

House File 642

H-1374

1 Amend House File 642 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. Section 423B.1, subsection 1, Code
4 2013, is amended to read as follows:

5 1. A city or county may impose by ordinance of the
6 governing body of the city or the board of supervisors
7 local option taxes authorized by this chapter, subject
8 to this section and subject to the exception provided
9 in subsection 2.

10 Sec. _____. Section 423B.1, subsection 2, Code 2013,
11 is amended by striking the subsection.

12 Sec. _____. Section 423B.1, subsection 3, Code 2013,
13 is amended to read as follows:

14 3. A local option tax shall be imposed only after
15 an election at which a majority of those voting on the
16 question favors imposition and shall then be imposed
17 until repealed as provided in subsection 6, paragraph
18 "a". If the tax is a local vehicle tax imposed by
19 a county, it shall apply to all incorporated and
20 unincorporated areas of the county. If the tax is
21 a local sales and services tax imposed by a county,
22 it shall only apply to ~~those incorporated areas and~~
23 ~~the unincorporated area of that county in which if a~~
24 majority of those voting in the unincorporated area
25 on the tax favors its imposition and if the tax is
26 a local sales and services tax imposed by a city it
27 shall only apply to the city if a majority of those
28 voting in the city on the tax favors its imposition.
29 ~~For purposes of the local sales and services tax, all~~
30 ~~cities contiguous to each other shall be treated as~~
31 ~~part of one incorporated area and the tax would be~~
32 ~~imposed in each of those contiguous cities only if the~~
33 ~~majority of those voting in the total area covered~~
34 ~~by the contiguous cities favors its imposition. In~~
35 ~~the case of a local sales and services tax submitted~~
36 ~~to the registered voters of two or more contiguous~~
37 ~~counties as provided in subsection 4, paragraph "c",~~
38 ~~all cities contiguous to each other shall be treated as~~
39 ~~part of one incorporated area, even if the corporate~~
40 ~~boundaries of one or more of the cities include areas~~
41 ~~of more than one county, and the tax shall be imposed~~
42 ~~in each of those contiguous cities only if a majority~~
43 ~~of those voting on the tax in the total area covered~~
44 ~~by the contiguous cities favored its imposition. For~~
45 ~~purposes of the local sales and services tax, a city is~~
46 ~~not contiguous to another city if the only road access~~
47 ~~between the two cities is through another state.>~~

48 2. Page 2, after line 8 by inserting:

49 <Sec. _____. Section 423B.1, subsection 4, paragraph
50 c, Code 2013, is amended by striking the paragraph and

1 inserting in lieu thereof the following:

2 c. A city is considered to be located in a county
3 if over half of the population of the city is located
4 in that county.

5 Sec. _____. Section 423B.1, subsection 5, Code 2013,
6 is amended to read as follows:

7 5. The county commissioner of elections shall
8 submit the question of imposition of a local option
9 tax at an election held on a date specified in section
10 39.2, subsection 4, paragraph "a". The election shall
11 not be held sooner than sixty days after publication
12 of notice of the ballot proposition. The ballot
13 proposition shall specify the type and rate of tax and,
14 in the case of a vehicle tax, the classes that will be
15 exempt and, in the case of a local sales and services
16 tax, the date it will be imposed which date shall not
17 be earlier than ninety days following the election.
18 The ballot proposition shall also specify the
19 approximate amount of local option tax revenues that
20 will be used for property tax relief and shall contain
21 a statement as to the specific purpose or purposes for
22 which the revenues shall otherwise be expended. If
23 the county board of supervisors or city council, as
24 applicable, decides under subsection 6 to specify a
25 date on which the local option sales and services tax
26 shall automatically be repealed, the date of the repeal
27 shall also be specified on the ballot. The rate of the
28 vehicle tax shall be in increments of one dollar per
29 vehicle as set by the petition seeking to impose the
30 tax. The rate of a local sales and services tax shall
31 not be more than one percent as set by the governing
32 body. The state commissioner of elections shall
33 establish by rule the form for the ballot proposition
34 which form shall be uniform throughout the state.

