

By: Keffer of Eastland

H.B. No. 2233

A BILL TO BE ENTITLED

AN ACT

1
2 relating to state and certain local fiscal matters; providing a
3 penalty.

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

5 SECTION 1. Article 103.0031(e), Code of Criminal Procedure,
6 is amended to read as follows:

7 (e) If a county or municipality has entered into a contract
8 under Subsection (a) and a person pays an amount that is less than
9 the aggregate total to be collected under Subsections (a) and (b),
10 ~~[the allocation to the comptroller, the county or municipality,~~
11 ~~and]~~ the private attorney or vendor shall receive 30 percent of the
12 total amount collected, not to exceed the amount added as the
13 collection fee, and the remainder of the amount collected shall be
14 allocated in accordance with this chapter and Chapter 133, Local
15 Government Code ~~[be reduced proportionately].~~

16 SECTION 2. Section 43.002(a), Education Code, is amended to
17 read as follows:

18 (a) On the first working day of each month in a state fiscal
19 year, the agency ~~[comptroller]~~ shall transfer from the permanent
20 school fund to the available school fund an amount equal to
21 one-twelfth of the annual distribution from the permanent school
22 fund to the available school fund as provided by Section 5(a),
23 Article VII, Texas Constitution, for the fiscal year.

24 SECTION 3. Section 63.202, Education Code, is amended by

1 amending Subsection (b) and adding Subsection (h) to read as
2 follows:

3 (b) Except as provided by Subsections (c), ~~[and]~~ (d), and
4 (h), money in the fund established under this subchapter may not be
5 used for any purpose.

6 (h) Expenses of managing and administering the assets of the
7 fund shall be paid from the fund.

8 SECTION 4. Section 63.302, Education Code, is amended by
9 amending Subsection (b) and adding Subsection (h) to read as
10 follows:

11 (b) Except as provided by Subsections (c), ~~[and]~~ (e), and
12 (h), money in the fund established under this subchapter may not be
13 used for any purpose.

14 (h) Expenses of managing and administering the assets of the
15 fund shall be paid from the fund.

16 SECTION 5. Sections 25.0015(b) and (c), Government Code,
17 are amended to read as follows:

18 (b) For a county that participates under Section 51.702(f)
19 under a resolution adopted and filed with the comptroller before
20 September 1, 2003, the amount shall be paid to the county's salary
21 fund in equal quarterly ~~[monthly]~~ installments, and of each \$35,000
22 paid a county, \$30,000 shall be paid from funds appropriated from
23 the judicial fund, and \$5,000 shall be paid from funds appropriated
24 from the general revenue fund.

25 (c) For a county that participates under Section 51.702(f)
26 under a resolution adopted or filed with the comptroller on or after
27 September 1, 2003, the amount shall be paid to the county's salary

1 fund in equal quarterly [~~monthly~~] installments from funds
2 appropriated from the judicial fund.

3 SECTION 6. Section 25.00211(b), Government Code, is amended
4 to read as follows:

5 (b) The amount shall be paid to the county treasury for
6 deposit in the contributions fund created under Section 25.00213 in
7 equal quarterly [~~monthly~~] installments from funds appropriated
8 from the judicial fund.

9 SECTION 7. Section 26.007(b), Government Code, is amended
10 to read as follows:

11 (b) The amount shall be paid to the county's salary fund in
12 equal quarterly [~~monthly~~] installments from funds appropriated
13 from the judicial fund.

14 SECTION 8. Section 74.061, Government Code, is amended by
15 amending Subsection (d) and adding Subsection (d-1) to read as
16 follows:

17 (d) For services actually performed while assigned under
18 this chapter, a [~~retired or~~] former judge or justice shall receive
19 from county funds and money appropriated by the legislature the
20 same amount of salary, compensation, and expenses that the regular
21 judge is entitled to receive from the county and from the state for
22 those services.

23 (d-1) The presiding judge of the administrative region
24 shall certify to the county and the state the services rendered
25 under this chapter by a retired or former judge or justice and the
26 share to be paid by the state. The amount certified by the
27 presiding judge as the state's share shall be paid from an item in

1 the Judiciary Section, Comptroller's [Judicial
2 ~~Section--Comptroller's~~] Department of the General Appropriations
3 Act for the payment of salaries of district and criminal district
4 judges.

5 SECTION 9. Sections 403.071(g) and (h), Government Code,
6 are amended to read as follows:

7 (g) Notwithstanding Subsection (a), the comptroller [~~and a~~
8 ~~state agency~~] may [~~contract in writing for the comptroller to~~
9 audit claims presented by a a [~~the~~] state agency after the
10 comptroller prepares warrants or uses the electronic funds transfer
11 system to pay the claims. The [~~If the comptroller and a state~~
12 ~~agency execute a contract, the~~] comptroller may determine [~~decide~~]
13 the types of claims that will be audited after payment.

14 (h) [~~This subsection applies if the comptroller and a state~~
15 ~~agency have contracted in accordance with Subsection (g).~~] The
16 comptroller shall audit claims after payment under Subsection (g)
17 in the same manner [~~way~~] that the comptroller audits claims before
18 payment under Subsection (a). The comptroller may establish
19 requirements and adopt rules concerning the time that a state
20 agency must retain documentation in its files to enable a
21 postpayment audit. If a postpayment audit by the comptroller shows
22 that a claim presented by a state agency was invalid, the
23 comptroller may:

24 (1) implement procedures to ensure that similar
25 invalid claims from the state agency are not paid in the future;

26 (2) report to the governor, the lieutenant governor,
27 the speaker of the house of representatives, the state auditor, and

1 the Legislative Budget Board the results of the audit;

2 (3) require the state agency to obtain a refund of the
3 monies from the payee; and

4 (4) [~~cancel the contract with the state agency, and~~
5 [~~5~~] reduce the state agency's remaining
6 appropriations by the amount of the claim.

7 SECTION 10. Section 404.024, Government Code, is amended by
8 adding Subsection (m) to read as follows:

9 (m) In entering into a direct security repurchase agreement
10 or a reverse security repurchase agreement, the comptroller may
11 agree to accept cash on an overnight basis in lieu of the
12 securities, obligations, or participation certificates identified
13 in Section 404.001(3). Cash held by the state under this subsection
14 is not a deposit of state or public funds for the purposes of any
15 law, including this subchapter or Subchapter D, that requires a
16 deposit of state or public funds to be collateralized by eligible
17 securities.

18 SECTION 11. Section 404.124(c), Government Code, is amended
19 to read as follows:

20 (c) The committee may determine whether the notes will be
21 sold on a negotiated or competitive bid basis. If the committee
22 determines that competitive bids are appropriate, the underwriter
23 of any notes issued under this section shall be selected by the
24 method of sale that is most advantageous to the state under the
25 circumstances, including a sale using an Internet auction site. An
26 [~~solicitation of sealed bids and an~~] appropriate bid notice shall
27 be published at least one time in one or more recognized financial

1 publications of general circulation published within the state and
2 one or more recognized financial publications of general
3 circulation published outside the state. Unless all bids are
4 rejected, the underwriter shall be selected from the bids received.
5 The comptroller may not sell the notes in a manner not approved.

6 SECTION 12. Subchapter A, Chapter 659, Government Code, is
7 amended by adding Section 659.007 to read as follows:

8 Sec. 659.007. EARNINGS STATEMENTS. (a) In this section,
9 "state agency" has the meaning assigned by Section 403.013.

10 (b) A state agency may provide a written or electronic
11 earnings statement to an officer or employee of the agency.

12 (c) The comptroller may adopt rules and establish
13 procedures concerning the earnings statements provided by state
14 agencies that under Subchapter C, Chapter 2101, are required to use
15 the uniform statewide payroll system.

