

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1811  
By: Duncan  
Finance  
4/25/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.S.B. 1811 amends current law relating to state fiscal matters and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the comptroller of public accounts (comptroller) is modified in SECTION 3.01 (Section 151.157, Tax Code) and SECTION 3.02 (Section 151.1575, Tax Code) of this bill.

Rulemaking authority is expressly granted to the comptroller in SECTION 16.01 (Section 171.153, Tax Code) and SECTION 18.03 (Section 151.463, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. FOUNDATION SCHOOL PROGRAM PAYMENTS

SECTION 1.01. Amends Sections 42.259(c), (d), and (f), Education Code, as follows:

(c) Requires that payments from the foundation school fund to each category 2 school district be made as follows:

- (1) 22 percent of the yearly entitlement of the district is required to be paid in an installment to be made on or before the 25th day of September of a fiscal year;
- (2) 18 percent of the yearly entitlement of the district is required to be paid in an installment to be made on or before the 25th day of October;
- (3) 9.5 percent of the yearly entitlement of the district is required to be paid in an installment to be made on or before the 25th day of November;
- (4) 7.5 percent of the yearly entitlement of the district is required to be paid in an installment to be made on or before the 25th day of April;
- (5) five percent of the yearly entitlement of the district is required to be paid in an installment to be made on or before the 25th day of May;
- (6) 10 percent of the yearly entitlement of the district is required to be paid in an installment to be made on or before the 25th day of June;
- (7) 13 percent of the yearly entitlement of the district is required to be paid in an installment to be made on or before the 25th day of July; and
- (8) 15 percent of the yearly entitlement of the district is required to be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1), rather than to be made on or before the 25th day of August.

(d) Requires that payments from the foundation school fund to each category 3 school district be made as follows:

(1) 45 percent of the yearly entitlement of the district is required to be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 35 percent of the yearly entitlement of the district is required to be paid in an installment to be made on or before the 25th day of October; and

(3) 20 percent of the yearly entitlement of the district is required to be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1), rather than to be made on or before the 25th day of August.

(f) Requires that any previously unpaid additional funds from prior fiscal years owed to a district, except as provided by Subsection (c)(8) or (d)(3), are required to be paid to the district together with the September payment of the current fiscal year entitlement.

SECTION 1.02. Repealer: Subsection (c) (relating to transferring funds to the foundation school fund), Section 466.355, Government Code.

SECTION 1.03. Makes application of the changes made by this article to Section 42.259 (Foundation School Fund Transfers), Education Code, prospective.

## ARTICLE 2. SALE OF CERTAIN STATE PROPERTY

SECTION 2.01. (a) Requires the General Land Office (GLO), not later than August 31, 2013, to offer for sale on behalf of each holder of real property the tracts of real property described by Section 2.02 of this article.

(b) Requires that the sale, except as otherwise provided by this article, be conducted as provided by Section 31.158 (Real Estate Transactions Authorized by Legislature), Natural Resources Code.

SECTION 2.02. Provides that Section 2.01 of this article applies to property described as follows:

(1) GLO State Real Property ID OA-1900, described as: All of Outlot 55, Division E, and all of Outlot 56, save and except the northwest 171 by 171 feet of Outlot 56, Division E, plus the vacated portion of East 16th Street, City of Austin, Travis County;

(2) GLO State Real Property ID OA-2402, described as: 46.19 acres out of the George W. Spear League, Austin, Travis County, as described in Volume 776, Page 225, of the Travis County Deed Records;

(3) GLO State Real Property ID OA-1905, described as: The northeast 1/4, the north 1/2 of the southeast 1/4 and the east 5 feet of the northwest 1/4 and east 5 feet of the north 1/2 of the southwest 1/4, all in Outlot 42, Division E, City of Austin, Travis County;

(4) GLO State Real Property ID OA-2177, described as: Lot 25-A, Capitol Business park, 1-A, a subdivision of Travis County according to the plat recorded in Volume 81, page 110, plat records, Austin, Travis County;

(5) Parcel B, approximately 895.99 acres, of GLO State Real Property ID OA-702, described as: 895.99 acres out of the Stephen Manning Survey, A-31, Walker County;

