

Emergency Services Districts and Sales Tax During COVID



For detailed information and personalized assistance with Emergency Services Districts and Sales Tax issues, contact:

For ESDs:

Ira Coveler with Coveler & Peeler, P.C.
(<https://www.coveler.com/>) / (713) 984-8222

For Sales Tax:

Richard Fletcher with HDL Companies
(<https://www.hdlcompanies.com/>) /
(713) 481-6975

What We're Going To Cover

- **Brief Overview of ESDs**
- **Brief Overview of Sales Tax in Texas**
- **COVID's effect on Sales Tax in Texas**
- **COVID's effect on ESD Sales Tax Receipts**



Emergency Services Districts

Sec. 48-e of the Texas Constitution and Ch. 775 of the Texas Health & Safety Code provide the primary laws that govern Emergency Services Districts (ESDs).



Emergency Services Districts

Section 48-e of the Texas Constitution authorizes ESDs to “...provide emergency medical services, emergency ambulance services, rural fire prevention and control services, or other emergency services authorized by the Legislature.”



Emergency Services Districts

ESDs are established by an election authorized by the Commissioner's Court after the Judge receives a valid petition and the Court holds a public hearing on the creation of the ESD.



Emergency Services Districts

If a proposed ESD includes municipal territory that will be served by the ESD, then the municipality must provide written support to the County before the ESD election is ordered.



Emergency Services Districts

ESDs are governed by a board of five commissioners who are appointed by the County Commissioner's Court. Some ESDs have commissioners that are elected.



Emergency Services Districts

Some researchers link the establishment or existence of ESDs as an indicator of population growth. As residential development occurs in unincorporated portions of a County or in a small city with no emergency services, an ESD might be created to meet the needs of the new development.



Emergency Services Districts

There are over 300 ESDs in Texas, with the majority being in the eastern portion of the State, and with over 60 in and around Harris County.



