

BILL ANALYSIS

C.S.H.B. 23
By: Keffer, Jim
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

As the sole administrator of the treasury and the state's many financial resources, the office of the comptroller of public accounts (comptroller) relies on statutory authority and rulemaking power to manage those resources. As the dynamics of financial markets and our economic systems continue to evolve, the tools available to the comptroller often require adjustment to maximize the effectiveness of the agency's resource control. Being the sole administrator of the state's financial resources also places the comptroller in the unique position of working in concert with other state governmental entities that rely on the comptroller's expertise to adequately provide the necessary financial support.

C.S.H.B. 23 makes adjustments in various portions of the Texas statutes to facilitate the administration of the state's financial resources.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts.

ANALYSIS

Amends language for the wrongful imprisonment statute. It clarifies the comptroller's role as ministerial in processing claims for wrongful imprisonment.

Amends to address the collection and deposit of local costs and fees that a local government was not authorized to assess by statute and provide for the deposit in a manner consistent with other funds.

Amends to eliminate the proportionate reduction of the funds collected among the comptroller, local governmental entity, and private attorney collectors under a local collection contract when less than the required aggregate total is collected from an individual and provides that the private collector shall receive thirty percent of the total.

Amends to require the Texas Education Agency instead of the Comptroller to make transfers from the permanent school fund to the available school fund.

Amends to delete indirect cost recovery fees as fees to be accounted for as educational and general funds.

Authorizes the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-Related Programs to pay expenses from the assets of the fund.

Authorizes the Permanent Fund for Minority Health Research and Education to pay expenses from the assets of the fund.

Amends to change the disbursement dates to counties from monthly to quarterly basis.

Amends Government Code regarding compensation of retired and visiting judges.

Amends to allow HHSC employees to receive salary payment via electronic pay cards if the Comptroller determines that it is cost effective.

Amends to eliminate the restriction that the Comptroller may audit claims against the state on a post-payment basis only if the Comptroller and the paying state agency have contracted to allow post-payment audits.

Amends to remove the \$25,000 cap that the CPA pays to an attorney in a case where they are appointed to represent a defendant inmate in a criminal case where there are 2 inmates in prison.

Adds language regarding Individual Development Accounts for certain low-income individuals and households.

Amends language to allow investment authority with respect to state funds.

Amends to allow the Comptroller to competitively bid tax and revenue anticipation notes via an electronic open auction.

Amends language to state that the Comptroller may manage the assets of the Texas Preservation Trust Fund in the same manner as certain permanent funds.

Eliminates any uncertainty about the legal authority of a state agency to provide electronic earnings statements to its employees.

Cleans up language to reflect the fact that Salary Schedule A of the General Appropriations Act is no longer divided into steps.

Amends to make it clarify that the chief administrator of a state agency may provide electronic approval for the travel of the agency's employees.

Amends to eliminate any obstacles to a state employee providing electronic approval of the documentation supporting the employee's request for a travel reimbursement. The amendment also eliminates any obstacles to the electronic submission and storage of supporting documentation concerning the travel of state employees.

Amends to give hospital districts in counties with a population of more than 800,000, in which no hospital district was located before Sept 1, 2003, the ability to issue anticipation notes.

The bill will allow the Attorney General to contract with or approve an agency to contract with a private entity to pursue debts owed to the state. There are provisions that allow for the fee to be equal to 30% of the debt, penalty and interest collected.

Adds language to authorize an entity to accept cash on an overnight basis in lieu of certain obligations.

Amends language to allow to investment authority with respect to generally local funds.

Amends to define a “certified job” as a new or retained job that has provided at least 1,820 hours of employment a year to a qualified employee of a qualified business and is intended to exist for at least three years after the date on which the comptroller makes the initial certification of hiring commitments for the qualified business and has been certified by the Comptroller as eligible for receipt of a state benefit under this chapter.

Amends to change the time period that enterprise projects can claim benefit after the designation expires.