(6) GLO State Real Property ID OA-1913, described as: A 2.32 acre tract of land being the easterly 79 feet, more or less, of the southern half of Block 54, Division E, excluding

a 20 foot alley, as shown on a map of the Original City of Austin, in the General Land Office for the State of Texas in the City of Austin, Travis County;

(7) Parcel B, approximately 13 acres, of GLO State Real Property ID OA-702, described as: A 13 acre tract of land, more or less, being that part of the McKinney Falls State Park/Headquarters lying west of East Stassney Lane, out of the Santiago Del Valle Grant, Austin, Travis County;

(8) Parcel B, approximately 20 acres, of GLO State Real Property ID OA-736, described as: Approximately 20 acres out of a 78.182 acre tract being all of Blocks 20 and 21 of the Lon C. Hill subdivision of shares 6, 7, 8, and 9 of the Concepcion de Carricitos Grant, Cameron County;

(9) GLO State Real Property ID OA-2144, described as: 0.344 acres of land consisting of Lot 8, Block 2, Twin Circle Estates Addition, City of Wortham, Freestone County;

(10) Parcel A, approximately 33 acres, of GLO State Real Property ID OA-752, described as: 33 acres being out of the south half of Section 51, Blind Asylum Land Survey, Abilene, Taylor County; and

(11) GLO State Real Property ID OA-2139, described as: Lot 11, Plantation Acres, Marlin, Falls County.

SECTION 2.03. Requires that the proceeds from the sales authorized by Section 2.01 of this article be deposited in the state treasury to the credit of the general revenue fund.

### ARTICLE 3. CUSTOMS BROKERS

SECTION 3.01. Amends Sections 151.157(a-1), (f), and (f-1), Tax Code, as follows:

(a-1) Deletes existing text requiring the comptroller of public accounts (comptroller) to provide an alternate method to prepare documentation to show the exemption of tangible personal property under Section 151.307(b)(2) (relating to certain documentation to show proof of export) in those instances when the password-protected website is unavailable due to technical or communication problems.

(f) Authorizes the comptroller to suspend or revoke a license issued under this section if the customs broker does not comply with Section 151.1575(c) (relating to certain refunds paid by a customs broker) or issues documentation that is false, rather than issues documentation that is false to obtain a refund of taxes paid on tangible personal property not exported or to assist another person in obtaining such a refund.

(f-1) Authorizes the comptroller, in addition to any other penalty provided by law, to require a customs broker to pay to the comptroller the amount of any tax refunded and the amount of any penalty imposed under Section 151.1575(c) if the customs broker did not comply with this section or the rules adopted by the comptroller under this section, rather than under this section in relation to the refunded tax.

SECTION 3.02. Amends Sections 151.1575(b) and (c), Tax Code, as follows:

(b) Requires that the documentation include certain information, including a declaration signed by the customs broker or an authorized employee of the customs broker stating that the customs broker is a licensed Texas customs broker, and the customs broker or authorized employee inspected the property and the original receipt for the property.

(c) Authorizes the comptroller, in addition to the amount of the refunded tax, to require the customs broker to pay a penalty of not less than \$500 nor more than \$5,000, rather than a penalty in an amount equal to the amount of the refunded tax, but not less than \$500 nor more than \$5,000.

SECTION 3.03. Amends Section 151.158(g), Tax Code, as follows:

(g) Requires the comptroller to charge \$2.10, rather than \$1.60, for each export stamp. Requires the comptroller to use \$1.60 of the money, rather than the money, from the sale of the stamps only for costs related to producing the stamps, including costs of materials, labor, and overhead. Requires the comptroller to use the remaining 50 cents only for enforcement of the laws relating to customs brokers under this title.

SECTION 3.04. Makes application of the change in law made by this article prospective.

#### ARTICLE 4. STATE SALES AND FRANCHISE TAX REFUNDS FOR CERTAIN AD VALOREM TAXPAYERS

SECTION 4.01. Repealer: Subchapter F (Tax Refund for Economic Development), Chapter 111, Tax Code.

