

By: Averitt

S.B. No. 1433

A BILL TO BE ENTITLED

AN ACT

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relating to certain information regarding sales and use taxes imposed by a municipality and to the confidentiality of that information; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 151.027, Tax Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) This section does not prohibit:

(1) the examination of information, if authorized by the comptroller, by another state officer or law enforcement officer, by a tax official of another state, by a tax official of the United Mexican States, or by an official of the United States if a reciprocal agreement exists;

(2) the delivery to a taxpayer, or a taxpayer's authorized representative, of a copy of a report or other paper filed by the taxpayer under this chapter;

(3) the publication of statistics classified to prevent the identification of a particular report or items in a particular report;

(4) the use of records, reports, or information secured, derived, or obtained by the attorney general or the comptroller in an action under this chapter against the same taxpayer who furnished the information;

1 (5) the delivery to a successor, receiver, executor,  
2 administrator, assignee, or guarantor of a taxpayer of information  
3 about items included in the measure and amounts of any unpaid tax or  
4 amounts of tax, penalties, and interest required to be collected;

5 (6) the delivery of information to an eligible  
6 municipality in accordance with Section 321.3022 or 321.3023; or

7 (7) the release of information in or derived from a  
8 record, report, or other instrument required to be furnished under  
9 this chapter by a governmental body, as that term is defined in  
10 Section 552.003, Government Code.

11 (d) Unless otherwise authorized by law, an officer or  
12 employee of an eligible municipality, or an agent acting on behalf  
13 of that municipality, who obtains access to information relating to  
14 a seller under Subsection (c)(6) may not:

15 (1) reveal the information or any part of the  
16 information, such as a seller's business affairs, operations,  
17 profits, losses, or expenditures, to an unauthorized person;

18 (2) permit the information or any abstract or part of  
19 the information to be seen or examined by an unauthorized person; or

20 (3) retain the information after the person's service  
21 as an officer or employee of the municipality ends or the person's  
22 contract with the municipality expires.

23 (e) A person who violates Subsection (d) commits an offense.  
24 An offense under this subsection is a Class A misdemeanor.

25 SECTION 2. Subchapter D, Chapter 321, Tax Code, is amended  
26 by adding Section 321.3023 to read as follows:

27 Sec. 321.3023. INFORMATION ON CERTAIN TAXPAYERS. (a) A

1 municipality that has imposed a tax under this chapter may provide  
2 to the comptroller information relating to:

3 (1) a seller that the municipality, in good faith,  
4 believes has not collected or reported to the comptroller as  
5 required by law revenue from a tax imposed by the municipality under  
6 this chapter; or

7 (2) tax revenue that the municipality, in good faith,  
8 believes has been paid by a seller but that was not properly  
9 reported by the seller as being revenue from a tax imposed by the  
10 municipality under this chapter.

11 (b) After investigating the information provided under  
12 Subsection (a), the comptroller may provide to the municipality  
13 information relating to whether the seller failed to:

14 (1) collect or report to the comptroller as required  
15 by law revenue from a tax imposed by the municipality under this  
16 chapter and, if so:

17 (A) the name and taxpayer identification number  
18 of the seller; and

19 (B) the amount of municipal tax revenue that was  
20 not collected or reported; or

21 (2) report collected tax revenue as being revenue from  
22 a tax imposed by the municipality under this chapter and, if so:

23 (A) the name and taxpayer identification number  
24 of the seller; and

25 (B) the amount of revenue that should have been  
26 reported as being revenue from a tax imposed by the municipality  
27 under this chapter.

1       (c) The municipality may request, and the comptroller may  
2 provide, information described by Subsection (b) for any tax  
3 reporting period that ended during the four-year period preceding  
4 the date on which the municipality requested the information.

5       (d) Sections 151.027(d) and (e) apply to an officer or  
6 employee of the municipality or agent acting on behalf of the  
7 municipality who is authorized to examine information provided by  
8 the comptroller under this section.

9       (e) To receive information under Subsection (b), the  
10 governing body of a municipality requesting the information must  
11 certify to the comptroller by resolution:

12           (1) the name of each officer or employee of the  
13 municipality or agent acting on behalf of the municipality who will  
14 be authorized to examine the information; and

15           (2) that each agent named in the resolution as  
16 authorized to examine the information:

17                   (A) has a contract with the municipality to  
18 perform that service on the date the resolution is adopted;

19                   (B) is prohibited under that contract from  
20 disclosing any part of the information or any information derived  
21 from that information to any person other than a municipal officer  
22 or employee named in the resolution as authorized to examine the  
23 information;

24                   (C) is prohibited under that contract from  
25 performing consulting services for a seller, other than another  
26 political subdivision, during the term of the contract;

27                   (D) has received notice that the information is

1 confidential by law and that Sections 151.027(d) and (e) apply to  
2 the agent; and

3 (E) is prohibited under that contract from  
4 retaining the information or any information derived from that  
5 information after the contract expires.

6 (f) If the comptroller believes that information obtained  
7 by a municipality under Subsection (b) has been disclosed to a  
8 person not named in the municipality's resolution as authorized to  
9 examine the information or has been used for a purpose that does not  
10 comply with law, the comptroller may:

11 (1) refuse to provide additional information to the  
12 municipality;

13 (2) require the municipality to return information the  
14 comptroller previously provided; or

15 (3) place conditions on the eligibility of the  
16 municipality to receive information in the future.

17 SECTION 3. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2003.