Emergency Services Districts

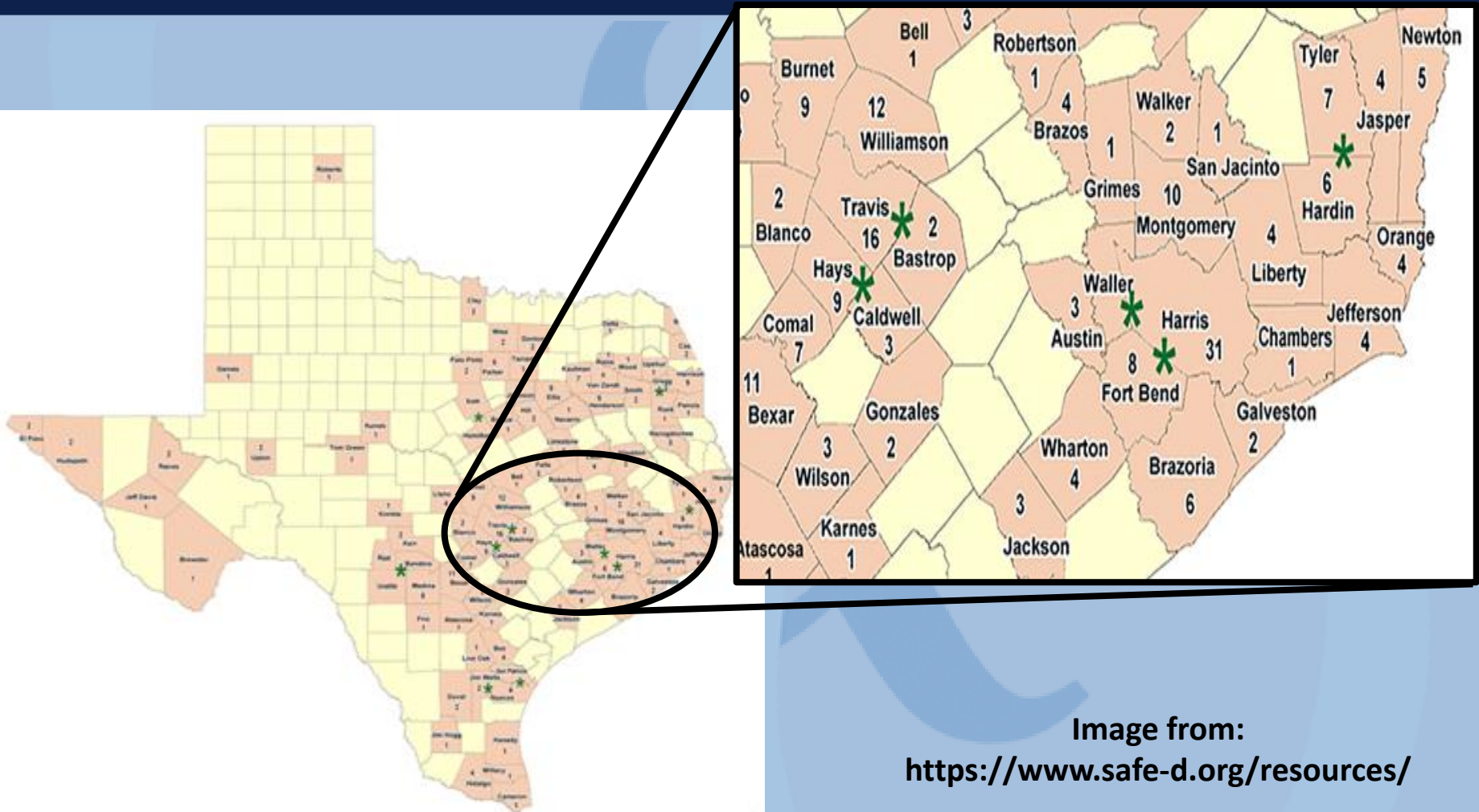


Image from:
<https://www.safe-d.org/resources/>

Emergency Services Districts

Section 48-e of the Texas Constitution allows ESDs to be funded by a property tax not to exceed \$0.10 per \$100 of property valuation. *Some ESDs also levy a sales and use tax.*



Sales Tax In Texas

Texas Tax Code Ch. 151.051 sets a State-wide tax of 6.25% of the sale price of every taxable item sold in Texas.



Sales Tax In Texas

Texas Tax Code Ch. 321.101(f) allows municipalities to levy additional sales taxes up to an additional 2% on top of the State-wide 6.25%, so that the maximum combined sales tax is 8.25%.



Sales Tax In Texas

Texas Tax Code 321.103 provides that of the additional 2% sales tax that a municipality may levy, it can be apportioned by 1/8% increments in between sales tax for general revenue or sales tax for a dedicated purpose.



Sales Tax In Texas

Generally, if a city has not dedicated all of its 2% sales tax allowance to either general revenue or a dedicated purpose, then the remaining percentage up to the 8.25% cap may be available for a special district (like an ESD).



ESD Sales Tax In Texas

On top of an ad valorem tax of up to \$0.10/\$100 valuation on the property in the ESD, the ESD may be able to levy a sales tax as long as the 8.25% sales tax cap is not exceeded within the ESD.



Sales Tax In Texas – Internet Sales

South Dakota v. Wayfair - June 21, 2018, The United States Supreme Court ruled 5-4 that states can mandate that businesses without a physical presence in a state with more than 200 transactions or \$100,000 in-state sales collect and remit sales taxes on transactions in the state.