SECTION 4.02. Provides that the repeal of Subchapter F, Chapter 111, Tax Code, by this article does not affect an eligible person's right to claim a refund of state sales and use and state franchise taxes that was established under Section 111.301 (Refund of State Taxes; Application for Refund), Tax Code, in relation to taxes paid before the effective date of this article in a calendar year for which the person paid ad valorem taxes to a school district as provided by Section 111.301, Tax Code, before the effective date of this article. Provides that an eligible person's right to claim a refund of state sales and use and state franchise taxes that was established under Section 111.301, Tax Code, in relation to taxes paid before the effective date of this article in a calendar year for which the person paid ad valorem taxes to a school district as provided by Section 111.301, Tax Code, before the effective date of this article is governed by the law in effect on the date the right to claim the refund was established, and the former law is continued in effect for that purpose.

#### ARTICLE 5. APPLICABILITY OF HOTEL TAX TO PERMANENT RESIDENTS

SECTION 5.01. Amends Section 156.001, Tax Code, to redefine, in this chapter, "hotel."

SECTION 5.02. Amends Subsection (c), Section 351.002, Tax Code, to provide that the tax does not apply to a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for that period, rather than to a person who is a permanent resident under Section 156.101 of this code.

SECTION 5.03. Amends Subdivision (1), Section 352.001, Tax Code, to redefine "hotel."

SECTION 5.04. Amends Subsection (c), Section 352.002, Tax Code, to provide that the tax does not apply to a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for that period, rather than to a person who is a permanent resident under Section 156.101 (Exception -- Permanent Resident) of this code.

SECTION 5.05. Repealer: Section 156.101 (Exception -- Permanent Resident), Tax Code.

SECTION 5.06. Effective date, this article: July 1, 2011, or October 1, 2011.

#### ARTICLE 6. UNCLAIMED PROPERTY

SECTION 6.01. Amends Section 72.101(a), Property Code, to provide that except as provided by this section and Sections 72.1015 (Unclaimed Wages), 72.1016 (Stored Value Card), 72.1017, and 72.102 (Traveler's Check and Money Order), personal property is presumed abandoned if, for longer than three years the existence and location of the owner of the property is unknown to the holder of the property, and according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

SECTION 6.02. Amends Subchapter B, Chapter 72, Property Code, by adding Section 72.1017, as follows:

Sec. 72.1017. UTILITY DEPOSITS. (a) Defines, in this section, "utility" and "utility deposit."

(b) Provides that, notwithstanding Section 73.102 (Checks), a utility deposit is presumed abandoned on the latest of:

- (1) the first anniversary of the date a refund check for the utility deposit was payable to the owner of the deposit;
- (2) the first anniversary of the date the utility last received documented communication from the owner of the utility deposit; or
- (3) the first anniversary of the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

SECTION 6.03. Amends Section 72.102(c), Property Code, as follows:

(c) Provides that a money order to which Subsection (a) applies is presumed to be abandoned on the latest of:

- (1) the third anniversary, rather than the seventh anniversary, of the date on which the money order was issued;
- (2) the third anniversary, rather than the seventh anniversary, of the date on which the issuer of the money order last received from the owner of the money order communication concerning the money order; or
- (3) the third anniversary, rather than the seventh anniversary, of the date of the last writing, on file with the issuer, that indicates the owner's interest in the money order.

SECTION 6.04. Amends Section 72.103, Property Code, to prohibit service, maintenance, or other charges on a money order, if a holder imposes such charges prior to the time of presumed abandonment, from exceeding the amount of \$1, rather than 50 cents, per month for each month the money order remains uncashed prior to the month in which the money order is presumed abandoned.

SECTION 6.05. Amends Section 73.101, Property Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that an account or safe deposit box is presumed abandoned if:

- (1) except as provided by Subsection (c), the account or safe deposit box has been inactive for at least five years as determined under Subsection (b) (relating to determining when inactivity begins);
- (2) the location of the depositor of the account or owner of the safe deposit box is unknown to the depository; and
- (3) the amount of the account or the contents of the box have not been delivered to the comptroller in accordance with Chapter 74 (Report, Delivery, and Claims Process).

(c) Provides that if the account is a checking or savings account or is a matured certificate of deposit, the account is presumed abandoned if the account has been inactive for at least three years as determined under Subsection (b)(1).

SECTION 6.06. Amends Section 74.101(a), Property Code, to require each holder who on June 1, rather than on June 30, holds property that is presumed abandoned under Chapter 72 (Abandonment of Personal Property), 73 (Property Held by Financial Institutions), or 75 (Texas Minerals) of this code or under Chapter 154 (Prepaid Funeral Services), Finance Code, to file a report of that property on or before the following July 1, rather than the following November 1.