35 Sec. _____. Section 423B.1, subsection 6, paragraph
36 a, Code 2013, is amended to read as follows:

37 a. (1) If a majority of those voting on the
38 question of imposition of a local ~~option vehicle~~
39 tax favors imposition of a local option the tax, the
40 governing body of ~~that~~ the county shall impose the
41 tax at the rate specified for an unlimited period.
42 ~~However, in the case of a local sales and services tax,~~
43 ~~the county shall not impose the tax in any incorporated~~
44 ~~area or the unincorporated area if the majority of~~
45 ~~those voting on the tax in that area did not favor~~
46 ~~its imposition. For purposes of the local sales and~~
47 ~~services tax, all cities contiguous to each other shall~~
48 ~~be treated as part of one incorporated area and the tax~~
49 ~~shall be imposed in each of those contiguous cities~~
50 ~~only if the majority of those voting on the tax in the~~

1 ~~total area covered by the contiguous cities favored~~
2 ~~its imposition. In the case of a local sales and~~
3 ~~services tax submitted to the registered voters of two~~
4 ~~or more contiguous counties as provided in subsection~~
5 ~~4, paragraph "c", all cities contiguous to each other~~
6 ~~shall be treated as part of one incorporated area,~~
7 ~~even if the corporate boundaries of one or more of~~
8 ~~the cities include areas of more than one county, and~~
9 ~~the tax shall be imposed in each of those contiguous~~
10 ~~cities only if a majority of those voting on the tax~~
11 ~~in the total area covered by the contiguous cities~~
12 ~~favored its imposition. If a majority of those voting~~
13 on the question of imposition of a local option sales
14 and services tax in a city favors imposition of the
15 tax, the governing body of the city shall impose by
16 ordinance the tax at the rate of one percent. If a
17 majority of those voting on the question of imposition
18 of a local option sales and services tax in the
19 unincorporated area of the county favors imposition of
20 the tax, the governing body of the county shall impose
21 by ordinance the tax in the unincorporated area of the
22 county at the rate of one percent.

23 (2) The local option tax may be repealed or the
24 rate of the local vehicle tax increased or decreased
25 or the use thereof of a local option tax changed after
26 an election at which a majority of those voting on the
27 question of repeal or rate or use change favored the
28 repeal or rate or use change. The date on which the
29 repeal, rate, or use change is to take effect shall not
30 be earlier than ninety days following the election.
31 The election at which the question of repeal or rate
32 or use change is offered shall be called and held
33 in the same manner and under the same conditions as
34 provided in subsections 4 and 5 for the election on the
35 imposition of the local option tax. However, in the
36 case of a local sales and services tax where the tax
37 has not been imposed countywide, the question of repeal
38 or imposition or rate or use change shall be voted
39 on only by the registered voters of the areas of the
40 county where the tax has been imposed or has not been
41 imposed, as appropriate. However, the governing body
42 of the ~~incorporated area~~ city or unincorporated area
43 where the local sales and services tax is imposed may,
44 upon its own motion, request the county commissioner of
45 elections to hold an election in the ~~incorporated city~~
46 or unincorporated area, as appropriate, on the question
47 of the change in use of local sales and services tax
48 revenues. The election may be held at any time but
49 not sooner than sixty days following publication of
50 the ballot proposition. If a majority of those voting

1 in the incorporated city or unincorporated area on the
2 change in use favors the change, the governing body of
3 that city or area shall change the use to which the
4 revenues shall be used. The ballot proposition shall
5 list the present use of the revenues, the proposed use,
6 and the date after which revenues received will be used
7 for the new use.

8 (3) When submitting the question of the imposition
9 of a local sales and services tax, the county board
10 of supervisors or the governing body of the city
11 may direct that the question contain a provision for
12 the repeal, without election, of the local sales and
13 services tax on a specific date, which date shall be as
14 provided in section 423B.6, subsection 1.

15 Sec. _____. Section 423B.1, Code 2013, is amended by
16 adding the following new subsection:

17 NEW SUBSECTION. 6A. If a proposition for the
18 imposition of a local sales and services tax submitted
19 to the voters of a city or unincorporated area of a
20 county under this section fails to gain approval, the
21 proposition shall not be resubmitted to the voters
22 of that jurisdiction in substantially the same form
23 for a period of three years following the date of the
24 election and may only be resubmitted to the voters on a
25 date specified in section 39.2, subsection 4, paragraph
26 "a".

27 Sec. _____. Section 423B.1, subsection 7, paragraph
28 b, Code 2013, is amended to read as follows:

29 b. Costs of local option tax elections shall be
30 apportioned among jurisdictions within the county
31 voting on the question at the same election on a pro
32 rata basis in proportion to the number of registered
33 voters in each taxing jurisdiction voting on the
34 question and the total number of registered voters in
35 all of the taxing jurisdictions voting on the question.