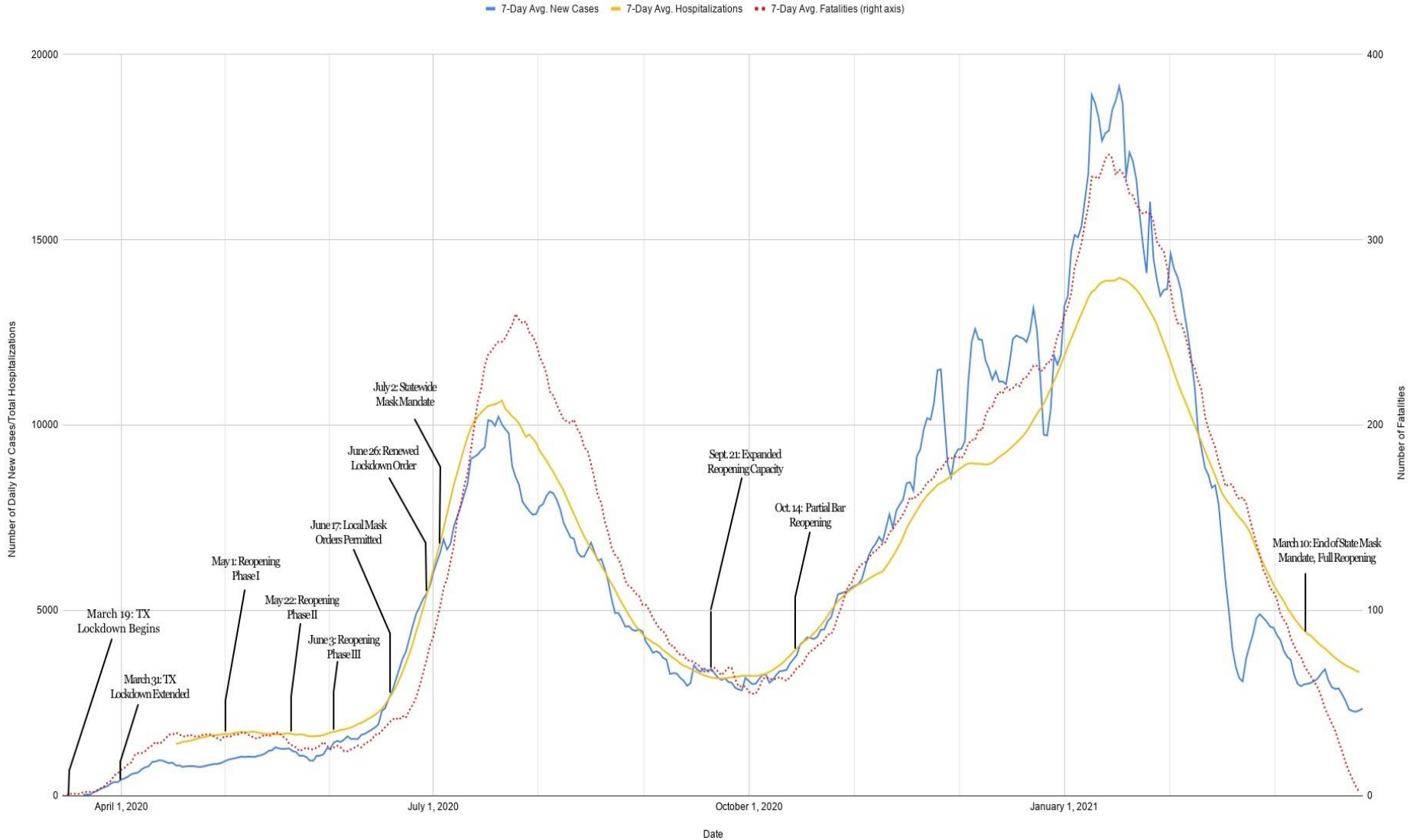
Sales Tax In Texas – Internet Sales

Following Wayfair, the Texas Legislature amends the Texas Tax Code, by adding Section 151.0242 that allows for sales tax to be applied to “Marketplace Sales”. The new sales tax on “Marketplace Sales” became effective on October 1, 2019.



Timeline of COVID-19 Case Numbers and Policies in Texas

Source: Texas Department of State Health Services (as of March 29)



<https://thetexan.news/a-timeline-of-texas-covid-19-policies-one-year-after-15-days-to-slow-the-spread/>

COVID's Effect On Sales Tax In Texas

Following the guidelines put forth by President Trump and the CDC on March 16, 2020, over a year's time, Governor Abbott issued a series of Executive Orders (EO-8 to EO-36) that provided for: limitations on gatherings of people; maintaining "essential services"; requiring masks; and, loosening of COVID restrictions.



