

By: Thompson, Solomons

H.B. No. 1377

Substitute the following for H.B. No. 1377:

By: Howard of Fort Bend

C.S.H.B. No. 1377

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the procedure for reallocating local sales and use  
3 taxes.

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

5 SECTION 1. Subchapter F, Chapter 321, Tax Code, is amended  
6 by adding Section 321.510 to read as follows:

7 Sec. 321.510. REALLOCATION OF MUNICIPAL TAX REVENUE. (a)  
8 This section applies only if the amount the comptroller intends to  
9 reallocate is at least equal to the lesser of:

10 (1) \$200,000; or

11 (2) an amount equal to five percent of the revenue  
12 received by the municipality under this chapter during the calendar  
13 year preceding the calendar year in which the reallocation will be  
14 made.

15 (b) If the comptroller determines that tax revenue  
16 collected by the comptroller has been sent incorrectly to a  
17 municipality under Section 321.502, the comptroller may reallocate  
18 the tax revenue to the appropriate municipality only if:

19 (1) the reallocation is made in accordance with this  
20 section; and

21 (2) the municipality that originally received the  
22 revenue receives notification of the reallocation under Subsection  
23 (c) not later than the fourth anniversary of the date the  
24 municipality originally received the revenue.

1       (c) If the comptroller determines that tax revenue  
2 collected by the comptroller has been sent incorrectly to a  
3 municipality under Section 321.502, the comptroller shall send to  
4 that municipality written notice that the comptroller intends to  
5 reallocate the revenue to another municipality. A municipality  
6 that receives a notice under this subsection may protest the  
7 comptroller's determination by submitting to the comptroller a  
8 written request for a hearing on the issue of whether the original  
9 allocation of the revenue was incorrect. The municipality must  
10 submit the request not later than the 30th day after the date the  
11 municipality receives the notice under this subsection.

12       (d) Not later than the 15th day after the date the  
13 comptroller receives a request for a hearing under Subsection (c),  
14 the comptroller shall send to the requesting municipality a copy of  
15 all records, documents, and other information on which the  
16 comptroller relied in making its determination, regardless of  
17 whether the information is confidential under state law, including  
18 Sections 111.006 and 151.027. The provision of confidential  
19 information to a municipality under this subsection does not affect  
20 the confidential nature of the information. A municipality shall  
21 use the information only in a manner that maintains the  
22 confidential nature of the information and may not disclose or  
23 release the information to the public.

24       (e) Not earlier than the 30th day or later than the 90th day  
25 after the date the comptroller receives a request for a hearing  
26 under Subsection (c), the comptroller shall hold a hearing on  
27 whether the original allocation of the revenue was incorrect.

1 After the conclusion of the hearing, the comptroller shall issue to  
2 the municipality a written final decision regarding the protest.  
3 For purposes of Section 2001.171, Government Code, the  
4 comptroller's decision is final and appealable on the date the  
5 decision is issued under this subsection.

6 (f) If the municipality is not satisfied with the  
7 comptroller's written final decision, the municipality may appeal  
8 the decision by filing a petition in a Travis County district court  
9 not later than the 30th day after the date the municipality receives  
10 the decision. Judicial review of the decision is under the  
11 substantial evidence rule. The court shall hear the appeal without  
12 a jury.

13 SECTION 2. Section 322.108(a), Tax Code, is amended to read  
14 as follows:

15 (a) Except as provided by Subsection (b), the following  
16 apply to the taxes imposed by this chapter in the same manner as  
17 applicable to a municipality under Chapter 321:

- 18 (1) Section 321.002(a)(3);
- 19 (2) Section 321.003;
- 20 (3) Section 321.203;
- 21 (4) Section 321.205(d);
- 22 (5) Section 321.208;
- 23 (6) Section 321.209;
- 24 (7) Section 321.303;
- 25 (8) Section 321.304; ~~and~~
- 26 (9) Section 321.305; and
- 27 (10) Section 321.510.

1 SECTION 3. Subchapter F, Chapter 323, Tax Code, is amended  
2 by adding Section 323.510 to read as follows:

3 Sec. 323.510. REALLOCATION OF COUNTY TAX REVENUE. (a) This  
4 section applies only if the amount the comptroller intends to  
5 reallocate is at least equal to the lesser of:

6 (1) \$200,000; or

7 (2) an amount equal to five percent of the revenue  
8 received by the county under this chapter during the calendar year  
9 preceding the calendar year in which the reallocation will be made.

10 (b) If the comptroller determines that tax revenue  
11 collected by the comptroller has been sent incorrectly to a county  
12 under Section 323.502, the comptroller may reallocate the tax  
13 revenue to the appropriate county only if:

14 (1) the reallocation is made in accordance with this  
15 section; and

16 (2) the county that originally received the revenue  
17 receives notification of the reallocation under Subsection (c) not  
18 later than the fourth anniversary of the date the county originally  
19 received the revenue.

20 (c) If the comptroller determines that tax revenue  
21 collected by the comptroller has been sent incorrectly to a county  
22 under Section 323.502, the comptroller shall send to that county  
23 written notice that the comptroller intends to reallocate the  
24 revenue to another county. A county that receives a notice under  
25 this subsection may protest the comptroller's determination by  
26 submitting to the comptroller a written request for a hearing on the  
27 issue of whether the original allocation of the revenue was

1 incorrect. The county must submit the request not later than the  
2 30th day after the date the county receives the notice under this  
3 subsection.

4 (d) Not later than the 15th day after the date the  
5 comptroller receives a request for a hearing under Subsection (c),  
6 the comptroller shall send to the requesting county a copy of all  
7 records, documents, and other information on which the comptroller  
8 relied in making its determination, regardless of whether the  
9 information is confidential under state law, including Sections  
10 111.006 and 151.027. The provision of confidential information to  
11 a county under this subsection does not affect the confidential  
12 nature of the information. A county shall use the information only  
13 in a manner that maintains the confidential nature of the  
14 information and may not disclose or release the information to the  
15 public.

16 (e) Not earlier than the 30th day or later than the 90th day  
17 after the date the comptroller receives a request for a hearing  
18 under Subsection (c), the comptroller shall hold a hearing on  
19 whether the original allocation of the revenue was incorrect.  
20 After the conclusion of the hearing, the comptroller shall issue to  
21 the county a written final decision regarding the protest. For  
22 purposes of Section 2001.171, Government Code, the comptroller's  
23 decision is final and appealable on the date the decision is issued  
24 under this subsection.

25 (f) If the county is not satisfied with the comptroller's  
26 written final decision, the county may appeal the decision by  
27 filing a petition in a Travis County district court not later than

1 the 30th day after the date the county receives the decision.  
2 Judicial review of the decision is under the substantial evidence  
3 rule. The court shall hear the appeal without a jury.

4 SECTION 4. This Act takes effect July 1, 2009, if it  
5 receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for effect on that  
8 date, this Act takes effect September 1, 2009.