

1-1 By: Perry S.B. No. 903
1-2 (In the Senate - Filed March 1, 2021; March 11, 2021, read
1-3 first time and referred to Committee on Finance; April 12, 2021,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 15, Nays 0; April 12, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Nelson	X		
1-9	Lucio	X		
1-10	Bettencourt	X		
1-11	Buckingham	X		
1-12	Campbell	X		
1-13	Creighton	X		
1-14	Hancock	X		
1-15	Huffman	X		
1-16	Kolkhorst	X		
1-17	Nichols	X		
1-18	Perry	X		
1-19	Schwertner	X		
1-20	Taylor	X		
1-21	West	X		
1-22	Whitmire	X		

1-23 COMMITTEE SUBSTITUTE FOR S.B. No. 903 By: Perry

1-24 A BILL TO BE ENTITLED
1-25 AN ACT

1-26 relating to suits for tax refunds.
1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-28 SECTION 1. Subchapter C, Chapter 111, Tax Code, is amended
1-29 by adding Section 111.106 to read as follows:
1-30 Sec. 111.106. TAX REFUND: NOTICE OF INTENT TO BYPASS
1-31 HEARING. (a) A person claiming a refund under Section 111.104 may
1-32 file with the comptroller a notice of intent to bypass the hearing
1-33 under Section 111.105. The notice of intent must:
1-34 (1) be filed on or before the 60th day after the date
1-35 the comptroller issues a letter denying the claim for refund;
1-36 (2) be in writing;
1-37 (3) assert the material facts and each specific legal
1-38 basis on which a refund is claimed; and
1-39 (4) specify the amount of the refund claimed.
1-40 (b) A person who files a notice of intent under Subsection
1-41 (a) may bypass the hearing under Section 111.105 and bring a suit
1-42 under Subchapter D, Chapter 112, if:
1-43 (1) the person participated in a conference under
1-44 Subsection (c), in which case the suit must be filed on or before
1-45 the 60th day after the date the conference concludes or a later date
1-46 agreed to by the comptroller; or
1-47 (2) the comptroller does not provide notice in the
1-48 time required by Subsection (d) that a conference is required, in
1-49 which case the suit must be filed on or before the 90th day after the
1-50 date the notice of intent was filed.
1-51 (c) The comptroller may require a conference between a
1-52 person who files a notice of intent under Subsection (a) and a
1-53 designated officer or employee of the comptroller to clarify any
1-54 fact or legal issue in dispute regarding the refund claim and to
1-55 discuss the availability of additional documentation that may
1-56 assist in resolving outstanding issues regarding the claim. The
1-57 person who filed the notice of intent may amend a material fact or
1-58 legal basis described by Subsection (a)(3) following the conference
1-59 if the comptroller agrees in writing to the amendment.
1-60 (d) If the comptroller requires a conference under

2-1 Subsection (c), the comptroller shall notify the person of the
 2-2 conference requirement not later than the 30th day after the date
 2-3 the notice of intent under Subsection (a) was filed. The notice of
 2-4 the conference requirement must be in writing and include a date and
 2-5 time for the conference. The conference date provided in the notice
 2-6 must be no later than the 90th day after the date the notice of
 2-7 intent was filed.

2-8 (e) The person who filed the notice of intent under
 2-9 Subsection (a) may request to reschedule the conference date
 2-10 provided in the notice under Subsection (d). The comptroller shall
 2-11 make a good faith effort to accommodate the request. If the
 2-12 comptroller and the person who filed the notice of intent do not
 2-13 agree on or before the 90th day after the date the notice of intent
 2-14 was filed to a rescheduled date for the conference, the person may
 2-15 rescind the notice of intent on or before the 120th day after the
 2-16 date the notice of intent was filed and request a hearing under
 2-17 Section 111.105.

2-18 (f) Except as provided by Subsection (e), a person who files
 2-19 a notice of intent under Subsection (a) waives the person's right to
 2-20 a hearing under Section 111.105.

2-21 SECTION 2. Sections 112.151(a), (c), and (d), Tax Code, are
 2-22 amended to read as follows:

2-23 (a) A person may sue the comptroller to recover an amount of
 2-24 tax, penalty, or interest that has been the subject of a tax refund
 2-25 claim if the person ~~has~~:

2-26 (1) has filed a tax refund claim under Section 111.104
 2-27 ~~[of this code];~~

2-28 (2) either:

2-29 (A) has filed, as provided by Section 111.105 ~~[of~~
 2-30 ~~this code]~~, a motion for rehearing that has been denied by the
 2-31 comptroller; or

2-32 (B) is authorized to bring the suit under Section
 2-33 111.106(b); and

2-34 (3) has paid any additional tax found due in a jeopardy
 2-35 or deficiency determination that applies to the tax liability
 2-36 period covered in the tax refund claim.

2-37 (c) A person who satisfies the requirement of Subsection
 2-38 (a)(2)(A) must file the [The] suit [must be filed] before the
 2-39 expiration of 60 [30] days after the issue date of the denial of the
 2-40 motion for rehearing or it is barred. A person who satisfies the
 2-41 requirement of Subsection (a)(2)(B) must file the suit during the
 2-42 time provided by Section 111.106(b) or it is barred.

2-43 (d) The amount of the refund sought must be set out in the
 2-44 original petition. A copy of the motion for rehearing filed under
 2-45 Section 111.105 or the notice of intent filed under Section
 2-46 111.106(a), as applicable, [of this code] must be attached to the
 2-47 original petition filed with the court and to the copies of the
 2-48 original petition served on the comptroller and the attorney
 2-49 general.

2-50 SECTION 3. Section 112.152, Tax Code, is amended to read as
 2-51 follows:

2-52 Sec. 112.152. ISSUES IN SUIT. (a) The ~~[grounds of error~~
 2-53 ~~contained in the motion for rehearing are the]~~ only issues that may
 2-54 be raised in a suit under this subchapter are, as applicable, the:

2-55 (1) grounds of error contained in the motion for
 2-56 rehearing; or

2-57 (2) material facts and legal bases contained in the
 2-58 notice of intent filed under Section 111.106(a).

2-59 (b) The suit applies only to a tax liability period
 2-60 considered in the comptroller's decision or covered by the notice
 2-61 of intent filed under Section 111.106, as applicable.

2-62 SECTION 4. This Act applies to a claim for a refund that is
 2-63 pending or filed on or after the effective date of this Act, without
 2-64 regard to whether the taxes that are the subject of the claim were
 2-65 due before, on, or after that date.

2-66 SECTION 5. This Act takes effect September 1, 2021.

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