COVID's Effect On Sales Tax In Texas

March 2020 was the beginning of a year-long lockdown for most Texans.

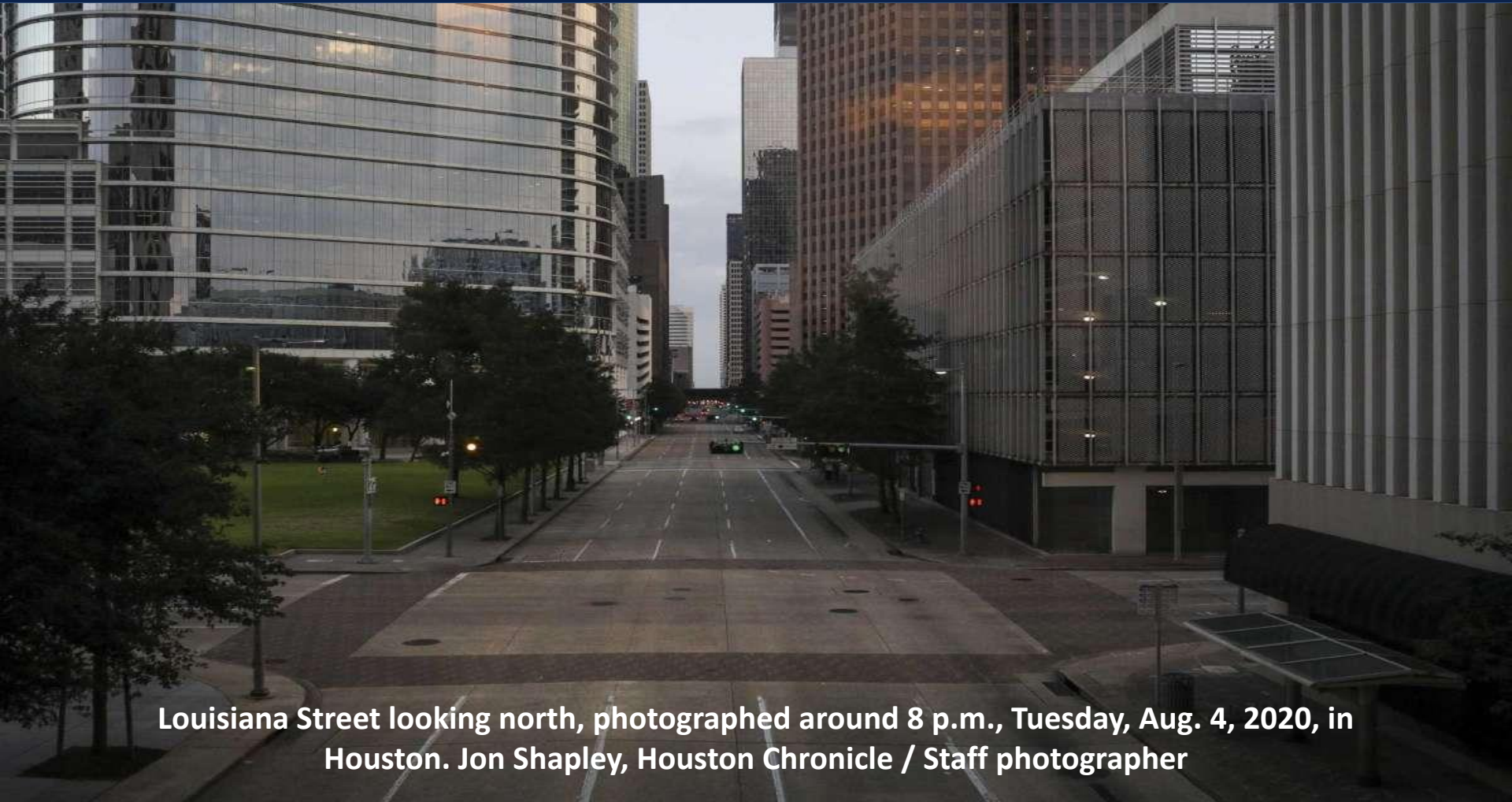


COVID's Effect On Sales Tax In Texas



