

By: Davis of Harris

H.B. No. 1844

A BILL TO BE ENTITLED

AN ACT

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

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

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

Sec. 321.510. REALLOCATION OF MUNICIPAL TAX REVENUE. (a)

If the comptroller determines that tax revenue collected by the comptroller has been sent incorrectly to a municipality under Section 321.502, the comptroller may reallocate the tax revenue to the appropriate municipality only if the reallocation is made in accordance with this section.

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

(c) Not later than the 15th day after the date the

1 comptroller receives a request for a hearing under Subsection (b),
2 the comptroller shall send to the requesting municipality a copy of
3 all records, documents, and other information on which the
4 comptroller relied in making its determination, regardless of
5 whether the information is confidential under state law, including
6 Sections 111.006 and 151.027. The provision of confidential
7 information to a municipality under this subsection does not
8 affect the confidential nature of the information. A municipality
9 shall use the information only in a manner that maintains the
10 confidential nature of the information and may not disclose or
11 release the information to the public.

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

21 (e) If the municipality is not satisfied with the
22 comptroller's written final decision, the municipality may appeal
23 the decision by filing a petition in a Travis County district court
24 not later than the 30th day after the date the municipality receives
25 the decision. Judicial review of the decision is under the
26 substantial evidence rule. The court shall hear the appeal without
27 a jury.

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

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

- 6 (1) Section 321.002(a)(3);
- 7 (2) Section 321.003;
- 8 (3) Section 321.203;
- 9 (4) Section 321.205(d);
- 10 (5) Section 321.208;
- 11 (6) Section 321.209;
- 12 (7) Section 321.303;
- 13 (8) Section 321.304; ~~and~~
- 14 (9) Section 321.305; and
- 15 (10) Section 321.510.

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

18 Sec. 323.510. REALLOCATION OF COUNTY TAX REVENUE. (a) If
19 the comptroller determines that tax revenue collected by the
20 comptroller has been sent incorrectly to a county under Section
21 323.502, the comptroller may reallocate the tax revenue to the
22 appropriate county only if the reallocation is made in accordance
23 with this section.

24 (b) If the comptroller determines that tax revenue
25 collected by the comptroller has been sent incorrectly to a county
26 under Section 323.502, the comptroller shall send to that county
27 written notice that the comptroller intends to reallocate the

1 revenue to another county. A county that receives a notice under
2 this subsection may protest the comptroller's determination by
3 submitting to the comptroller a written request for a hearing on the
4 issue of whether the original allocation of the revenue was
5 incorrect. The county must submit the request not later than the
6 30th day after the date the county receives the notice under this
7 subsection.

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

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

1 under this subsection.

2 (e) If the county is not satisfied with the comptroller's
3 written final decision, the county may appeal the decision by
4 filing a petition in a Travis County district court not later than
5 the 30th day after the date the county receives the decision.
6 Judicial review of the decision is under the substantial evidence
7 rule. The court shall hear the appeal without a jury.

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