SECTION 6.07. Amends Section 74.1011(a), Property Code, to require a holder who on June 1, rather than on June 30, holds property valued at more than \$250 that is presumed abandoned under Chapter 72, 73, or 75 of this code or Chapter 154, Finance Code, on or before the preceding May 1, rather than the following August 1, except as provided by Subsection (b), to mail to the last known address of the known owner written notice stating that the holder is holding the property and that the holder may be required to deliver the property to the comptroller on or before July 1, rather than November 1, if the property is not claimed.

SECTION 6.08. Amends Sections 74.301(a) and (c), Property Code, as follows:

(a) Requires each holder who on June 1, rather than on June 30, holds property that is presumed abandoned under Chapter 72, 73, or 75, except as provided by Subsection (c), to deliver the property to the comptroller on or before the following July 1, rather than November 1, accompanied by the report required to be filed under Section 74.101 (Property Report).

(c) Authorizes the comptroller, if the property subject to delivery under Subsection (a) is the contents of a safe deposit box, to instruct a holder to deliver the property on a specified date before July 1, rather than November 1, of the following year.

SECTION 6.09. Amends Section 74.601(e), Property Code, to authorize the comptroller on receipt or from time to time, rather than from time to time, to sell securities, including stocks, bonds, and mutual funds, received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller and use the proceeds to buy, exchange, invest, or reinvest in marketable securities.

SECTION 6.10. Amends Section 74.708, Property Code, to provide that a holder who on June 1, rather than June 30, holds property presumed abandoned under Chapters 72, 73, 74 (Report, Delivery, and Claims Process), or 75, holds the property in trust for the benefit of the state on behalf of the missing owner and is liable to the state for the full value of the property, plus any accrued interest and penalty.

SECTION 6.11. Provides that a charge imposed on a money order under Section 72.103 (Preservation of Property), Property Code, by a holder before the effective date of this article is governed by the law applicable to the charge immediately before the effective date of this article, and the holder is authorized to retain the charge.

## ARTICLE 7. CLASSIFICATION OF JUDICIAL AND COURT PERSONNEL TRAINING FUND

SECTION 7.01. Amends Section 56.001, Government Code, as follows:

Sec. 56.001. JUDICIAL AND COURT PERSONNEL TRAINING FUND. (a) Provides that the judicial and court personnel training fund is an account in the general revenue fund. Authorizes that money in the judicial and court personnel training fund be appropriated only to the court of criminal appeals for the uses authorized in Section 56.003 (Use of Funds). Makes nonsubstantive changes.

(b) Redesignates existing Subsection (i) as Subsection (b). Deletes existing text requiring that any unexpended balance in the fund in excess of \$500,000, at the end of each state fiscal year, be transferred to the general revenue fund.

#### ARTICLE 8. PROCESS SERVER CERTIFICATION FEES

SECTION 8.01. Amends Subchapter A, Chapter 51, Government Code, by adding Section 51.008, as follows:

Sec. 51.008. FEES FOR PROCESS SERVER CERTIFICATION. (a) Authorizes the process server review board established by supreme court order to recommend to the supreme court the fees to be charged for process server certification and renewal of certification. Requires the supreme court to approve the fees recommended by the process server review board before the fees are authorized to be collected.

(b) Requires that the fee for a certification, if the certification is issued or renewed for a term that is less than the certification period provided by supreme court rule, be prorated so that the process server pays only that portion of the fee that is allocable to the period during which the certification is valid. Requires the process server, on renewal of the certification on the new expiration date, to pay the entire certification renewal fee.

(c) Authorizes the Office of Court Administration of the Texas Judicial System (OCA) to collect the fees recommended by the process server review board and approved by the supreme court. Requires that fees collected under this section be sent to the comptroller for deposit to the credit of the general revenue fund.

(d) Authorizes that fees collected under this section be appropriated to OCA for the support of regulatory programs for process servers and guardians.

SECTION 8.02. (a) Provides that the fees recommended and approved under Section 51.008, Government Code, as added by this article, apply to:

(1) each person who holds a process server certification on the effective date of this article; and

(2) each person who applies for process server certification on or after the effective date of this article.

