

BILL ANALYSIS

C.S.H.B. 1377
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law there is no statute of limitations on the reallocation of sales tax revenue by the comptroller of public accounts, nor is there a process for appealing the reallocation of sales tax dollars from one governmental entity to another. This places an undue burden on cities that face the possibility of having to pay back sales tax that may have been rightfully allocated to them but that they may have already spent. Some cities want a limit on how many years the comptroller can go back to reallocate sales tax revenue and an appeals process to dispute possible reallocation action by the comptroller.

C.S.H.B. 1377 limits the time in which the comptroller can reallocate certain sales and use tax revenues between governmental entities. The bill institutes an appeals process in which a city or county can dispute possible reallocation action by the comptroller.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1377 amends the Tax Code to require the comptroller of public accounts, if the comptroller determines that municipal sales and use tax revenue or county sales and use tax revenue collected by the comptroller has been sent incorrectly to a municipality or county, to send notice to that municipality or county that the comptroller intends to reallocate the tax revenue to another municipality or county. The bill authorizes such reallocation only if the municipality or county that originally received the revenue receives such notification not later than the fourth anniversary of the date of its receipt of the revenue and if the reallocation is made in accordance with applicable reallocation provisions. The bill specifies that its reallocation provisions apply only if the amount the comptroller intends to reallocate is at least equal to the lesser of \$200,000 or an amount equal to five percent of the revenue received by the municipality or county from sales and use tax revenue during the calendar year preceding the calendar year in which the reallocation will be made.

C.S.H.B. 1377 authorizes a municipality or county that receives such a notice to protest the comptroller's determination by submitting a written request for a hearing on the issue of whether the original allocation of the revenue was incorrect. The bill requires the municipality or county to submit such a request not later than the 30th day after the date the municipality or county receives the notice. The bill requires the comptroller, not later than the 15th day after the date the comptroller receives a request for a hearing, to send to the requesting municipality or county a copy of all records, documents, and other information on which the comptroller relied in making the determination, regardless of whether the information is confidential under state law. The bill specifies that the provision of confidential information to a municipality under such conditions does not affect the confidential nature of the information. The bill requires a municipality or county to use the information only in a manner that maintains the confidential nature of the

information and prohibits the municipality or county from disclosing or releasing the information to the public. The bill requires the comptroller to hold a hearing on whether the original allocation of the revenue was incorrect not earlier than the 30th day or later than the 90th day after the date the comptroller receives a request for a hearing. The bill requires the comptroller, after the conclusion of the hearing, to issue a written final decision to the municipality or county regarding the protest.

C.S.H.B. 1377 specifies that, for the purposes of judicial review, the comptroller's decision is final and appealable on the date the decision is issued. The bill authorizes a municipality or county that is not satisfied with the comptroller's written final decision to appeal the decision by filing a petition in a Travis County district court not later than the 30th day after the date the municipality or county receives the decision. The bill establishes that judicial review of the decision is under the substantial evidence rule. The bill requires the court to hear the appeal without a jury.

C.S.H.B. 1377 specifies that its provisions relating to reallocation of municipal tax revenue apply in the same manner to sales and use taxes for special purpose taxing authorities.

EFFECTIVE DATE

July 1, 2009, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1377 adds provisions not included in the original to specify that the bill's reallocation provisions apply only if the comptroller intends to reallocate an amount at least equal to the lesser of two specified amounts. The substitute differs from the original by making the reallocation authorization contingent on the receipt of notification of the intended reallocation, by the municipality or county that originally received the revenue, not later than the fourth anniversary of the date of its receipt of the revenue, rather than not later than the first anniversary as in the original. The substitute removes a provision included in the original prohibiting a municipality from using sales and use tax revenue that was reallocated to the municipality to make loans or grants for the administration of an economic development program under specified provisions of the Local Government Code.