16 SECTION 13. Sections 659.044(a) and (d), Government Code,
17 as amended by Sections 32 and 104, Chapter 1158, Acts of the 77th
18 Legislature, Regular Session, 2001, are reenacted to read as
19 follows:

20 (a) Except as provided by Subsection (e), the monthly amount
21 of longevity pay is \$20 for every three years of lifetime service
22 credit.

23 (d) An employee may not receive from the state as longevity
24 pay more than the amount determined under Subsection (a) or (e), as
25 applicable, regardless of the number of positions the employee
26 holds or the number of hours the employee works each week.

27 SECTION 14. Section 659.044(e), Government Code, is amended

1 to read as follows:

2 (e) This subsection applies only to an employee of the Texas
3 Youth Commission who is receiving less than the maximum amount of
4 hazardous duty pay that the commission may pay to the employee under
5 Section 659.303. The employee's monthly amount of longevity pay is
6 the sum of:

7 (1) \$20 [~~\$4~~] for every three years [~~each year~~] of
8 lifetime service credit, which may not include any period served in
9 a hazardous duty position; and

10 (2) the lesser of:

11 (A) \$20 [~~\$4~~] for every three years [~~each year~~]
12 served in a hazardous duty position; or

13 (B) the difference between:

14 (i) \$7 for each year served in a hazardous
15 duty position; and

16 (ii) the amount paid by the commission for
17 each year served in a hazardous duty position.

18 SECTION 15. Section 659.255(a)(3), Government Code, is
19 amended to read as follows:

20 (3) "Merit salary increase" means an increase in
21 compensation to:

22 (A) a higher step rate in the same classified
23 salary group, if the classified employee is compensated under a
24 salary group that is divided into steps [~~Salary Schedule A of the~~
25 ~~General Appropriations Act~~]; or

26 (B) a higher rate within the range of the same
27 classified salary group, if the classified employee is compensated

1 under a salary group that is not divided into steps [~~Salary Schedule~~
2 ~~B of the General Appropriations Act~~].

3 SECTION 16. Sections 659.256(c) and (f), Government Code,
4 are amended to read as follows:

5 (c) When an employee is promoted within [~~to a position in a~~
6 ~~higher salary group in~~] Salary Schedule A of the General
7 Appropriations Act or from Salary Schedule B or C of the General
8 Appropriations Act to Salary Schedule A of the General
9 Appropriations Act, the employee shall receive a salary rate that
10 is at least 3.4 percent [~~one step~~] higher than the employee's salary
11 rate before promotion or the minimum rate of the new salary range,
12 whichever is higher, and may, at the discretion of the state agency
13 administrator, receive an annual salary rate up to and including
14 the maximum rate of the new salary range. [~~When an employee is~~
15 ~~promoted from a position in Salary Schedule B or C of the General~~
16 ~~Appropriations Act to a position in Salary Schedule A of the General~~
17 ~~Appropriations Act, the employee shall receive a step rate that is~~
18 ~~at least one step above the rate the employee received before~~
19 ~~promotion or the minimum rate of the new salary range, whichever is~~
20 ~~higher, and may, at the discretion of the state agency~~
21 ~~administrator, receive an annual rate up to and including the~~
22 ~~maximum rate of the new salary range.~~]

23 (f) Notwithstanding the other provisions of this section,
24 an employee whose salary prior to promotion exceeds the maximum
25 rate of the employee's assigned salary group may not receive more
26 than the maximum rate of the new salary group, even if the increase
27 is less than one step in a salary group that is divided into steps

1 ~~[Salary Schedule A of the General Appropriations Act]~~ or 3.4
2 percent in a salary group that is not divided into steps ~~[Salary~~
3 ~~Schedule B of the General Appropriations Act]~~.

4 SECTION 17. Section 659.257(c), Government Code, is amended
5 to read as follows:

6 (c) When an employee is demoted within ~~[to a position in a~~
7 ~~lower salary group in]~~ Salary Schedule A of the General
8 Appropriations Act or from Salary Schedule B or C of the General
9 Appropriations Act to Salary Schedule A of the General
10 Appropriations Act, the employee will receive a salary rate of at
11 least 3.4 percent ~~[one step]~~ below the rate the employee received
12 before demotion. ~~[When an employee is demoted from a position in~~
13 ~~Salary Schedule B or C of the General Appropriations Act to a~~
14 ~~position in Salary Schedule A of the General Appropriations Act,~~
15 ~~the employee shall receive a step rate that is at least 3.4 percent~~
16 ~~below the rate the employee received before demotion.]~~

17 SECTION 18. Section 660.024(a), Government Code, is amended
18 to read as follows:

19 (a) The chief administrator of a state agency must give
20 advance written approval for any travel related to official state
21 business for which a reimbursement for travel expenses is claimed
22 or for which an advance for travel expenses to be incurred is
23 sought. The advance written approval may be communicated
24 electronically. ~~[A copy of the written approval shall be submitted~~
25 ~~with the travel voucher to the comptroller in accordance with~~
26 ~~Section 660.027.]~~

27 SECTION 19. Sections 660.027(b), (d), and (e), Government

1 Code, are amended to read as follows:

2 (b) A voucher submitted under Subsection (a) is valid only
3 if:

4 (1) the state agency submitting the voucher approves
5 it in accordance with Chapter 2103 and, if required by law,
6 certifies the voucher; and

7 (2) the state employee who incurred the travel expense
8 or, if the employee is unavailable, another individual acceptable
9 to the comptroller approves the description, information, and
10 documentation required by Subsection (d) [voucher] in writing or
11 electronically, except that the employee's approval is not required
12 if another person is required by law to provide the approval.

13 (d) A voucher must be supported by:

14 (1) a description of [describe] the official state
15 business performed; and

16 (2) [be accompanied by] the information and
17 documentation that the comptroller considers necessary for the
18 comptroller to determine compliance with this chapter, the travel
19 provisions of the General Appropriations Act, and the rules adopted
20 by the comptroller under this chapter.

21 (e) The comptroller may require a state agency to provide to
22 the comptroller the description, information, and documentation
23 required under [by] Subsection (d):

24 (1) on the form adopted by the comptroller under
25 Subsection (c);

26 (2) electronically;

27 (3) by submitting receipts or other documents; or

1 (4) [~~(3)~~] by any [~~a~~] combination of Subdivisions (1),
2 [~~and~~] (2), and (3).

3 SECTION 20. Section 1431.001(2), Government Code, is
4 amended to read as follows:

5 (2) "Eligible countywide district" means:

6 (A) a flood control district or a hospital
7 district the boundaries of which are substantially coterminous with
8 the boundaries of a county with a population of three million or
9 more; or

10 (B) a hospital district created in a county with
11 a population of more than 800,000 in which no hospital district was
12 located before September 1, 2003.

13 SECTION 21. Section 2256.011, Government Code, is amended
14 by amending Subsection (a) and adding Subsection (e) to read as
15 follows:

16 (a) A fully collateralized repurchase agreement is an
17 authorized investment under this subchapter if the repurchase
18 agreement:

19 (1) has a defined termination date;

20 (2) except as provided by Subsection (e), is secured
21 by obligations described by Section 2256.009(a)(1); [~~and~~]

22 (3) requires the securities being purchased by the
23 entity to be pledged to the entity, held in the entity's name, and
24 deposited at the time the investment is made with the entity or with
25 a third party selected and approved by the entity; and

26 (4) is placed through a primary government securities
27 dealer, as defined by the Federal Reserve, or a financial

1 institution doing business in this state.

2 (e) An entity may agree to secure the agreement by accepting
3 cash on an overnight basis in lieu of the obligations identified in
4 Section 2256.009(a)(1). Cash held by an entity under this
5 subsection is not a deposit of public funds for purposes of any
6 statute, including Chapter 2257, that requires a deposit of public
7 funds to be collateralized by eligible securities.