(b) Requires OCA to prorate the process server certification fee so that a person who holds a process server certification on the effective date of this article pays only that portion of the fee that is allocable to the period during which the certification is valid. Provides that on renewal of the certification on the new expiration date, the entire certification renewal fee is payable.

#### ARTICLE 9. FEES FOR DELIVERY OF CERTAIN PETROLEUM PRODUCTS

SECTION 9.01. Amends Section 26.3574(b), Water Code, as follows:

(b) Requires each operator of a bulk facility on withdrawal from bulk of a petroleum product to collect from the person who orders the withdrawal a fee in an amount determined as follows:

(1) \$3.75 for each delivery into a cargo tank having a capacity of less than 2,500 gallons, rather than \$3.75 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011;

(2) \$7.50 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons, rather than \$7.50 for each delivery into a cargo

tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011;

(3) \$11.75 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons, rather than \$11.75 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011;

(4) \$15.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons, rather than \$15.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011; and

(5) \$7.50 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more, rather than \$7.50 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011.

#### ARTICLE 10. REMITTANCE AND ALLOCATION OF CERTAIN MOTOR FUELS TAXES

SECTION 10.01. Amends Section 162.113, Tax Code, by adding Subsections (a-1), (a-2), (a-3), and (a-4), as follows:

(a-1) Requires each licensed distributor and licensed importer, on August 28, 2013, to remit to the supplier or permissive supplier, as applicable, a tax prepayment in an amount equal to 25 percent of the tax imposed by Section 162.101 (Point of Imposition of Gasoline Tax) for gasoline removed at the terminal rack during July 2013 by the licensed distributor or licensed importer, without accounting for any credit or allowance to which the licensed distributor or licensed importer is entitled. Requires the supplier or permissive supplier to remit the tax prepayment received under this subsection to the comptroller by electronic funds transfer on August 30, 2013, without accounting for any credit or allowance to which the supplier or permissive supplier is entitled. Provides that Subsections (c) (relating to securing taxes due from a licensed distributor or licensed importer), (d) (relating to terminating the ability of the licensed distributor or licensed importer to defer the payment of gasoline tax), (d-1) (relating to reinstating the right or certain entities to defer the payment of gasoline tax), and (e) (relating to retaining a certain amount of the total taxes by certain entities) do not apply to the tax prepayment under this subsection.

(a-2) Authorizes a licensed distributor or licensed importer to take a credit against the amount of tax imposed by Section 162.101 (Point of Imposition of Gasoline Tax) for gasoline removed at a terminal rack during August 2013 that is required to be remitted to the supplier or permissive supplier, as applicable, under Subsection (a) (relating to remit taxes by certain entities) in September 2013. Provides that the amount of the credit is equal to the amount of any tax prepayment remitted by the licensed distributor or licensed importer as required by Subsection (a-1).

(a-3) Provides that Subsections (a-1) and (a-2) apply to a supplier or an affiliate of a supplier who removes gasoline at the terminal rack for distribution to the same extent and in the same manner that those subsections apply to a licensed distributor or licensed importer.

(a-4) Provides that Subsections (a-1), (a-2), and (a-3) and this subsection expire September 1, 2015.



SECTION 10.02. Amends Section 162.214, Tax Code, by adding Subsections (a-1), (a-2), (a-3), and (a-4), as follows:

(a-1) Requires each licensed distributor and licensed importer, on August 28, 2013, to remit to the supplier or permissive supplier, as applicable, a tax prepayment in an amount equal to 25 percent of the tax imposed by Section 162.201 for diesel fuel removed at the terminal rack during July 2013 by the licensed distributor or licensed importer, without accounting for any credit or allowance to which the licensed distributor or licensed importer is entitled. Requires the supplier or permissive supplier to remit the tax prepayment received under this subsection to the comptroller by electronic funds transfer on August 30, 2013, without accounting for any credit or allowance to which the supplier or permissive supplier is entitled. Provides that Subsections (c)-(e) do not apply to the tax prepayment under this subsection.

(a-2) Authorizes a licensed distributor or licensed importer to take a credit against the amount of tax imposed by Section 162.201 for diesel fuel removed at a terminal rack during August 2013 that is required to be remitted to the supplier or permissive supplier, as applicable, under Subsection (a) in September 2013. Provides that the amount of the credit is equal to any tax prepayment remitted by the licensed distributor or licensed importer as required by Subsection (a-1).