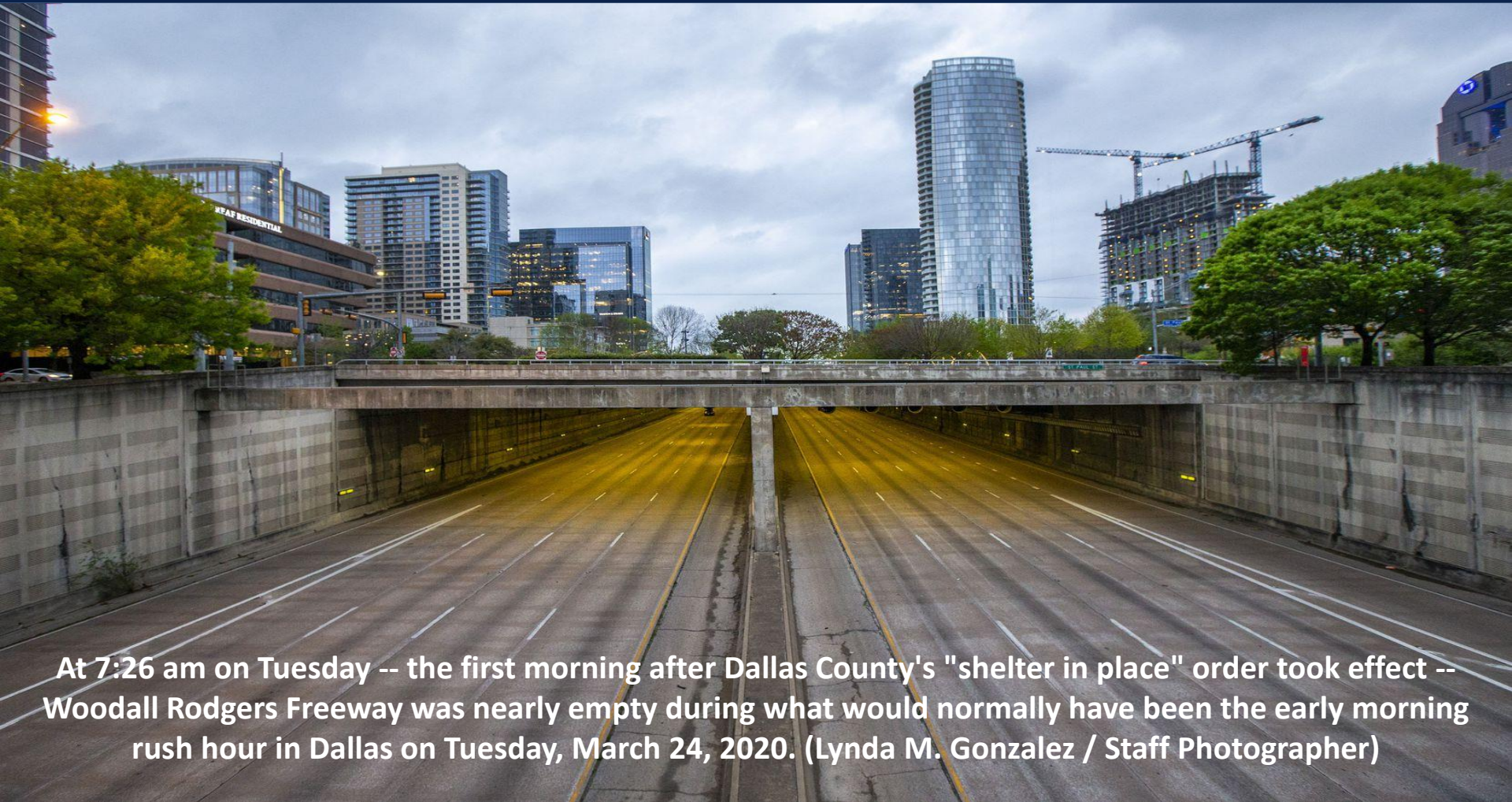
Seventh Street is mostly empty during morning rush hour in downtown Austin.
Credit: Miguel Gutierrez Jr./The Texas Tribune