8 SECTION 22. Section 2303.003(8), Government Code, is
9 amended to read as follows:

10 (8) "Qualified hotel project" means:

11 (A) a hotel proposed to be constructed by a
12 municipality or a nonprofit municipally sponsored local government
13 corporation created under the Texas Transportation Corporation
14 Act, Chapter 431, Transportation Code, that is within 1,000 feet of
15 a convention center owned by a municipality having a population of
16 1,500,000 or more, including shops, parking facilities, and any
17 other facilities ancillary to the hotel; and

18 (B) a hotel proposed to be constructed,
19 remodeled, or rehabilitated by a municipality or a nonprofit
20 municipally sponsored local government corporation created under
21 the Texas Transportation Corporation Act, Chapter 431,
22 Transportation Code, that is within 3,000 feet of the property line
23 of a convention center owned by a municipality having a population
24 of more than 500,000 and that borders the United Mexican States.

25 SECTION 23. Section 2303.401, Government Code, is amended
26 to read as follows:

27 Sec. 2303.401. DEFINITIONS. In this subchapter:

1 (1) "Certified job" means a new or retained job that:

2 (A) has provided at least 1,820 hours of
3 employment a year to a qualified employee of a qualified business as
4 described by Section 2303.402;

5 (B) is intended to exist for at least three years
6 after the date on which the comptroller makes the initial
7 certification of hiring commitments for the qualified business
8 under Section 2303.516(d); and

9 (C) has been certified by the comptroller as
10 eligible for receipt of a state benefit under this chapter.

11 (2) "New permanent job" means a new employment
12 position created by a qualified business as described by Section
13 2303.402 that:

14 (A) has provided at least 1,820 hours of
15 employment a year to a qualified employee; and

16 (B) is intended to exist at the qualified
17 business site for at least three years after the date on which a
18 state benefit is received as authorized by this chapter.

19 (3) [~~(2)~~] "Retained job" means a job that existed with
20 a qualified business before designation of the business's project
21 or activity as an enterprise project that:

22 (A) has provided employment to a qualified
23 employee of at least 1,820 hours annually; and

24 (B) is intended to be an employment position for
25 at least three years after the date on which a state benefit is
26 received as authorized by this chapter.

27 SECTION 24. The heading to Section 2303.504, Government

1 Code, as effective September 1, 2005, is amended to read as follows:

2 Sec. 2303.504. STATE TAX REFUNDS AND CREDITS; REPORT.

3 SECTION 25. Sections 2303.504(a) and (c), Government Code,
4 as effective September 1, 2005, are amended to read as follows:

5 (a) Subject to Section 2303.516, an enterprise project is
6 entitled to:

7 (1) a refund of state taxes under Section 151.429, Tax
8 Code; and

9 (2) a franchise tax credit under Subchapter P or Q,
10 Chapter 171, Tax Code.

11 (c) Not later than the 60th day after the last day of each
12 fiscal year, the comptroller shall report to the bank the statewide
13 total of actual jobs created, actual jobs retained, and the tax
14 refunds and credits made under this section during that fiscal
15 year.

16 SECTION 26. Section 2303.5055(b), Government Code, is
17 amended to read as follows:

18 (b) A municipality with a population of 1,500,000 or more or
19 a municipality having a population of more than 500,000 and that
20 borders the United Mexican States may agree to guarantee from hotel
21 occupancy taxes the bonds or other obligations of a municipally
22 sponsored local government corporation created under the Texas
23 Transportation Corporation Act, Chapter 431, Transportation Code,
24 [~~Article 15281, Vernon's Texas Civil Statutes~~] that were issued
25 or incurred to pay the cost of construction, remodeling, or
26 rehabilitation of a qualified hotel project.

27 SECTION 27. Sections 2303.516(b) and (d), Government Code,

1 are amended to read as follows:

2 (b) The comptroller [~~bank~~] may determine that the business
3 or project is not entitled to a refund or credit of state taxes
4 under Section 2303.504(a) [~~2303.504~~] if the comptroller [~~bank~~]
5 finds that:

6 (1) the business or project is not willing to
7 cooperate with the comptroller [~~bank~~] in providing the comptroller
8 [~~bank~~] with the information the comptroller [~~bank~~] needs to
9 determine state benefits [~~make the determination under Subsection~~
10 ~~(a)~~]; or

11 (2) the business or project has substantially failed
12 to follow through on any commitments made by it or on its behalf
13 under this chapter.

14 (d) A qualified business may obtain a state benefit, earned
15 through a specific enterprise project designation, on completion
16 of:

17 (1) a certification of the project or activity for
18 completeness that is conducted [~~an audit performed~~] by the
19 comptroller to verify [~~that will certify~~] hiring commitments of a
20 qualified business under this chapter;

21 (2) a certification conducted by the comptroller to
22 verify [~~and~~] eligible purchases of taxable items made by or on
23 behalf of the [~~a~~] qualified business under this chapter; and

24 (3) a verification of the capital investment for the
25 project or activity, conducted by the comptroller, to determine the
26 level of benefit achieved by the qualified business.

27 SECTION 28. Section 2303.517, Government Code, is amended

1 to read as follows:

2 Sec. 2303.517. REPORT. Before obtaining a state benefit,
3 the qualified business must submit to the comptroller [~~bank~~] a
4 certified report of the actual number of jobs created or retained
5 and the capital investment made at or committed to the qualified
6 business site.

7 SECTION 29. Section 302.001, Local Government Code, is
8 amended by amending Subdivision (1) and adding Subdivision (3) to
9 read as follows:

10 (1) "Energy savings performance contract" means a
11 contract for energy or water conservation or usage measures to
12 reduce energy or water consumption or net operating costs or to
13 increase energy-related or water-related revenues of local
14 government facilities in which the estimated savings in utility
15 costs or the estimated increase in revenues resulting from the
16 measures is guaranteed to offset the cost of the measures over a
17 specified period. The term includes a contract for the
18 installation or implementation of:

19 (A) insulation of a building structure and
20 systems within the building;

21 (B) storm windows or doors, caulking or weather
22 stripping, multiglazed windows or doors, heat-absorbing or
23 heat-reflective glazed and coated window or door systems, or other
24 window or door system modifications that reduce energy consumption;

25 (C) automatic energy control systems, including
26 computer software and technical data licenses;

27 (D) heating, ventilating, or air-conditioning

1 system modifications or replacements that reduce energy or water
2 consumption;

3 (E) lighting fixtures that increase energy
4 efficiency;

5 (F) energy recovery systems;

6 (G) electric systems improvements;

7 (H) water-conserving fixtures, appliances, and
8 equipment or the substitution of non-water-using fixtures,
9 appliances, and equipment;

10 (I) water-conserving landscape irrigation
11 equipment;

12 (J) landscaping measures that reduce watering
13 demands and capture and hold applied water and rainfall, including:

14 (i) landscape contouring, including the use
15 of berms, swales, and terraces; and

16 (ii) the use of soil amendments that
17 increase the water-holding capacity of the soil, including compost;

18 (K) rainwater harvesting equipment and equipment
19 to make use of water collected as part of a storm-water system
20 installed for water quality control;

21 (L) equipment for recycling or reuse of water
22 originating on the premises or from other sources, including
23 treated municipal effluent;

24 (M) equipment needed to capture water from
25 nonconventional, alternate sources, including air-conditioning
26 condensate or graywater, for nonpotable uses;

27 (N) metering equipment [~~needed to segregate~~

1 ~~water use in order to identify water conservation opportunities or~~
2 ~~verify water savings]; or~~

3 (O) other energy or water conservation-related
4 improvements or equipment, including improvements or equipment
5 relating to renewable energy or nonconventional water sources or
6 water reuse.

7 (3) "Usage measure" means a technology or practice
8 related to the use of energy or water.