36 Sec. _____. Section 423B.1, subsections 8 through 10,
37 Code 2013, are amended to read as follows:

38 8. Local option taxes authorized to be imposed
39 as provided in this chapter are a local sales and
40 services tax and a local vehicle tax. The rate of the
41 tax shall be in increments of one dollar per vehicle
42 for a vehicle tax as set on the petition seeking to
43 impose the vehicle tax. The rate of a local sales and
44 services tax shall ~~not be more than one percent as set~~
45 ~~by the governing body.~~

46 9. a. In a county that has imposed a local
47 option sales and services tax in the unincorporated
48 area of the county, the board of supervisors shall,
49 notwithstanding any contrary provision of this chapter,
50 repeal the local ~~option~~ sales and services tax in the

1 unincorporated areas or in an incorporated city area in
2 which the tax has been imposed area upon adoption of
3 its own motion for repeal in the unincorporated areas
4 or upon receipt of a motion adopted by the governing
5 body of that incorporated city area requesting repeal.
6 The board of supervisors shall repeal the local option
7 sales and services tax effective on the later of
8 the date of the adoption of the repeal motion or the
9 earliest date specified in section 423B.6, subsection
10 1. For purposes of this subsection, incorporated city
11 area includes an incorporated city which is contiguous
12 to another incorporated city.

13 b. In a city that has imposed a local sales and
14 services tax, the governing body of the city shall,
15 notwithstanding any contrary provision of this chapter,
16 repeal the local sales and services tax in the city
17 upon adoption of its own motion for repeal. The
18 governing body of the city shall repeal the local sales
19 and services tax effective on the later of the date of
20 the adoption of the repeal motion or the earliest date
21 specified in section 423B.6, subsection 1.

22 10. Notwithstanding subsection 9 or any other
23 contrary provision of this chapter, a local option
24 sales and services tax shall not be repealed or reduced
25 in rate if obligations are outstanding which are
26 payable as provided in section 423B.9, unless funds
27 sufficient to pay the principal, interest, and premium,
28 if any, on the outstanding obligations at and prior to
29 maturity have been properly set aside and pledged for
30 that purpose.

31 Sec. _____. Section 423B.5, unnumbered paragraph 1,
32 Code 2013, is amended to read as follows:

33 A local sales and services tax at the rate of not
34 more than one percent may be imposed by a city or
35 county on the sales price taxed by the state under
36 chapter 423, subchapter II. A local sales and services
37 tax shall be imposed on the same basis as the state
38 sales and services tax or in the case of the use of
39 natural gas, natural gas service, electricity, or
40 electric service on the same basis as the state use tax
41 and shall not be imposed on the sale of any property or
42 on any service not taxed by the state, except the tax
43 shall not be imposed on the sales price from the sale
44 of motor fuel or special fuel as defined in chapter
45 452A which is consumed for highway use or in watercraft
46 or aircraft if the fuel tax is paid on the transaction
47 and a refund has not or will not be allowed, on the
48 sales price from the sale of equipment by the state
49 department of transportation, or on the sales price
50 from the sale or use of natural gas, natural gas

1 service, electricity, or electric service in a city or
2 county where the sales price from the sale of natural
3 gas or electric energy is subject to a franchise fee or
4 user fee during the period the franchise or user fee is
5 imposed. A local sales and services tax is applicable
6 to transactions within ~~those incorporated and the city~~
7 or unincorporated areas area of the county where it is
8 imposed and shall be collected by all persons required
9 to collect state sales taxes. ~~All cities contiguous to~~
10 ~~each other shall be treated as part of one incorporated~~
11 ~~area and the tax would be imposed in each of those~~
12 ~~contiguous cities only if the majority of those voting~~
13 ~~in the total area covered by the contiguous cities~~
14 ~~favors its imposition. In the case of a local sales~~
15 ~~and services tax submitted to the registered voters~~
16 ~~of two or more contiguous counties as provided in~~
17 ~~section 423B.1, subsection 4, paragraph "c", all cities~~
18 ~~contiguous to each other shall be treated as part of~~
19 ~~one incorporated area, even if the corporate boundaries~~
20 ~~of one or more of the cities include areas of more than~~
21 ~~one county, and the tax shall be imposed in each of~~
22 ~~those contiguous cities only if a majority of those~~
23 ~~voting on the tax in the total area covered by the~~
24 ~~contiguous cities favored its imposition.~~

25 Sec. _____. Section 423B.5, unnumbered paragraph 4,
26 Code 2013, is amended to read as follows:

27 If a local sales and services tax is imposed by
28 a city or county pursuant to this chapter, a local
29 excise tax at the same rate shall be imposed by
30 the city or county on the purchase price of natural
31 gas, natural gas service, electricity, or electric
32 service subject to tax under chapter 423, subchapter
33 III, and not exempted from tax by any provision of
34 chapter 423, subchapter III. The local excise tax is
35 applicable only to the use of natural gas, natural gas
36 service, electricity, or electric service within those
37 incorporated and unincorporated areas of the county
38 where it is imposed and, except as otherwise provided
39 in this chapter, shall be collected and administered in
40 the same manner as the local sales and services tax.
41 For purposes of this chapter, "*local sales and services*
42 *tax*" shall also include the local excise tax.