(a-3) Provides that Subsections (a-1) and (a-2) apply to a supplier or an affiliate of a supplier who removes diesel fuel at the terminal rack for distribution to the same extent and in the same manner that those subsections apply to a licensed distributor or licensed importer.

(a-4) Provides that Subsections (a-1), (a-2), and (a-3) and this subsection expire September 1, 2015.

SECTION 10.03. Amends Section 162.503, Tax Code, as follows:

Sec. 162.503. ALLOCATION OF GASOLINE TAX. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Prohibits the comptroller, notwithstanding Subsection (a), from allocating revenue otherwise required to be allocated under Subsection (a) during August 2013 before the first workday of September 2013. Requires that the revenue be allocated as otherwise provided by Subsection (a) not later than the fifth workday of September 2013. Provides that this subsection expires September 1, 2015.

SECTION 10.04. Amends Section 162.504, Tax Code, as follows:

Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Prohibits the comptroller, notwithstanding Subsection (a), from allocating revenue otherwise required to be allocated under Subsection (a) during August 2013 before the first workday of September 2013. Requires that the revenue be allocated as otherwise provided by Subsection (a) not later than the fifth workday of September 2013. Provides that this subsection expires September 1, 2015.

SECTION 10.05. Provides that the expiration of the amendments made to the Tax Code in accordance with this article does not affect tax liability accruing before the expiration of those amendments. Provides that that liability continues in effect as if the amendments had not expired, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

#### ARTICLE 11. REMITTANCE OF MIXED BEVERAGE TAXES AND TAXES AND FEES ON CERTAIN ALCOHOLIC BEVERAGES

SECTION 11.01. Amends Section 34.04, Alcoholic Beverage Code, by adding Subsections (c), (d), and (e), as follows:

(c) Requires a permittee, in August 2013, to remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under the reporting system prescribed by the Texas Alcoholic Beverage Commission (TABC). Provides that the prepayment is in addition to the amount the permittee is otherwise required to remit during August. Requires the permittee to remit the additional payment in conjunction with the report and payment otherwise required during that month.

(d) Authorizes a permittee who remits the additional payment as required by Subsection (c) to take a credit in the amount of the additional payment against the next payment due under the reporting system prescribed by TABC.

(e) Provides that Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 11.02. Amends Section 48.04, Alcoholic Beverage Code, by adding Subsections (c), (d), and (e), as follows:

(c) Requires a permittee, in August 2013, to remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under the reporting system prescribed by TABC. Provides that the prepayment is in addition to the amount the permittee is otherwise required to remit during August. Requires the permittee to remit the additional payment in conjunction with the report and payment otherwise required during that month.

(d) Authorizes a permittee who remits the additional payment as required by Subsection (c) to take a credit in the amount of the additional payment against the next payment due under the reporting system prescribed by TABC.

(e) Provides that Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 11.03. Amends Section 201.07, Alcoholic Beverage Code, as follows:

Sec. 201.07. DUE DATE. (a) Creates this subsection from existing text. Provides that the tax on liquor is due and payable on the 15th of the month following the first sale, together with a report on the tax due.

(b) Requires each permittee who is liable for the taxes imposed by this subchapter, in August 2013, to remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under Subsection (a). Provides that the prepayment is in addition to the amount the permittee is otherwise required to remit during August. Requires the permittee to remit the additional payment in conjunction with the report and payment otherwise required during that month.

(c) Authorizes a permittee who remits the additional payment as required by Subsection (b) to take a credit in the amount of the additional payment against the next payment due under Subsection (a).

(d) Provides that Subsections (b) and (c) and this subsection expire September 1, 2015.

SECTION 11.04. Amends Section 201.43, Alcoholic Beverage Code, by amending Subsection (b) and adding Subsections (c), (d), and (e), as follows:

(b) Provides that the tax is due and payable on the 15th day of the month following the month in which the taxable first sale occurs, together with a report on the tax due.

(c) Requires each permittee who is liable for the tax imposed by this subchapter, in August 2013, to remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under Subsection (b). Provides that the prepayment is in addition to the amount the permittee is otherwise required to remit during August. Requires the permittee to remit the additional payment in conjunction with the report and payment otherwise required during that month.