9 SECTION 30. Section 302.002(b), Local Government Code, is
10 amended to read as follows:

11 (b) Each energy or water conservation or usage measure must
12 comply with current local, state, and federal construction,
13 plumbing, and environmental codes and regulations.
14 Notwithstanding Section 302.001(1), an energy savings performance
15 contract may not include improvements or equipment that allow or
16 cause water from any condensing, cooling, or industrial process or
17 any system of nonpotable usage over which public water supply
18 system officials do not have sanitary control to be returned to the
19 potable water supply.

20 SECTION 31. Section 302.003, Local Government Code, is
21 amended to read as follows:

22 Sec. 302.003. PAYMENT AND PERFORMANCE BOND.
23 Notwithstanding any other law, before entering into an energy
24 savings performance contract, the governing body of the local
25 government shall require the provider of the energy or water
26 conservation or usage measures to file with the governing body a
27 payment and performance bond relating to the installation of the

1 measures in accordance with Chapter 2253, Government Code. The
2 governing body may also require a separate bond to cover the value
3 of the guaranteed savings or the guaranteed increased revenues from
4 ~~on~~ the contract.

5 SECTION 32. Section 302.004, Local Government Code, is
6 amended to read as follows:

7 Sec. 302.004. METHOD OF FINANCING; TERMS OF CONTRACT. (a)
8 An energy savings performance contract may be financed:

9 (1) under a lease-purchase contract that has a term
10 not to exceed 15 years from the final date of installation and that
11 meets federal tax requirements for tax-free municipal leasing or
12 long-term financing;

13 (2) with the proceeds of bonds; or

14 (3) under a contract with the provider of the energy or
15 water conservation or usage measures that has a term not to exceed
16 15 years from the final date of installation.

17 (b) An energy savings performance contract shall contain
18 provisions requiring the provider of the energy or water
19 conservation or usage measures to guarantee the amount of the
20 savings or the increased revenues, or both, to be realized by the
21 local government under the contract. If the term of the contract
22 exceeds one year, the local government's contractual obligations in
23 any one year during the term of the contract beginning after the
24 final date of installation may not exceed the total energy, water,
25 wastewater, and operating cost savings or increased revenues, or
26 both, including electrical, gas, water, wastewater, or other
27 utility cost savings and operating cost savings or increased

1 revenues, or both, resulting from the measures as determined by the
2 local government in this subsection, divided by the number of years
3 in the contract term.

4 SECTION 33. Section 302.005(b), Local Government Code, is
5 amended to read as follows:

6 (b) Before entering into an energy savings performance
7 contract, the governing body must require that the cost savings or
8 increased revenues, or both, projected by an offeror be reviewed by
9 a licensed engineer who is not an officer or employee of an offeror
10 for the contract under review or otherwise associated with the
11 contract or the offeror. An engineer who reviews a contract shall
12 maintain the confidentiality of any proprietary information the
13 engineer acquires while reviewing the contract. Sections 1001.053
14 and 1001.407, Occupations Code, apply to work performed under the
15 contract.

16 SECTION 34. Section 430.003, Local Government Code, is
17 amended to read as follows:

18 Sec. 430.003. EXEMPTIONS OF CERTAIN [~~STATE~~] PROPERTY FROM
19 INFRASTRUCTURE FEES. (a) No county, municipality, or utility
20 district may collect from a state agency or public or private
21 institution of higher education, including a public junior college
22 as defined by Section 61.003, Education Code, any fee charged for
23 the development or maintenance of programs of facilities for the
24 control of excess water or storm water.

25 (b) This section does not apply to a municipality with a
26 population of less than 25,000.

27 SECTION 35. Section 433(a), Probate Code, is amended to

1 read as follows:

2 (a) Mode of Recovery. When funds of an estate have been paid
3 to the comptroller, any heir, devisee, or legatee of the estate, or
4 their assigns, or any of them, may recover the portion of such funds
5 to which he, she, or they are entitled. The person claiming such
6 funds shall institute suit on or before the fourth anniversary of
7 the date of the order requiring payment to the comptroller, by
8 petition filed in the district court of Travis County, against the
9 comptroller, setting forth the plaintiff's right to such funds, and
10 the amount claimed by him. Any heir, devisee, legatee, or their
11 assigns of an estate whose funds were paid to the state treasurer
12 under this chapter before September 1, 1991, must initiate suit
13 under this section not later than September 1, 2009.

14 SECTION 36. Section 74.101(a), Property Code, is amended to
15 read as follows:

16 (a) Each holder who on June 30 holds property that is
17 presumed abandoned under Chapter 72, 73, or 75 of this code or under
18 Chapter 154, Finance Code, shall file a report of that property on
19 or before the following November 1. The comptroller may require the
20 report to be in a particular format, including an electronic [a]
21 format that can be read by a computer if the holder is reporting 10
22 or more items of property.

23 SECTION 37. Section 74.401, Property Code, is amended by
24 adding Subsection (f) to read as follows:

25 (f) The comptroller may sell as a gift, novelty, or
26 collectible item, but not as an investment, a stock, bond,
27 certificate, or similar instrument that is nonredeemable and

1 nontransferable because it has been canceled or issued by a company
2 that has been dissolved or terminated and the existence of which has
3 not been revived or reinstated. The comptroller may sell an
4 instrument under this subsection at a public sale or in another
5 manner determined to be appropriate by the comptroller, including
6 an online sale. Before selling an instrument under this
7 subsection, the comptroller must stamp the face of the instrument
8 with a prominent mark indicating that the instrument has been
9 canceled. At the time of the sale and of the delivery of the
10 instrument to the purchaser, the comptroller must provide written
11 notice to the purchaser as required by this subsection. The notice
12 must be printed in a font size that is at least as large as the
13 largest font size on the page of the notice and include statements
14 substantially similar to the following:

15 "(1) the comptroller is not a registered
16 broker-dealer;

17 (2) this instrument is not being sold for investment
18 purposes; and

19 (3) this instrument is nonredeemable and
20 nontransferable because it has been canceled or issued by a company
21 that has been dissolved or terminated and the existence of which has
22 not been revived or reinstated."

23 SECTION 38. Section 74.507(b), Property Code, is amended to
24 read as follows:

25 (b) The person who informs a potential claimant and by
26 contract or other written agreement is to receive a percentage of
27 the value of the property may not file or receive a [~~form to~~] claim

1 form on behalf of a claimant.

2 SECTION 39. Section 74.601, Property Code, is amended by
3 adding Subsection (g) to read as follows:

4 (g) If an owner does not assert a claim for unclaimed funds
5 reported to the comptroller and the owner is reported to be the
6 state or a state agency, the comptroller may deposit the unclaimed
7 funds to the credit of the general revenue fund. The comptroller
8 may establish procedures and adopt rules as necessary to implement
9 this section.

10 SECTION 40. (a) Section 151.304(b), Tax Code, is amended to
11 read as follows:

12 (b) In this section, "occasional sale" means:

13 (1) one or two sales of taxable items, other than an
14 amusement service, at retail during a 12-month period by a person
15 who does not habitually engage, or hold himself out as engaging, in
16 the business of selling taxable items at retail;

17 (2) the sale of the entire operating assets of a
18 business or of a separate division, branch, or identifiable segment
19 of a business;

20 (3) a transfer of all or substantially all the
21 property used by a person in the course of an activity if after the
22 transfer the real or ultimate ownership of the property is
23 substantially similar to that which existed before the transfer;
24 [~~or~~]

25 (4) the sale of not more than 10 admissions for
26 amusement services during a 12-month period by a person who does not
27 hold himself out as engaging, or does not habitually engage, in

1 providing amusement services; or

2 (5) the sale of tangible personal property by an
3 individual if:

4 (A) the property was originally bought by the
5 individual or a member of the individual's family for the personal
6 use of the individual or the individual's family;

7 (B) the individual does not hold a permit issued
8 under this chapter and is not required to obtain a permit as a
9 "seller" or "retailer" as those terms are defined by Section
10 151.008;

11 (C) the individual does not employ an auctioneer,
12 broker, or factor, other than an online auction, to sell the
13 property; and

14 (D) the total receipts from sales of the
15 individual's tangible personal property in a calendar year does not
16 exceed \$3,000.

