a tax that is ill-suited for its stated purpose. Sales taxes are not rationally linked to driving or street use, and cities already receive property taxes for street maintenance and other capital improvements. Motor fuel taxes, which the federal and state governments levy for highways, would provide a fairer method of financing.

Using the sales tax for special purposes is questionable fiscal policy. The sales tax, though relatively broad-based in Texas, remains highly regressive, penalizing those who can least afford it. Cities rely too heavily on sales taxes, which make shopping more expensive and hurt local merchants.

**OTHER  
OPPONENTS  
SAY:**

Two sales-tax rate options for city street maintenance and repair are not enough. If true flexibility is the goal, cities should be allowed to raise their rates in one-eighth of one percent increments according to their local circumstances. Some older, more congested cities might need to spend more on streets than a rate of one-quarter of one percent generates.