

By: Patrick, Dan

S.B. No. 851

A BILL TO BE ENTITLED

AN ACT

relating to the reallocation of 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 321.5025 to read as follows:

Sec. 321.5025. 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:

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

(2) the municipality that originally received the revenue receives notification of the reallocation under Subsection (b) not later than the first anniversary of the date the municipality originally received the revenue.

(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

1 allocation of the revenue was incorrect. The municipality must
2 submit the request not later than the 30th day after the date the
3 municipality receives the notice under this subsection.

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

16 (d) 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 (b), 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 municipality a written final decision regarding the protest.
22 For purposes of Section 2001.171, Government Code, the
23 comptroller's decision is final and appealable on the date the
24 decision is issued under this subsection.

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

1 not later than the 30th day after the date the municipality receives
2 the decision. Judicial review of the decision is under the
3 substantial evidence rule. The court shall hear the appeal without
4 a jury.

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

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

- 10 (1) Section 321.002(a)(3);
- 11 (2) Section 321.003;
- 12 (3) Section 321.203;
- 13 (4) Section 321.205(d);
- 14 (5) Section 321.208;
- 15 (6) Section 321.209;
- 16 (7) Section 321.303;
- 17 (8) Section 321.304; ~~and~~
- 18 (9) Section 321.305; and
- 19 (10) Section 321.5025.

20 SECTION 3. Subchapter F, Chapter 323, Tax Code, is amended
21 by adding Section 323.5025 to read as follows:

22 Sec. 323.5025. REALLOCATION OF COUNTY TAX REVENUE. (a) If
23 the comptroller determines that tax revenue collected by the
24 comptroller has been sent incorrectly to a county under Section
25 323.502, the comptroller may reallocate the tax revenue to the
26 appropriate county only if:

- 27 (1) the reallocation is made in accordance with this

1 section; and

2 (2) the county that originally received the revenue
3 receives notification of the reallocation under Subsection (b) not
4 later than the first anniversary of the date the county originally
5 received the revenue.

6 (b) If the comptroller determines that tax revenue
7 collected by the comptroller has been sent incorrectly to a county
8 under Section 323.502, the comptroller shall send to that county
9 written notice that the comptroller intends to reallocate the
10 revenue to another county. A county that receives a notice under
11 this subsection may protest the comptroller's determination by
12 submitting to the comptroller a written request for a hearing on the
13 issue of whether the original allocation of the revenue was
14 incorrect. The county must submit the request not later than the
15 30th day after the date the county receives the notice under this
16 subsection.

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

1 public.

2 (d) Not earlier than the 30th day or later than the 90th day
3 after the date the comptroller receives a request for a hearing
4 under Subsection (b), the comptroller shall hold a hearing on
5 whether the original allocation of the revenue was incorrect.
6 After the conclusion of the hearing, the comptroller shall issue to
7 the county a written final decision regarding the protest. For
8 purposes of Section 2001.171, Government Code, the comptroller's
9 decision is final and appealable on the date the decision is issued
10 under this subsection.

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

17 SECTION 4. Section 380.001, Local Government Code, is
18 amended by adding Subsection (b-1) to read as follows:

19 (b-1) Notwithstanding Section 380.002, a municipality may
20 not use sales and use tax revenue that was reallocated to the
21 municipality under Section 321.5025, Tax Code, to make loans or
22 grants for the administration of a program under this chapter.

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