17 (b) The change in law made by this section does not affect
18 tax liability accruing before the effective date of this section.
19 That liability continues in effect as if this section had not been
20 enacted, and the former law is continued in effect for the
21 collection of taxes due and for civil and criminal enforcement of
22 the liability for those taxes.

23 (c) This section takes effect July 1, 2005, if this Act
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for effect on that
27 date, this section takes effect September 1, 2005.

1 SECTION 41. Sections 151.429(a) and (b), Tax Code, as
2 effective September 1, 2005, are amended to read as follows:

3 (a) An enterprise project is eligible for a refund in the
4 amount provided by this section of the taxes imposed by this chapter
5 on purchases of taxable items[+

6 [~~(1) equipment or machinery sold to an enterprise
7 project for use at the qualified business site;~~

8 [~~(2) building materials sold to an enterprise project
9 for use in remodeling, rehabilitating, or constructing a structure
10 at the qualified business site;~~

11 [~~(3) labor for remodeling, rehabilitating, or
12 constructing a structure by an enterprise project at the qualified
13 business site; and~~

14 [~~(4) electricity and natural gas purchased and
15 consumed in the normal course of business at the qualified business
16 site].~~

17 (b) Subject to the limitations provided by Subsection (c) of
18 this section, an enterprise project qualifies for a refund of taxes
19 under this section based on the amount of capital investment made at
20 the qualified business site and refund per job with a maximum refund
21 to be included in a computation of a tax refund for the project. A
22 capital investment at the qualified business site of:

23 (1) \$40,000 to \$399,999 will result in a refund of up
24 to \$2,500 per job with a maximum refund of \$25,000 for the creation
25 or retention of 10 certified jobs;

26 (2) \$400,000 to \$999,999 will result in a refund of up
27 to \$2,500 per job with a maximum refund of \$62,500 for the creation

1 or retention of 25 certified jobs;

2 (3) \$1,000,000 to \$4,999,999 will result in a refund
3 of up to \$2,500 per job with a maximum refund of \$312,500 for the
4 creation or retention of 125 certified jobs;

5 (4) \$5,000,000 to \$149,999,999 will result in a refund
6 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
7 creation or retention of 500 certified jobs;

8 (5) \$150,000,000 to \$249,999,999 will result in a
9 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
10 for the creation or retention of 500 certified jobs; or

11 (6) \$250,000,000 or more will result in a refund of up
12 to \$7,500 per job with a maximum refund of \$3,750,000 for the
13 creation or retention of 500 certified jobs.

14 SECTION 42. Sections 151.429(c) and (g), Tax Code, are
15 amended to read as follows:

16 (c) The total amount of tax refund that an enterprise
17 project may apply for in a state fiscal year may not exceed
18 \$250,000. If an enterprise project qualifies in a state fiscal year
19 for a refund of taxes in an amount in excess of the limitation
20 provided by this subsection, it may apply for a refund of those
21 taxes in a subsequent year, subject to the \$250,000 limitation for
22 each year. The total amount that may be refunded to an enterprise
23 project under this section may not exceed the amount determined by
24 multiplying \$250,000 by the number of state fiscal years during
25 which the enterprise project created or retained one or more
26 certified jobs for qualified employees.

27 (g) The refund provided by this section is conditioned on

1 the enterprise project maintaining for a three-year period at least
 2 the same number [~~level~~] of certified jobs [~~employment of qualified~~
 3 ~~employees~~] as existed on the date the comptroller initially
 4 certified the hiring commitments for the project under Section
 5 2303.516(d), Government Code [~~at the time it qualified for a refund~~
 6 ~~for a period of three years from that date~~]. The comptroller shall
 7 annually certify whether that number [~~level~~] of certified jobs
 8 [~~employment of qualified employees~~] has been maintained. On
 9 certifying that such a number [~~level~~] has not been maintained, the
 10 comptroller shall assess that portion of the refund attributable to
 11 any such decrease in certified jobs [~~employment~~], including penalty
 12 and interest from the date of the refund.

13 SECTION 43. Section 151.429(e), Tax Code, is amended by
 14 adding Subdivision (4-a) to read as follows:

15 (4-a) "Certified job" has the meaning assigned by
 16 Section 2303.401, Government Code.

17 SECTION 44. (a) Subchapter L, Chapter 151, Tax Code, is
 18 amended by adding Section 151.715 to read as follows:

19 Sec. 151.715. COLLECTION OF AMOUNTS IN EXCESS OF TAX
 20 IMPOSED; CIVIL PENALTY. (a) A person may not collect as a tax
 21 imposed by this chapter:

22 (1) any amount that exceeds the tax actually imposed
 23 by this chapter on the sale of a taxable item; or

24 (2) any amount on the sale of an item that is exempt
 25 from the tax imposed by this chapter.

26 (b) The comptroller shall send a written notice to a person
 27 who violates Subsection (a) that directs the person to cease

1 collecting amounts described by that subsection. If, after the
2 person receives two written notices from the comptroller, the
3 person continues collecting an amount described by that subsection,
4 the person shall pay a penalty of \$1,000 for each sale on which the
5 person collects an amount described by that subsection.

6 (c) The penalty provided by this section is assessed without
7 regard to whether the person against whom the penalty is assessed
8 remits to the comptroller the excess amounts collected.

9 (b) Section 151.715, Tax Code, as added by this section,
10 applies only to the sale of an item that occurs on or after the
11 effective date of this section. The sale of an item that occurs
12 before the effective date of this section is governed by the law in
13 effect on the date the sale occurred, and the former law is
14 continued in effect for that purpose.

15 SECTION 45. (a) Subchapter E, Chapter 152, Tax Code, is
16 amended by adding Section 152.094 to read as follows:

17 Sec. 152.094. MOTOR VEHICLES USED IN TELEVISION, MOTION
18 PICTURE, VIDEO, OR AUDIO PRODUCTIONS. (a) In this section,
19 "nonbroadcast, industrial, or educational recorded material" means
20 material produced for instructional, educational, sales,
21 promotional, amusement, or entertainment purposes, regardless of
22 the medium used or the manner displayed or transmitted. The term
23 includes recording of events for sale to interested persons.

24 (b) The taxes imposed by this chapter do not apply to the
25 purchase, rental, or use of a motor vehicle used exclusively in
26 connection with the production for consideration of a television
27 film, commercial, or program, nonbroadcast, industrial, or

1 educational recorded material, a motion picture, or a video or
2 audio recording, a copy of which is sold or offered for ultimate
3 sale, licensed, distributed, broadcast, or otherwise commercially
4 exhibited.

5 (c) The tax that would have been remitted on gross rental
6 receipts without the exemption provided by this section is
7 considered to have been remitted for the purpose of computing the
8 minimum gross rental receipts tax imposed by Section 152.026.

9 (b) Subchapter C, Chapter 156, Tax Code, is amended by
10 adding Section 156.105 to read as follows:

11 Sec. 156.105. EXCEPTION--PERSONS INVOLVED IN TELEVISION,
12 MOTION PICTURE, VIDEO, OR AUDIO PRODUCTIONS. (a) In this section,
13 "nonbroadcast, industrial, or educational recorded material" means
14 material produced for instructional, educational, sales,
15 promotional, amusement, or entertainment purposes, regardless of
16 the medium used or the manner displayed or transmitted. The term
17 includes recording of events for sale to interested persons.

18 (b) Subject to this section, this chapter does not impose a
19 tax on a person involved exclusively in the production for
20 consideration of a television film, commercial, or program,
21 nonbroadcast, industrial, or educational recorded material, a
22 motion picture, or a video or audio recording, a copy of which is
23 sold or offered for ultimate sale, licensed, distributed,
24 broadcast, or otherwise commercially exhibited, provided that the
25 person has the right to use or possess a room in one hotel or in a
26 series of two or more hotels for at least three consecutive days.