COVID's Effect On Sales Tax In Texas



Louisiana Street looking north, photographed around 8 p.m., Tuesday, Aug. 4, 2020, in Houston. Jon Shapley, Houston Chronicle / Staff photographer

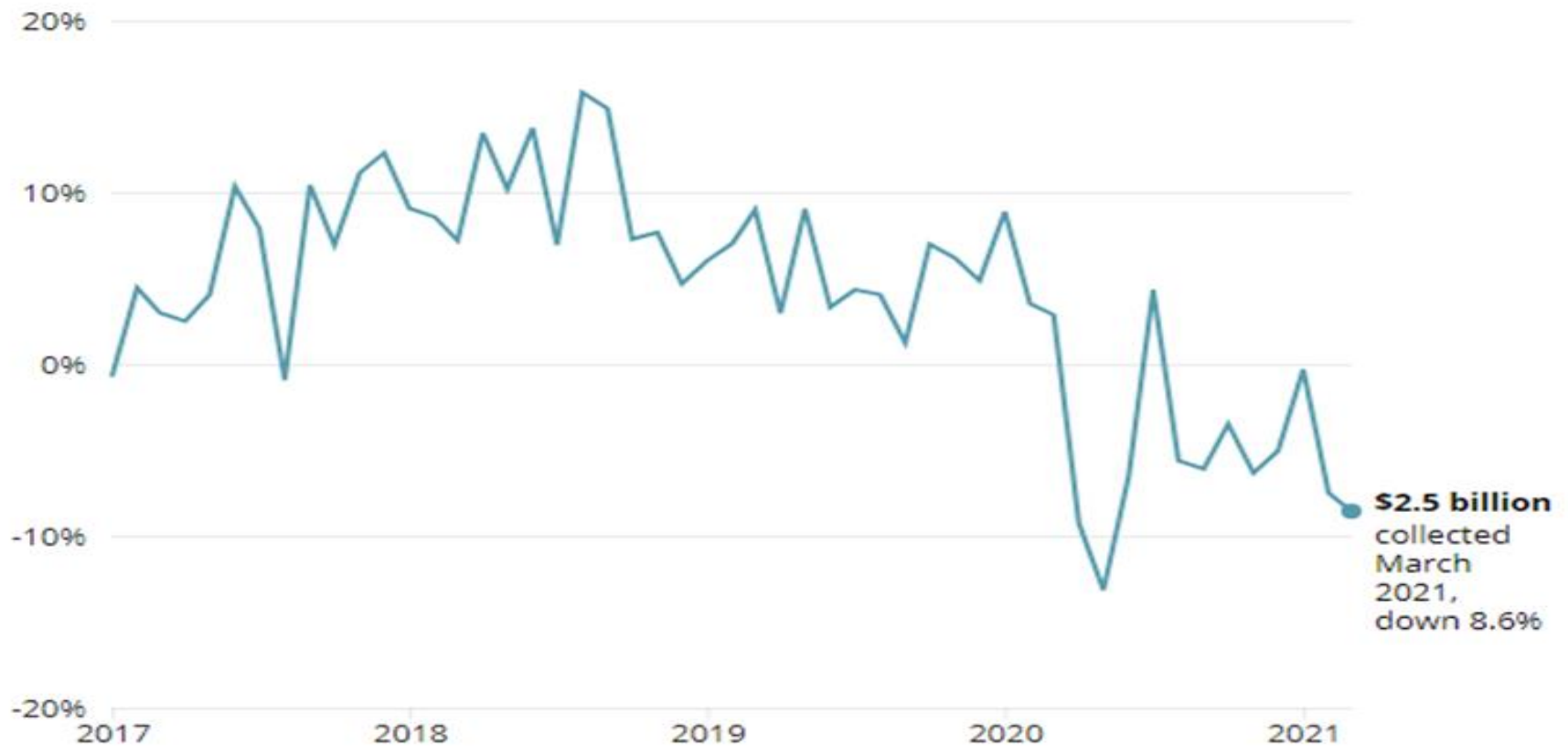
COVID's Effect On Sales Tax In Texas



At 7:26 am on Tuesday -- the first morning after Dallas County's "shelter in place" order took effect -- Woodall Rodgers Freeway was nearly empty during what would normally have been the early morning rush hour in Dallas on Tuesday, March 24, 2020. (Lynda M. Gonzalez / Staff Photographer)

COVID's Effect On Sales Tax In Texas

Change in sales tax revenue from previous year



<https://apps.texastribune.org/features/2020/texas-unemployment/>

COVID's Effect On Sales Tax In Texas

The Statewide drop in sales tax revenue was not felt uniformly across cities in Texas. Generally, major cities (Houston, Dallas, Austin, San Antonio, etc.) lost sales tax revenue in line with the State.

But, some smaller cities did not see any sales tax revenue loss – and some cities saw gains, even significant gains, in sales tax revenue.



COVID's Effect On Sales Tax In Texas

How did some cities remain unaffected by the COVID lockdowns in terms of sales tax revenue?

A primary reason is geography – both the physical location of the cities and the patterns of behavior of the residents of those cities.

