

BILL ANALYSIS

Senate Research Center

S.B. 263
By: Williams
Finance
7/11/2005
Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, when the comptroller of public accounts (comptroller) begins a sales tax audit, the identity of the individual being audited is public information at the moment the comptroller's notification letter is put in the mail. Therefore, it is possible for a situation to arise in which an audited individual is contacted by tax consultants soliciting their services before the individual is even aware an audit has been ordered. S.B. 263 requires anyone receiving sales tax audit information through an open records request to wait until six days after the comptroller's audit letter is mailed to contact the audited individual, and provides a civil penalty for violations of that position.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 111, Tax Code, by adding Section 111.0075, as follows:

Sec. 111.0075. USE OF INFORMATION RELATING TO TAX AUDITS. (a) Provides that this section applies only to certain information.

(b) Prohibits a person who obtains information described by Subsection (a) and who is not a taxpayer to whom the information relates from, before the sixth day after the date the comptroller made the information available to the person, using the information for the direct solicitation of business or employment for pecuniary gain.

(c) Provides that if a direct solicitation of business or employment for pecuniary gain is made by mail or by delivery by common or contract carrier, the postmark or the receipt mark of the common or contract carrier is prima facie evidence of the date the information was used for that solicitation.

(d) Provides that a person who violates this section is subject to a civil penalty of not more than a certain amount per violation, based on the number of violations.

(e) Authorizes the attorney general or the appropriate district or county attorney, at the request of the comptroller or the person to whom the solicitation was directed, to institute and conduct a suit to collect the penalty authorized by this section and to restrain the person from continuing to violate this section.

(f) Provides that the penalty prescribed by this section is in addition to any other penalty provided by law.

SECTION 2. Makes application of this Act prospective to a request for information under Chapter 552 (Public Information), Government Code.

SECTION 3. Effective date: September 1, 2005.