27 (c) A person otherwise excepted under this section shall pay

1 the tax imposed by this chapter and is entitled to a refund of the
2 amount of tax paid in accordance with Section 156.154.

3 (c) Section 156.154(a), Tax Code, is amended to read as
4 follows:

5 (a) A governmental entity [~~that is~~] entitled under Section
6 156.103 or a person entitled under Section 156.105 to a refund of
7 taxes paid under this chapter must file a refund claim with the
8 comptroller.

9 (d) The change in law made by this section does not affect
10 taxes imposed before the effective date of this section, and the law
11 in effect before the effective date of this section is continued in
12 effect for the purposes of the liability for and collection of those
13 taxes.

14 (e) This section takes effect July 1, 2005, if this Act
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for effect on that
18 date, this section takes effect October 1, 2005.

19 SECTION 46. Sections 162.001(20) and (43), Tax Code, are
20 amended to read as follows:

21 (20) "Distributor" means a person who acquires motor
22 fuel from a licensed supplier, permissive supplier, or another
23 licensed distributor and who makes sales at wholesale and whose
24 activities may also include sales at retail. The term includes a
25 person engaged in the tax-free sale of dyed diesel fuel to marine
26 vessels.

27 (43) "Motor fuel transporter" means a person who

1 transports gasoline, diesel fuel, or gasoline blended fuel for hire
2 outside the bulk transfer/terminal system by means of a transport
3 vehicle, a railroad tank car, or a marine vessel.

4 SECTION 47. Section 162.004(b), Tax Code, is amended to
5 read as follows:

6 (b) The shipping document issued by the terminal operator or
7 operator of a bulk plant shall contain the following information
8 and any other information required by the comptroller:

9 (1) the terminal control number of the terminal or
10 physical address of the bulk plant from which the motor fuel was
11 received;

12 (2) the name [~~and license number~~] of the purchaser;

13 (3) the date the motor fuel was loaded;

14 (4) the net gallons loaded, or the gross gallons
15 loaded if the fuel was purchased from a bulk plant;

16 (5) the destination state of the motor fuel, as
17 represented by the purchaser of the motor fuel or the purchaser's
18 agent; and

19 (6) a description of the product being transported.

20 SECTION 48. Section 162.016(a), Tax Code, is amended to
21 read as follows:

22 (a) A person may not import motor fuel to a destination in
23 this state or export motor fuel to a destination outside this state
24 by any means unless the person possesses a shipping document for
25 that fuel created by the terminal or bulk plant at which the fuel
26 was received. The shipping document must include:

27 (1) the name and physical address of the terminal or

1 bulk plant from which the motor fuel was received for import or
2 export;

3 (2) the name [~~and federal employer identification~~
4 ~~number, or the social security number if the employer~~
5 ~~identification number is not available,~~] of the carrier
6 transporting the motor fuel;

7 (3) the date the motor fuel was loaded;

8 (4) the type of motor fuel;

9 (5) the number of gallons:

10 (A) in temperature-adjusted gallons if purchased
11 from a terminal for export or import; or

12 (B) in temperature-adjusted gallons or in gross
13 gallons if purchased from a bulk plant;

14 (6) the destination of the motor fuel as represented
15 by the purchaser of the motor fuel and the number of gallons of the
16 fuel to be delivered, if delivery is to only one state;

17 (7) the name [~~, federal employer identification~~
18 ~~number, license number, and physical address~~] of the purchaser of
19 the motor fuel;

20 (8) the name of the person responsible for paying the
21 tax imposed by this chapter, as given to the terminal by the
22 purchaser if different from the licensed supplier or distributor;
23 and

24 (9) any other information that, in the opinion of the
25 comptroller, is necessary for the proper administration of this
26 chapter.

27 SECTION 49. Section 162.113(d), Tax Code, is amended to

1 read as follows:

2 (d) The supplier or permissive supplier shall [~~has the~~
3 ~~right~~], after notifying the comptroller of the licensed
4 distributor's or licensed importer's failure to remit taxes under
5 this section, [~~to~~] terminate the ability of the licensed
6 distributor or licensed importer to defer the payment of gasoline
7 tax. The supplier or permissive supplier shall reinstate without
8 delay the right of the licensed distributor or licensed importer to
9 defer the payment of gasoline tax after the comptroller provides to
10 the supplier or permissive supplier notice that the licensed
11 distributor or licensed importer is in good standing with the
12 comptroller for the purposes of the gasoline tax imposed under this
13 subchapter.

14 SECTION 50. Section 162.115, Tax Code, is amended by adding
15 Subsection (m-1) to read as follows:

16 (m-1) In addition to the records specifically required by
17 this section, a license holder shall keep any other record required
18 by the comptroller.

19 SECTION 51. Sections 162.116(a) and (d), Tax Code, are
20 amended to read as follows:

21 (a) The monthly return and supplements of each supplier and
22 permissive supplier shall contain for the period covered by the
23 return:

24 (1) [~~the number of net gallons of gasoline received by~~
25 ~~the supplier or permissive supplier during the month, sorted by~~
26 ~~product code, seller, point of origin, destination state, carrier,~~
27 ~~and receipt date,~~

1 ~~(2)~~ the number of net gallons of gasoline removed at
2 a terminal rack during the month from the account of the supplier,
3 sorted by product code, person receiving the gasoline, terminal
4 code, and carrier;

5 (2) ~~(3)~~ the number of net gallons of gasoline
6 removed during the month for export, sorted by product code, person
7 receiving the gasoline, terminal code, destination state, and
8 carrier;

9 (3) ~~(4)~~ the number of net gallons of gasoline
10 removed during the month from a terminal located in another state
11 for conveyance to this state, as indicated on the shipping document
12 for the gasoline, sorted by product code, person receiving the
13 gasoline, terminal code, and carrier;

14 (4) ~~(5)~~ the number of net gallons of gasoline the
15 supplier or permissive supplier sold during the month in
16 transactions exempt under Section 162.104, sorted by ~~[product code,~~
17 ~~carrier,~~] purchaser~~[, and terminal code,~~

18 ~~[(6) the number of net gallons of gasoline sold in the~~
19 ~~bulk transfer/terminal system in this state to any person not~~
20 ~~holding a supplier's or permissive supplier's license]; and~~

21 (5) ~~(7)~~ any other information required by the
22 comptroller.

23 (d) For purposes of Subsection (c), all payments or credits
24 in reduction of a customer's account must be applied ratably
25 between motor fuels and other goods sold to the customer, and the
26 credit allowed will be the tax on the number of gallons represented
27 by the motor fuel portion of the credit. The comptroller may not

1 require a supplier or permissive supplier to remit from a payment or
2 credit in reduction of a customer's account any tax for which the
3 supplier or permissive supplier was allowed to take a credit.

4 SECTION 52. Section 162.118, Tax Code, is amended to read as
5 follows:

6 Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S
7 RETURN. The monthly return and supplements of each distributor
8 shall contain for the period covered by the return:

9 (1) the number of net gallons of gasoline received by
10 the distributor during the month, sorted by product code and~~[7]~~
11 ~~seller[, point of origin, destination state, carrier, and receipt~~
12 ~~date]~~;

13 (2) the number of net gallons of gasoline removed at a
14 terminal rack by the distributor during the month, sorted by
15 product code, seller, and terminal code~~[, and carrier]~~;

16 (3) the number of net gallons of gasoline removed by
17 the distributor during the month for export, sorted by product
18 code, terminal code, bulk plant address, destination state, and
19 carrier;

20 (4) the number of net gallons of gasoline removed by
21 the distributor during the month from a terminal located in another
22 state for conveyance to this state, as indicated on the shipping
23 document for the gasoline, sorted by product code, seller, terminal
24 code, bulk plant address, and carrier;

25 (5) the number of net gallons of gasoline the
26 distributor sold during the month in transactions exempt under
27 Section 162.104, sorted by product code and purchaser; and

1 (6) any other information required by the comptroller.