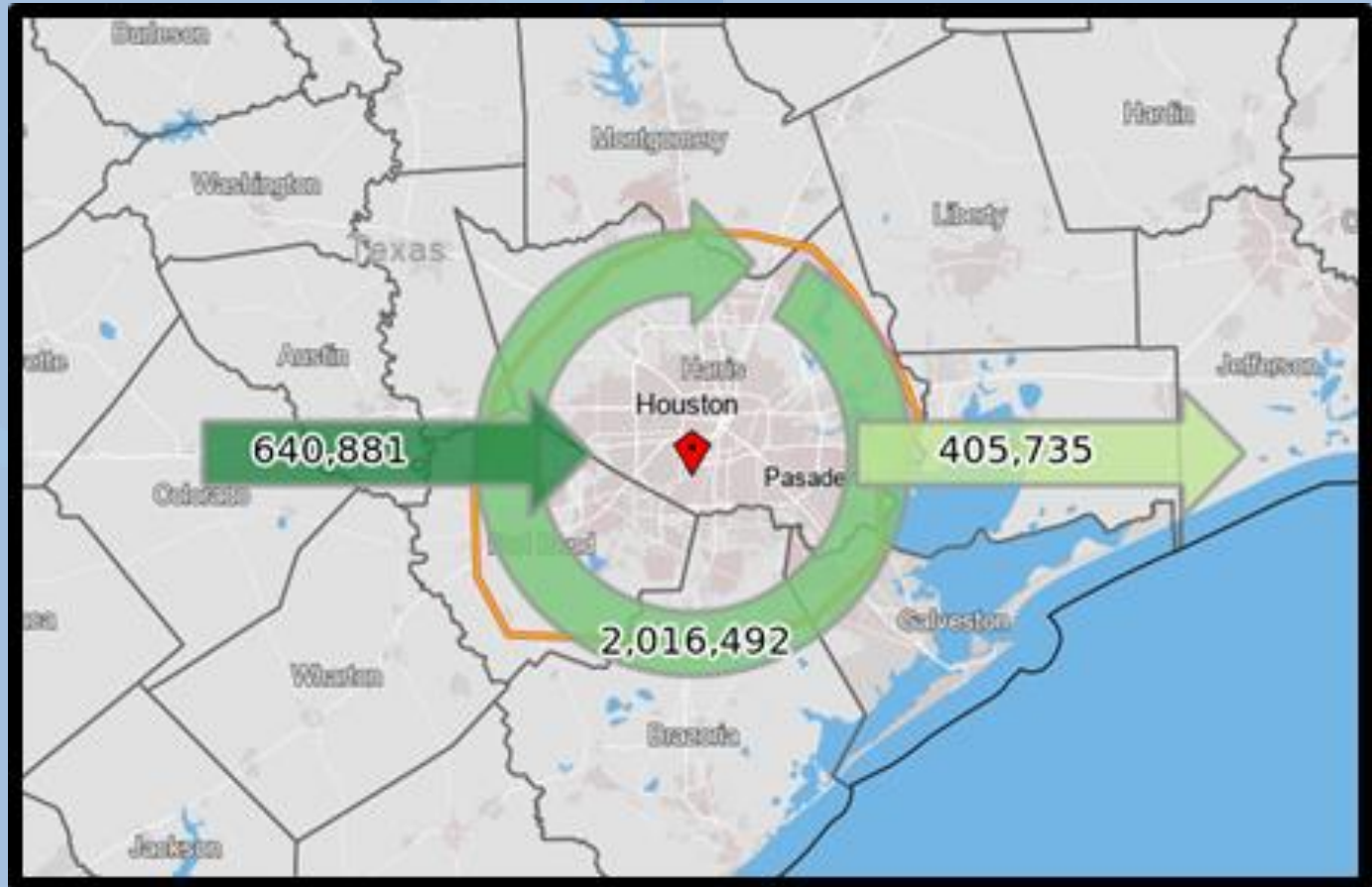


COVID's Effect On Sales Tax In Texas

When major municipal centers were shut down, the typical pattern of people commuting from smaller locations into the municipal center was stopped. But, the spending and consumption patterns of those people were not stopped – they were just redirected.



COVID's Effect On Sales Tax In Texas



US Census Bureau - OnTheMap



COVID's Effect On Sales Tax In Texas

In a lot of places, the COVID lockdowns forced people to “buy local” for essential services... and, nonessential services were only a click away. Local grocery stores and hardware stores saw gains. Amazon did its thing.



COVID's Effect On Sales Tax In Texas

From a sales tax receipt perspective, some small cities were benefitted by the COVID lockdowns because it forced residents to spend money locally, instead of within the region. Additionally, the newly implemented sales tax rules allowed small cities to capture the sales tax from “marketplace” purchases made online.



COVID's Effect On ESD Sales Tax Receipts

One answer to the question “How did COVID affect ESD sales tax collection?” can be found by putting all of the pieces discussed above together: ESD location, potential ESD sales tax revenue, “marketplace” sales tax collection, and COVID lockdowns.



COVID's Effect On ESD Sales Tax Receipts

For some ESDs that collect sales tax, the COVID lockdowns had little effect. Some ESDs saw an increase in sales tax receipts. The areas covered by many ESDs are (or were) newer residential areas – areas that are populated by commuters; the people that were more likely to spend funds locally because of the COVID lockdown.



COVID's Effect On ESD Sales Tax Receipts

For ESDs (and other special districts and municipalities) that received more sales tax during the COVID lockdowns, financial advisors and tax experts recommend conducting an in-depth study of the sales tax receipts of the last year. As COVID lockdowns and restrictions are removed, the sales tax receipts of the ESD are likely to change.



COVID's Effect On ESD Sales Tax Receipts

Every ESD's experience during the COVID pandemic would be different – there is no standard model. So the thoughts expressed in this presentation are intended to provide a very general framework within which an ESD (or special district or municipality) can try to analyze how the COVID lockdowns affected the residents of the district.



COVID's Effect On ESD Sales Tax Receipts

Every situation involving sales tax receipts during the COVID lockdowns should be examined independently, taking into account the unique circumstances of the district in which the sales occurred.



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Questions

Justin Pruitt

Olson & Olson, LLP

jpruitt@olsonllp.com

(713) 533-3800

