

By: Howard of Fort Bend

H.B. No. 4078

A BILL TO BE ENTITLED

AN ACT

relating to the administration of the municipal sales and use tax.

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

SECTION 1. Subchapter D, Chapter 321, Tax Code, is amended by adding Section 321.3075 to read as follows:

Sec. 321.3075. REFUNDS: LIMITATIONS. (a) Notwithstanding Section 111.104(c) or any other law, the comptroller may not grant a refund claim in relation to tax revenue previously allocated to a municipality unless the refund claim is filed with the comptroller not later than the first anniversary of the date the municipality originally received that revenue from the comptroller.

(b) Section 111.203 does not apply to the filing of a refund claim described by Subsection (a) and the comptroller may not extend the limitation period provided by Subsection (a).

(c) This section does not affect the limitation period for the filing of a refund claim relating to tax revenue allocated to a political subdivision, other than a municipality, whose imposition of the sales and use tax is governed by this chapter.

SECTION 2. Subchapter F, Chapter 321, Tax Code, is amended by adding Section 321.5026 to read as follows:

Sec. 321.5026. REFUND OR REALLOCATION OF MUNICIPAL TAX REVENUE. (a) If the comptroller determines that a tax refund claim should be granted that would result in the claimant receiving at least \$100,000 in tax revenue collected by the comptroller that has

1 been previously allocated to a municipality, the comptroller may
2 grant the refund claim in relation to that revenue only if:

3 (1) the refund claim was filed before the expiration
4 of the limitation period prescribed by Section 321.3075(a); and

5 (2) the refund of that revenue is made in accordance
6 with this section.

7 (b) If the comptroller determines that tax revenue
8 collected by the comptroller has been sent incorrectly to a
9 municipality under Section 321.502, the comptroller may reallocate
10 the tax revenue to the appropriate municipality only if the
11 reallocation is made in accordance with this section not later than
12 the first anniversary of the date the municipality originally
13 received that revenue from the comptroller.

14 (c) If the comptroller determines that a tax refund claim
15 described by Subsection (a) should be granted or that a
16 reallocation described by Subsection (b) should be made, the
17 comptroller shall send to that municipality written notice that the
18 comptroller intends to grant the tax refund claim or reallocate the
19 revenue. A municipality that receives a notice under this
20 subsection may protest the comptroller's determination by
21 submitting to the comptroller a written request for a hearing on the
22 issue of whether the person who filed the tax refund claim is
23 entitled to the refund or whether the original allocation of the
24 revenue was incorrect. The municipality must submit the request not
25 later than the 30th day after the date the municipality receives the
26 notice under this subsection.

27 (d) Not later than the 15th day after the date the

1 comptroller receives a request for a hearing under Subsection (c),
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 affect
8 the confidential nature of the information. A municipality shall
9 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 (e) 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 (c), the comptroller shall hold a hearing on
15 whether the person who filed the tax refund claim is entitled to the
16 refund or whether the original allocation of the revenue was
17 incorrect. After the conclusion of the hearing, the comptroller
18 shall issue to the municipality a written final decision regarding
19 the protest. For purposes of Section 2001.171, Government Code,
20 the comptroller's decision is final and appealable on the date the
21 decision is issued under this subsection.

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

1 a jury.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2009.