

## **BILL ANALYSIS**

S.B. 798  
By: Carona  
Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Taxing units are often asked for refunds of property taxes because of a taxpayer's overpayment or erroneous payment of taxes. Processing the refunds can be time-consuming and burdensome for taxing units, especially for taxing units with large numbers of taxpayers. This bill provides for several measures to streamline the refund process to ease the burden on taxing units, which will have the added benefit of allowing taxpayers to receive their refunds in a more timely manner.

Section 31.11 (Refunds of Overpayments or Erroneous Payment), Tax Code, governs refunds of overpayments and erroneous payments of property taxes. Under that section, a taxpayer seeking a refund is required to submit an application for the refund with the tax collector for the taxing unit. The taxpayer will be entitled to a refund after the auditor for the taxing unit has made a determination that the taxpayer is entitled to a refund because of an overpayment or erroneous payment of taxes. This bill would amend Section 31.11 to require the tax collector, rather than the taxing unit's auditor, to make the determination as to whether an overpayment or erroneous payment of taxes has been made by the taxpayer. The tax collector's determination must be made with the auditor's agreement. The change would make processing of refunds more efficient for taxing units.

Section 11.438 (Late Application for Veteran's Organization Exemption), Tax Code, governs the process for making an application for a property tax exemption for a veteran's organization when the exemption was obtained after taxes are paid. Section 11.438 requires the organization to apply for the refund of taxes paid without the benefit of an exemption.

As proposed, S.B. 798 amends current law relating to refunds of overpayments or erroneous payment of ad valorem taxes.

### **RULEMAKING AUTHORITY**

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

### **ANALYSIS**

SECTION 1. Amends Section 31.11, Tax Code, by amending Subsections (a) and (c) and adding Subsection (i), as follows:

(a) Requires that, if a taxpayer applies to the collector of a taxing unit for a refund of an overpayment or erroneous payment of taxes, the collector, rather than the auditor, for the unit determines that the payment was erroneous or excessive, and the auditor for the unit agrees with the collector's determination, the collector refund the amount of the excessive or erroneous payment from available current tax collections or from funds appropriated by the unit for making refunds. Makes nonsubstantive changes.

(c) Requires that an application for a refund, except as provided by Subsection (c-1) (relating to an application on a form prescribed by the comptroller by rule), be made within three years after the date of the payment or the taxpayer waives the right to the refund. Authorizes a taxpayer to apply for a refund by filing an application on a form prescribed by the comptroller by rule, or a written request that includes information

sufficient to enable the collector and the auditor for the taxing unit and, if applicable, the governing body of the taxing unit to determine whether the taxpayer is entitled to the refund.

(i) Provides that notwithstanding the other provisions of this section, in the case of an overpayment or erroneous payment of taxes submitted by a taxpayer to a collector who collects taxes for one or more taxing units one of which is a county with a population of two million or more, a taxpayer is not required to apply to the collector for the refund to be entitled to receive the refund if the amount of the refund is at least \$5 but does not exceed \$5,000, and the collector is not required to comply with Subsection (g) (relating to a written notice of the amount of the overpayment accompanied by a refund application form) unless the amount of the payment exceeds by more than \$5,000 the amount of taxes owed for a tax year to a taxing unit for which the collector collects taxes.

SECTION 2. Amends Section 11.438(c), Tax Code, as follows:

(c) Provides that the organization is eligible, rather than is authorized, to apply for a refund of the tax, penalties, and interest paid as provided by Section 31.11 (Refunds of Overpayments or Erroneous Payment), if the tax and related penalties and interest on the property for a tax year for which an exemption is granted under this section were paid under protest. Provides that the deadline prescribed by Section 31.11(c) for applying for a refund does not apply to a refund under this section.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: January 1, 2010.

**EFFECTIVE DATE**

Effective date: January 1, 2010.