

By: Jackson, Mike

S.B. No. 1753

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

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

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

(e) If the municipality is not satisfied with the comptroller's written final decision, the municipality may appeal the decision by filing a petition in a district court in Travis County or in the county in which the municipality appealing the decision is located not later than the 30th day after the date the municipality receives the decision. Judicial review of the decision is under the substantial evidence rule. The court shall

1 hear the appeal without a jury.

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

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

7 (1) Section 321.002(a)(3);

8 (2) Section 321.003;

9 (3) Section 321.203;

10 (4) Section 321.205(d);

11 (5) Section 321.208;

12 (6) Section 321.209;

13 (7) Section 321.303;

14 (8) Section 321.304; ~~and~~

15 (9) Section 321.305; and

16 (10) Section 321.510.

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

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

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

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

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

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

1 decision is final and appealable on the date the decision is issued
2 under this subsection.

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

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