(d) Authorizes a permittee who remits the additional payment as required by Subsection (c) to take a credit in the amount of the additional payment against the next payment due under Subsection (b).

(e) Provides that Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 11.05. Amends Section 203.03, Alcoholic Beverage Code, by amending Subsection (b) and adding Subsections (c), (d), and (e), as follows:

(b) Provides that the tax is due and payable on the 15th day of the month following the month in which the taxable first sale occurs, together with a report on the tax due.

(c) Requires each licensee who is liable for the tax imposed by this chapter to remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the licensee is otherwise required to remit during August 2013 under Subsection (b). Provides that the prepayment is in addition to the amount the licensee is otherwise required to remit during August. Requires the licensee to remit the additional payment in conjunction with the report and payment otherwise required during that month.

(d) Authorizes a licensee who remits the additional payment as required by Subsection (c) to take a credit in the amount of the additional payment against the next payment due under Subsection (b).

(e) Provides that Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 11.06. Amends Section 183.023, Tax Code, as follows:

Sec. 183.023. PAYMENT. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Creates this subsection from existing text. Requires the comptroller to deposit the revenue received under this section in the general revenue fund.

(c) Requires each permittee who is liable for the tax imposed by this subchapter, in August 2013, to remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under Subsection (a). Provides that the prepayment is in addition to the amount the permittee is otherwise required to remit during August. Requires the permittee to remit the additional payment in conjunction with the return and payment otherwise required during that month.

(d) Authorizes a permittee who remits the additional payment as required by Subsection (c) to take a credit in the amount of the additional payment against the next payment due under Subsection (a).

(e) Provides that Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 11.07. Provides that the expiration of the amendments made to the Alcoholic Beverage Code and Tax Code in accordance with this article does not affect tax liability accruing before the expiration of those amendments. Provides that that liability continues in effect as if the amendments had not expired, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

#### ARTICLE 12. CIGARETTE TAX STAMPING ALLOWANCE

SECTION 12.01. Amends Section 154.052(a), Tax Code, to entitle a distributor, subject to the provisions of Section 154.051 (Cigarette Tax Recovery Trust Fund), to one percent, rather than three percent, of the face value of stamps purchased as a stamping allowance for providing the service of affixing stamps to cigarette packages, except that an out-of-state distributor is entitled to receive only the same percentage of stamping allowance as that given to Texas distributors doing business in the state of the distributor.

SECTION 12.02. Makes application of this article prospective.

#### ARTICLE 13. TAXATION OF CERTAIN CIGARS

SECTION 13.01. Amends Section 155.001, Tax Code, by amending Subdivision (2) and adding Subdivision (9-a), to redefine "cigar" and to define "little cigar."

SECTION 13.02. Amends Section 155.021(b), Tax Code, as follows:

(b) Provides that the tax rates are:

- (1) the rate provided by Section 154.021(b)(1) (relating to the tax rates per thousand cigarettes), or a successor law, as if a little cigar were a cigarette, rather than one cent per 10 or fraction of 10 on cigars weighing three pounds or less per thousand;
- (2) \$7.50 per thousand on cigars other than little cigars that sell at factory list price, exclusive of any trade discount, special discount, or deal, for 3.3 cents or less each, rather than \$7.50 per thousand on cigars that weigh more than three pounds per thousand, and sell at factory list price, exclusive of any trade discount, special discount, or deal, for 3.3 cents or less each;
- (3) \$11 per thousand on cigars other than little cigars that sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each, and contain no substantial amount of nontobacco ingredients, rather than \$11 per thousand on cigars that weigh more than three pounds per thousand; sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and contain no substantial amount of nontobacco ingredients; and
- (4) \$15 per thousand on cigars other than little cigars that sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and contain a substantial amount of nontobacco ingredients, rather than \$15 per thousand on cigars that weigh more than three pounds per thousand; sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and contain a substantial amount of nontobacco ingredients.