Changes the heading to STATE TAX REFUNDS AND CREDITS; REPORT. Defines “triple jumbo enterprise project”. Amends to authorize an enterprise project designated on or after September 1, 2003 and approved as a triple jumbo enterprise project on or before September 1, 2004 to obtain a franchise tax credit.

Adds language to define “eligible taxable proceeds” as hotel, ad valorem, sales, and mixed beverage taxes, that are generated, paid, or collected by an eligible hotel for refund, rebate, or payment of tax proceeds to convention center hotel projects.

Amends to require the Comptroller to certify enterprise zone projects to determine state benefits, for completeness and to verify hiring commitments, to verify eligible purchases of taxable items, and to verify capital investment for the project.

Amends to require an enterprise zone project to submit a report to the Comptroller certifying the number of jobs created.

Amends by establishing an attempt by minors to purchase cigarettes as an offense. Adds language to warning signs provided to retailers alerting pregnant women to the dangers of smoking.

Amends to require hospital districts and emergency service districts to submit a map with boundary descriptions to the Comptroller at the time election results are submitted.

Amends the Insurance Code regarding taxes on insurance premiums to clarify tax base for life, accident and health premium tax, and clarifies tax base for title insurance companies. Clarifies the definition of premium for life, accident, and health. Clarifies maintenance fee due to re-codification. Clarifies that children's health benefit plans are exempt from retaliatory tax.

Amends language regarding energy savings performance contracts.

Amends language regarding tax abatement agreements.

Provides that local taxing authorities must send boundary maps when local sales tax changes and provides for local tax rate change effective dates.

Amends to exempt private institutions of higher education and public junior colleges from fees charged by municipalities for the development or maintenance of programs or facilities for the control of excess water or storm water.

Amends to provide a four year statute of limitations for the recovery of all true escheat properties received by the state before September 1, 1991.

Amends language regarding judgment liens.

Amends to authorize the Comptroller to require the electronic filing of unclaimed property reports by holders reporting ten or more properties to the Comptroller.

Adds to provide that a stock, bond, or similar instrument that is non-redeemable or non-transferable because it has been either canceled or issued by a now-dissolved or defunct company does not need to be sold at a "public sale."

Amends to make it clear that heirfinders may not receive a claim form to recover unclaimed property on behalf of a third party owner.

Adds to clarify the authority of the Comptroller to deposit to unappropriated general revenue the unclaimed funds of the state or state agencies, where the state or agency does not assert a claim for the funds.

Amends to allow counties with a population of less than 5,000 to have a permanent seat on the appraisal board to be reserved for the city with the largest population.

Amends to define charitable organizations that are exempt from personal property tax to include radio stations that broadcast educational, cultural, or other public interest programming, including classical music, and that is funded entirely through donations made by listeners or other donors.

Amends to exempt mobile drilling rigs from ad valorem taxation.

Amends to clarify which commercial aircraft should allocate value between states for purposes of personal property tax.

Amends language dealing with taxpayer protests before appraisal review boards.

Adds language regarding restricted or conditional payments of taxes, penalties, and interest.

Adds language regarding expeditious assistance for taxpayers by the Comptroller.

Corrects references to refund and credit provisions for motor fuels.

Clarifies that paper, ink and glue used to print catalogs outside of Texas are not subject to Texas use tax.

Amends to further define an “occasional sale” as the sale of tangible personal property by an individual if the property was originally bought for personal use, the individual does not hold, and is not required to hold, a sales tax permit, an auctioneer is not employed, and the total receipts from sales of personal property do not exceed \$3,000 per year.

Provides that tax continues to be due on repairs of timber equipment while the exemption is phased in. Provides that a timber operator may claim a direct exemption on equipment used in the production and cultivation of timber in lieu of requesting refunds from Comptroller.

Amends to broaden the items eligible for a tax refund for enterprise projects to all purchases of taxable items and to clarify that the jobs created must be certified.

Allow for a refund for an enterprise zone project is conditioned on maintaining for a 3 year period at least the number of certified jobs as existed on the date the Comptroller initially certified the hiring commitments for the project.

