

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 3, 2007

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB242 by Shapiro (Relating to the transfer to the State Office of Administrative Hearings of contested cases involving the collection, receipt, administration, and enforcement of state taxes and fees by the comptroller.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill establishes a tax division at the State Office of Administrative Hearings (SOAH). It provides that the SOAH tax division will conduct contested case hearings in cases referred to SOAH by the Comptroller of Public Accounts (the Comptroller) that relate to the collection, administration, and enforcement of a tax imposed under Title 2 of the Texas Tax Code and any other tax or fee the Comptroller is required to collect under a law not included in Title 2. Certain cases are determined not to be contested cases that will be transferred to SOAH, and they are listed in the bill.

The bill establishes eligibility requirements about who may be employed as an Administrative Law Judge (ALJ) in the SOAH tax division, and creates a new classification for judges employed in the SOAH tax division.

Under the bill, the ALJs may impose sanctions against a party or its representative for filing a groundless pleading or one that is brought in bad faith, for purposes of harassment, or for any other improper purpose. The sanctions that may be imposed are disallowing discovery; charging expenses against the offending party or its representative; holding that certain facts be deemed admitted; refusing to allow the offending party to suppose or oppose a designated claim or defense or prohibiting the offending party from introducing designated matters in evidence; disallowing requests for relief by the offending party and excluding evidence in support of such relief; and striking pleadings or testimony or staying further proceedings until the order is obeyed.

The bill states that SOAH shall charge the Comptroller a fixed annual fee. SOAH and the Comptroller are to negotiate the amount of the fee biennially to coincide with the Comptroller's legislative appropriations request.

The bill also sets out requirements for Sunset review of the tax division and establishes reporting requirements for SOAH to the Comptroller.

Based on information provided by SOAH and the CPA, this analysis assumes there will be an Interagency Contract established between SOAH and the CPA in the amount of \$758,559 beginning in fiscal year 2008 and continuing each subsequent fiscal year. It is also assumed that 7.0 FTEs would be transferred to SOAH from the CPA for administrative law judge positions to implement the provisions of the bill. This analysis assumes there will be no significant fiscal impact to the state as a result of this transfer.

The bill would take effect September 1, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings
LBB Staff: JOB, CT, MW, AH