2 SECTION 53. Section 162.123, Tax Code, is amended to read as
3 follows:

4 Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN.
5 The monthly return and supplements of each blender shall contain
6 for the period covered by the return:

7 ~~(1) [the number of net gallons of gasoline received by
8 the blender during the month, sorted by product code, seller, point
9 of origin, carrier, and receipt date;~~

10 [~~(2)~~] the number of net gallons of product blended
11 with gasoline during the month, sorted by product code, type of
12 blending agent if no product code exists, seller, and carrier;

13 ~~[(3) the number of net gallons of blended gasoline
14 sold during the month and the license number or name and address of
15 the entity receiving the blended gasoline;]~~ and

16 (2) [~~(4)~~] any other information required by the
17 comptroller.

18 SECTION 54. Section 162.127, Tax Code, is amended by adding
19 Subsection (g) to read as follows:

20 (g) The comptroller shall issue a refund warrant to a
21 distributor not later than the 60th day after the date the
22 comptroller receives a valid refund claim from the distributor. If
23 the comptroller does not issue the refund warrant by that date, the
24 amount of the refund draws interest at the rate provided by Section
25 111.060 beginning on the 61st day after the date the comptroller
26 receives the valid refund claim and ending on the date the
27 comptroller issues the refund warrant.

1 SECTION 55. Section 162.206, Tax Code, is amended by
2 amending Subsection (c) and adding Subsections (c-1) and (h-1) to
3 read as follows:

4 (c) A person may not make a tax-free purchase and a licensed
5 supplier or distributor may not make a tax-free sale to a purchaser
6 of any dyed diesel fuel under this section using a signed statement
7 for the first sale or purchase and for any subsequent sale or
8 purchase[-

9 ~~[(1) for the purchase or the sale of more than 7,400~~
10 ~~gallons of dyed diesel fuel in a single delivery; or~~

11 ~~[(2)] in a calendar month for [in which the person has~~
12 ~~previously purchased from all sources or in which the licensed~~
13 ~~supplier has previously sold to that purchaser] more than:~~

14 (1) [~~(A)~~] 10,000 gallons of dyed diesel fuel;

15 (2) [~~(B)~~] 25,000 gallons of dyed diesel fuel if the
16 purchaser stipulates in the signed statement that all of the fuel
17 will be consumed by the purchaser in the original production of, or
18 to increase the production of, oil or gas and furnishes the supplier
19 with a letter of exception issued by the comptroller; or

20 (3) [~~(C)~~] 25,000 gallons of dyed diesel fuel if the
21 purchaser stipulates in the signed statement that all of the fuel
22 will be consumed by the purchaser in agricultural off-highway
23 equipment.

24 (c-1) The monthly limitations prescribed by Subsection (c)
25 apply regardless of whether the dyed diesel fuel is purchased in a
26 single transaction during that month or in multiple transactions
27 during that month.

1 (h-1) For purposes of this section, the purchaser is
2 considered to have furnished the signed statement to the licensed
3 supplier or distributor if the supplier or distributor verifies
4 that the purchaser has an end user number issued by the comptroller.
5 The licensed supplier or distributor shall use the comptroller's
6 Internet website or other materials provided or produced by the
7 comptroller to verify this information.

8 SECTION 56. Section 162.214(d), Tax Code, is amended to
9 read as follows:

10 (d) The supplier or permissive supplier shall [~~has the~~
11 ~~right~~], after notifying the comptroller of the licensed
12 distributor's or licensed importer's failure to remit taxes under
13 this section, [~~to~~] terminate the ability of the licensed
14 distributor or licensed importer to defer the payment of diesel
15 fuel tax. The supplier or permissive supplier shall reinstate
16 without delay the right of the licensed distributor or licensed
17 importer to defer the payment of diesel fuel tax after the
18 comptroller provides to the supplier or permissive supplier notice
19 that the licensed distributor or licensed importer is in good
20 standing with the comptroller for the purposes of diesel fuel tax
21 imposed under this subchapter.

22 SECTION 57. Section 162.216, Tax Code, is amended by adding
23 Subsection (m-1) to read as follows:

24 (m-1) In addition to the records specifically required by
25 this section, a license holder shall keep any other record required
26 by the comptroller.

27 SECTION 58. Sections 162.217(a) and (d), Tax Code, are

1 amended to read as follows:

2 (a) The monthly return and supplements of each supplier and
3 permissive supplier shall contain for the period covered by the
4 return:

5 (1) ~~[the number of net gallons of diesel fuel received~~
6 ~~by the supplier or permissive supplier during the month, sorted by~~
7 ~~product code, seller, point of origin, destination state, carrier,~~
8 ~~and receipt date,~~

9 [~~(2)~~] the number of net gallons of diesel fuel removed
10 at a terminal rack during the month from the account of the
11 supplier, sorted by product code, person receiving the diesel fuel,
12 terminal code, and carrier;

13 (2) [~~(3)~~] the number of net gallons of diesel fuel
14 removed during the month for export, sorted by product code, person
15 receiving the diesel fuel, terminal code, destination state, and
16 carrier;

17 (3) [~~(4)~~] the number of net gallons of diesel fuel
18 removed during the month from a terminal located in another state
19 for conveyance to this state, as indicated on the shipping document
20 for the diesel fuel, sorted by product code, person receiving the
21 diesel fuel, terminal code, and carrier;

22 (4) [~~(5)~~] the number of net gallons of diesel fuel the
23 supplier or permissive supplier sold during the month in
24 transactions exempt under Section 162.204, sorted by [~~product code,~~
25 ~~carrier,~~] purchaser [~~, and terminal code,~~

26 [~~(6)~~] ~~the number of net gallons of diesel fuel sold in~~
27 ~~the bulk transfer/terminal system in this state to any person not~~

1 ~~holding a supplier's or permissive supplier's license]; and~~

2 (5) ~~[(7)]~~ any other information required by the
3 comptroller.

4 (d) For the purpose of Subsection (c), all payments or
5 credits in reduction of a customer's account must be applied
6 ratably between motor fuels and other goods sold to the customer,
7 and the credit allowed will be the tax on the number of gallons
8 represented by the motor fuel portion of the credit. The
9 comptroller may not require a supplier or permissive supplier to
10 remit from a payment or credit in reduction of a customer's account
11 any tax for which the supplier or permissive supplier was allowed to
12 take a credit.

13 SECTION 59. Section 162.219, Tax Code, is amended to read as
14 follows:

15 Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S
16 RETURN. The monthly return and supplements of each distributor
17 shall contain for the period covered by the return:

18 (1) the number of net gallons of diesel fuel received
19 by the distributor during the month, sorted by product code and~~[7]~~
20 ~~seller [7, point of origin, destination state, carrier, and receipt~~
21 ~~date];~~

22 (2) the number of net gallons of diesel fuel removed at
23 a terminal rack by the distributor during the month, sorted by
24 product code, seller, and terminal code~~[7, and carrier];~~

25 (3) the number of net gallons of diesel fuel removed by
26 the distributor during the month for export, sorted by product
27 code, terminal code, bulk plant address, destination state, and

1 carrier;

2 (4) the number of net gallons of diesel fuel removed by
3 the distributor during the month from a terminal located in another
4 state for conveyance to this state, as indicated on the shipping
5 document for the diesel fuel, sorted by product code, seller,
6 terminal code, bulk plant address, and carrier;

7 (5) the number of net gallons of diesel fuel the
8 distributor sold during the month in transactions exempt under
9 Section 162.204, sorted by product code and by the entity receiving
10 the diesel fuel;

11 (6) the number of net gallons of [7] dyed diesel fuel
12 sold to a purchaser under a signed statement [7] or dyed diesel fuel
13 sold to a dyed diesel fuel bonded user, sorted by product code and
14 by the entity receiving the diesel fuel; and

15 (7) [~~6~~] any other information required by the
16 comptroller.