Amends to broaden the items eligible for a tax refund for defense readjustment projects to all purchases of taxable items.

Adds language regarding the overcharging of taxes.

Streamlines monthly reporting requirements for distributors and redefines distributor to include persons who sell dyed diesel fuel to marine vessels. Clarifies that when distributors default on tax payments, suppliers would not owe additional tax. Also provides that under certain circumstances, a seller of motor fuels could verify end user numbers by other means than the acceptance of a signed statement. Redefines blending, diesel fuel, motor fuel, motor fuel transporter, and shipping document and amends the shipping document requirements to aid in motor fuel tax fraud prosecution. A new definition is added for a dyed diesel fuel dealer and provides record keeping requirements of a dyed diesel fuel dealer. Clarifies that a supplier or permissive supplier is required to collect tax from a licensed importer on motor fuel removed from an out-of-state terminal destined for delivery in Texas. Allows the state to elect to prosecute under motor fuels code or any other state statute where an offense is committed.

Clarifies that a corporation must use the same method to compute earned surplus for franchise tax as it used to compute taxable earned surplus. Clarifies that a corporation must use the same method to apportion its taxable earned surplus as it used to compute earned surplus.

Amends language regarding the definition of a strategic investment area. Adds an empowerment zone and associated developable areas and renewal communities to the definition. Deletes urban enterprise communities and urban enhanced enterprise communities from the definition of strategic investment area.

Amends to expand the franchise tax credits to certain enterprise projects and defense readjustment projects.

Provides an increase in the mixed beverage bond requirement ceiling.

Resolves the conflict between existing tax abatement agreements and new Tax Increment Financing provisions for Homestead Preservation Districts.

Ties a qualified investment for franchise tax credit purposes to the federal regulations.

Provides that retailers collect local taxes based on the retailer's place of business regardless of whether the retailer sells goods or taxable services and simplifies local tax collection

Defines the phrase "full amount of the tax due" in connection with the Comptroller's certification that municipal sales taxes erroneously reported to another city have been credited to the correct municipality.

Eliminates outdated language requiring money retained by the Comptroller from city sales tax allocations to be used to pay premiums for Comptroller's bond.

Conforms the startup date for a County Development District Sales Tax to match the startup date provisions of most other local option sales taxes.

Provides that retailers collect local taxes based on the retailer's place of business regardless of whether the retailer sells goods or taxable services and simplifies local tax collection

Amends language by defining a "convention center facility" or "convention center complex" to include a hotel proposed to be constructed, remodeled, or rehabilitated by a municipality or a nonprofit municipally sponsored local government corporation.

Amends to require the Comptroller to report to the legislature the amount of state funds paid by a municipality for bond debt from hotel occupancy taxes

Clarifies language only apply to a protest that is filed on or after 1/1/06.

Amends to remove the comptroller from the approval process for surety bonds required for overweight vehicles.

Corrects the utility code due to re-codification.

Allows the HHSC agencies to utilize digital signatures for business transactions and administrative functions.

Abolishes the Texas Incentive and Productivity Commission.

Repealing language.

Effective Dates.

EFFECTIVE DATE

Except as provided, the Act takes effect upon passage, or if this Act does not receive the necessary vote: Sections 3, 8, 9, 10, 11, 14, 16, 22, 23, 25, 33, 34, 35, 36, 80, and 82 of this Act take effect November 1, 2005 and Section 37 of the Act take effect October 21, 2005.

Sections 4, 19, 20, 21, 43, 87-91, 93-95, and 97-100 of this Act take effect November 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute cleans up drafting errors and reorganizes the structure of the bill.

The substitute removes language from the original bill that:

- The bill prohibits the purchase cigarettes for personal consumption by Internet and mail-order.

The substitute replaces language that requires the appraisal review board, on request of a taxing unit that participates in the appraisal district, to send by regular mail to the presiding officer of the governing body of the taxing unit a copy of each notice of protest pertaining to certain properties. The new language will allow appraisal districts the option of providing the information in the form of a computer-generated report.