43 Sec. _____. Section 423B.6, subsection 1, paragraphs
44 b and c, Code 2013, are amended to read as follows:

45 *b.* A local sales and services tax shall be repealed
46 only on June 30 or December 31 but not sooner than
47 ninety days following the favorable election if one is
48 held. However, a local sales and services tax shall
49 not be repealed before the tax has been in effect for
50 one year. At least forty days before the imposition or

1 repeal of the tax, at the city or county, as applicable,
2 shall provide notice of the action by certified mail
3 to the director of revenue.

4 c. ~~The imposition of or a rate change for a~~
5 local sales and services tax shall not be applied to
6 purchases from a printed catalog wherein a purchaser
7 computes the local tax based on rates published in the
8 catalog unless a minimum of one hundred twenty days'
9 notice of the imposition ~~or rate change~~ has been given
10 to the seller from the catalog and the first day of
11 a calendar quarter has occurred on or after the one
12 hundred twentieth day.

13 Sec. _____. Section 423B.6, subsection 2, paragraph
14 b, Code 2013, is amended to read as follows:

15 b. The ordinance of a governing body of a city or
16 county board of supervisors imposing a local sales and
17 services tax shall adopt by reference the applicable
18 provisions of the appropriate sections of chapter
19 423. All powers and requirements of the director
20 to administer the state sales tax law and use tax
21 law are applicable to the administration of a local
22 sales and services tax law and the local excise tax,
23 including but not limited to the provisions of section
24 422.25, subsection 4, sections 422.30, 422.67, and
25 422.68, section 422.69, subsection 1, sections 422.70
26 through 422.75, section 423.14, subsection 1 and
27 subsection 2, paragraphs "b" through "e", and sections
28 423.15, 423.23, 423.24, 423.25, 423.31 through 423.35,
29 423.37 through 423.42, 423.46, and 423.47. Local
30 officials shall confer with the director of revenue
31 for assistance in drafting the ordinance imposing a
32 local sales and services tax. A certified copy of the
33 ordinance shall be filed with the director as soon as
34 possible after passage.

35 Sec. _____. Section 423B.6, subsection 3, paragraph
36 b, Code 2013, is amended to read as follows:

37 b. All local tax moneys and interest and penalties
38 received or refunded one hundred eighty days or more
39 after the date on which the city or county repeals its
40 local sales and services tax shall be deposited in or
41 withdrawn from the state general fund.

42 Sec. _____. Section 423B.7, subsection 1, paragraph
43 a, Code 2013, is amended to read as follows:

44 a. Except as provided in paragraph "b", the
45 director shall credit the local sales and services
46 tax receipts and interest and penalties from a
47 county-imposed tax or a city-imposed tax to the
48 county's account in the local sales and services tax
49 fund ~~and from a city-imposed tax under section 423B.1,~~
50 ~~subsection 2, to the city's account in the local sales~~

1 ~~and services tax fund~~ for the county in which the tax
2 was collected. If the director is unable to determine
3 from which county any of the receipts were collected,
4 those receipts shall be allocated among the possible
5 counties based on allocation rules adopted by the
6 director.

7 Sec. _____. Section 423B.7, subsection 5, Code 2013,
8 is amended by striking the subsection.

9 Sec. _____. Section 423B.8, subsection 1, paragraph
10 a, Code 2013, is amended to read as follows:

11 a. The goods, wares, or merchandise are
12 incorporated into an improvement to real estate in
13 fulfillment of a written contract fully executed prior
14 to the date of the imposition ~~or increase in rate~~ of a
15 local sales and services tax under this chapter. The
16 refund shall not apply to equipment transferred in
17 fulfillment of a mixed construction contract.

18 Sec. _____. Section 423B.10, subsection 1, paragraph
19 b, Code 2013, is amended to read as follows:

20 b. "*Eligible city*" means a city in which a local
21 sales and services tax imposed by the city or county
22 applies or a city described in section 423B.1,
23 subsection 2, paragraph "a", Code 2013, and in which an
24 urban renewal area has been designated.

25 Sec. _____. EFFECT OF ACT — CURRENT LOCAL OPTION
26 TAXES. This Act shall not affect the imposition and
27 collection of a local option tax imposed, or that will
28 take effect, as the result of a petition received or
29 a motion approved under chapter 423B prior to July 1,
30 2013.

31 Sec. _____. APPLICABILITY.

32 1. This Act applies to petitions received pursuant
33 to section 423B.1, subsection 4, paragraph "a", on or
34 after July 1, 2013.

35 2. This Act applies to motions adopted pursuant
36 to section 423B.1, subsection 4, paragraph "b", on or
37 after July 1, 2013.>

38 3. Title page, by striking lines 1 through 4
39 and inserting <An Act relating to the approval
40 and imposition of local option taxes and including
41 applicability provisions.>

42 4. By renumbering as necessary.

WATTS of Dallas