17 SECTION 60. Section 162.224, Tax Code, is amended to read as
18 follows:

19 Sec. 162.224. INFORMATION REQUIRED ON BLENDER'S RETURN.
20 The monthly return and supplements of each blender shall contain
21 for the period covered by the return:

22 (1) [~~the number of net gallons of diesel fuel received~~
23 ~~by the blender during the month, sorted by product code, seller,~~
24 ~~point of origin, carrier, and receipt date,~~

25 [~~2~~] the number of net gallons of product blended
26 with diesel fuel during the month, sorted by product code, type of
27 blending agent if no product code exists, seller, and carrier;

1 ~~[(3) the number of net gallons of blended diesel fuel~~
2 ~~sold during the month and the license number or name and address of~~
3 ~~the entity receiving the blended diesel fuel,]~~ and

4 (2) ~~[(4)]~~ any other information required by the
5 comptroller.

6 SECTION 61. Section 162.229, Tax Code, is amended by adding
7 Subsection (g) to read as follows:

8 (g) The comptroller shall issue a refund warrant to a
9 distributor not later than the 60th day after the date the
10 comptroller receives a valid refund claim from the distributor. If
11 the comptroller does not issue the refund warrant by that date, the
12 amount of the refund draws interest at the rate provided by Section
13 111.060 beginning on the 61st day after the date the comptroller
14 receives the valid refund claim and ending on the date the
15 comptroller issues the refund warrant.

16 SECTION 62. Section 162.230(d), Tax Code, is amended to
17 read as follows:

18 (d) A supplier, ~~[or]~~ permissive supplier, or distributor
19 that determines taxes were erroneously reported and remitted or
20 that paid more taxes than were due to this state because of a
21 mistake of fact or law may take a credit on the monthly tax report on
22 which the error has occurred and tax payment made to the
23 comptroller. The credit must be taken before the expiration of the
24 applicable period of limitation as provided by Chapter 111.

25 SECTION 63. Sections 162.404(c) and (d), Tax Code, are
26 amended to read as follows:

27 (c) The prohibition under Section 162.403(32) does not

1 apply to the tax-free sale or distribution of diesel fuel
2 authorized by Section 162.204(a)(1) [~~162.204(1)~~], (2), or (3).

3 (d) The prohibition under Section 162.403(33) does not
4 apply to the tax-free sale or distribution of gasoline under
5 Section 162.104(a)(1) [~~162.104(1)~~], (2), or (3).

6 SECTION 64. Section 171.721(2), Tax Code, is amended to
7 read as follows:

8 (2) "Strategic investment area" means an area that is
9 determined by the comptroller under Section 171.726 that is:

10 (A) a county within this state with above state
11 average unemployment and below state average per capita income;

12 (B) an area within this state that is a federally
13 designated urban enterprise community, ~~or~~ an urban enhanced
14 enterprise community, an empowerment zone and associated
15 developable areas, or a renewal community; or

16 (C) a defense economic readjustment zone
17 designated under Chapter 2310, Government Code.

18 SECTION 65. Section 351.001(2), Tax Code, is amended to
19 read as follows:

20 (2) "Convention center facilities" or "convention
21 center complex" means facilities that are primarily used to host
22 conventions and meetings. The term means civic centers, civic
23 center buildings, auditoriums, exhibition halls, and coliseums
24 that are owned by the municipality or other governmental entity or
25 that are managed in whole or part by the municipality. In a
26 municipality with a population of 1.5 million or more, "convention
27 center facilities" or "convention center complex" means civic

1 centers, civic center buildings, auditoriums, exhibition halls,
2 and coliseums that are owned by the municipality or other
3 governmental entity or that are managed in part by the
4 municipality, hotels owned by the municipality or a nonprofit
5 municipally sponsored local government corporation created under
6 Chapter 431, Transportation Code, within 1,000 feet of a convention
7 center owned by the municipality, or a historic hotel owned by the
8 municipality or a nonprofit municipally sponsored local government
9 corporation created under Chapter 431, Transportation Code, within
10 one mile of a convention center owned by the municipality. The term
11 includes parking areas or facilities that are for the parking or
12 storage of conveyances and that are located at or in the vicinity of
13 other convention center facilities. The term also includes a hotel
14 owned by or located on land that is owned by an eligible central
15 municipality or by a nonprofit corporation acting on behalf of an
16 eligible central municipality and that is located within 1,000 feet
17 of a convention center facility owned by the municipality. The term
18 also includes a hotel proposed to be constructed, remodeled, or
19 rehabilitated by a municipality or a nonprofit municipally
20 sponsored local government corporation created under Chapter 431,
21 Transportation Code, that is within 3,000 feet of the property line
22 of a convention center owned by a municipality having a population
23 of more than 500,000 and that borders the United Mexican States.

24 SECTION 66. Section 351.102(a), Tax Code, is amended to
25 read as follows:

26 (a) Subject to the limitations provided by this subchapter,
27 a municipality may pledge the revenue derived from the tax imposed

1 under this chapter for the payment of bonds that are issued under
2 Section 1504.002(a), Government Code, for one or more of the
3 purposes provided by Section 351.101 or, in the case of a
4 municipality of 1,500,000 or more or a municipality having a
5 population of more than 500,000 and that borders the United Mexican
6 States, for the payment of principal of or interest on bonds or
7 other obligations of a municipally sponsored local government
8 corporation created under Chapter 431, Transportation Code, that
9 were issued to pay the cost of the acquisition and construction of a
10 convention center hotel or the cost of acquisition, remodeling, or
11 rehabilitation of a historic hotel structure; provided, however,
12 such pledge may only be that portion of the tax collected at such
13 hotel.

14 SECTION 67. Section 623.052(b), Transportation Code, is
15 amended to read as follows:

16 (b) Before a person may operate a vehicle under this
17 section, the person must:

18 (1) contract with the department to indemnify the
19 department for the cost of the maintenance and repair for damage
20 caused by a vehicle crossing that part of the highway; and

21 (2) execute an adequate surety bond to compensate for
22 the cost of maintenance and repair, approved by [~~the comptroller~~
23 ~~and~~] the attorney general, with a corporate surety authorized to do
24 business in this state, conditioned on the person fulfilling each
25 obligation of the agreement.

26 SECTION 68. Section 2303.516(c), Government Code, is
27 repealed.

1 SECTION 69. Section 162.016(h), Tax Code, is repealed.

2 SECTION 70. (a) Except as provided by Subsection (b) of
3 this section or as otherwise provided by this Act, this Act takes
4 effect immediately if it receives a vote of two-thirds of all the
5 members elected to each house, as provided by Section 39, Article
6 III, Texas Constitution. If this Act does not receive the vote
7 necessary for immediate effect:

8 (1) the changes, reenactments, and additions in law
9 made by this Act to the statutes that are not specifically listed in
10 this section take effect on the 91st day after the last day of the
11 legislative session, except as otherwise provided by this Act; and

12 (2) the changes in law made by this Act to the
13 following statutes take effect September 1, 2005:

14 (A) Section 103.0031, Code of Criminal
15 Procedure;

16 (B) Sections 25.0015, 25.00211, 26.007, 74.061,
17 403.071, 404.024, 660.024, 660.027, and 2256.011, Government Code;

18 (C) Section 433, Probate Code;

19 (D) Sections 74.101, 74.401, 74.507, and 74.601,
20 Property Code; and

21 (E) Section 623.052, Transportation Code.

22 (b) The changes in law made by this Act to the following
23 statutes take effect September 1, 2005:

24 (1) Section 43.002, Education Code;

25 (2) Sections 659.255, 659.256, and 659.257,
26 Government Code; and

27 (3) Section 151.715, Tax Code.