SECTION 13.03. Amends Section 155.2415, Tax Code, as follows:

Sec. 155.2415. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND AND CERTAIN OTHER FUNDS. (a) Requires the comptroller, notwithstanding Section 155.241 (Allocation of Tax), beginning September 1, 2011, to calculate the difference between the amount of revenue derived from the tax imposed by

Section 155.021(b)(1) and the amount of revenue that the tax imposed by Section 155.021(b)(1) (relating to the tax rate on cigars per thousand), as it existed on August 31, 2011, would have generated if it had been in effect. Requires the comptroller to deposit an amount equal to that difference to the credit of the property tax relief fund under Section 403.109 (Property Tax Relief Fund), Government Code.

(b) Requires the comptroller, if the amount under Subsection (a) is less than zero, to consider the amount to be zero.

(c) Creates this subsection from existing text. Makes no further changes to this subsection.

SECTION 13.04. Makes application of the changes in law made by this article prospective.

#### ARTICLE 14. SALES FOR RESALE

SECTION 14.01. Amends Section 151.006, Tax Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Redefines "sale for resale."

(c) Provides that except as otherwise provided by this chapter, a sale for resale does not include the sale of tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of performing a service that is not subject to taxation under this chapter, regardless of whether title transfers to the purchaser's customer.

SECTION 14.02. Effective date, this article: upon passage or September 1, 2011.

#### ARTICLE 15. COLLECTION IMPROVEMENT PROGRAM

SECTION 15.01. Amends Articles 103.0033(f), (h), (i), and (j), Code of Criminal Procedure, as follows:

(f) Requires OCA, rather than the comptroller in cooperation with OCA, to develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) (relating to identifying certain counties and municipalities) before implementation of a program. Requires OCA, rather than the comptroller, to determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(h) Authorizes OCA, rather than authorizes OCA in consultation with the comptroller, to:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) determine whether it is not cost-effective to implement a program in a county or municipality and grant a waiver to the county or municipality.

(i) Requires each county and municipality to at least annually submit to OCA, rather than to OCA and the comptroller, a written report that includes updated information regarding the program, as determined by OCA, rather than by OCA, in cooperation with the comptroller. Requires that the report be in a form approved by OCA, rather than by OCA in cooperation with the comptroller.

(j) Requires OCA, rather than the comptroller, to periodically audit counties and municipalities to verify information reported under Subsection (i) and confirm that the county or municipality is conforming with requirements relating to the program. Deletes

existing text requiring the comptroller to consult with OCA in determining how frequently to conduct audits under this section.

SECTION 15.02. Amends Section 133.058(e), Local Government Code, as follows:

(e) Prohibits a municipality or county from retaining a service fee if, during an audit under Article 103.0033(j), Code of Criminal Procedure, rather than under Section 133.059 (Audit) of this code or Article 103.0033(j), Code of Criminal Procedure, OCA, rather than the comptroller, determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. Authorizes the municipality or county to continue to retain a service fee under this section on receipt of a written confirmation from OCA, rather than the comptroller, that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 15.03. Amends Section 133.103(c-1), Local Government Code, as follows:

(c-1) Requires the treasurer to send 100 percent of the fees collected under this section to the comptroller if, during an audit under Article 103.0033(j), Code of Criminal Procedure, rather than under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, OCA, rather than the comptroller, determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. Requires the municipality or county to continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from OCA, rather than the comptroller, that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

#### ARTICLE 16. REMITTANCE AND ALLOCATION OF FRANCHISE TAX

SECTION 16.01. Amends Subchapter D, Chapter 171, Tax Code, by adding Section 171.153, as follows:

Sec. 171.153. TAX PREPAYMENT FROM TAXABLE ENTITIES REMITTING ELECTRONICALLY. (a) Provides that for purposes of this section, "large taxable entity" means a taxable entity that, on July 31, 2013, is doing business in this state and that is required by rules adopted by the comptroller to make the taxable entity's tax payment for the regular annual period for which a report is originally due May 15, 2013, regardless of the date the taxable entity actually filed the report, by electronic funds transfer.

(b) Requires a large taxable entity, notwithstanding Section 171.152(c) (relating to the due date of payment of the tax covering the regular annual period), to pay a prepayment of taxes due to be remitted with the report originally due May 15, 2014, under this chapter in an amount equal to 25 percent of the amount of tax imposed under this chapter and reported as due for the regular annual period covered by the report originally due May 15, 2012, regardless of the date the taxable entity actually files the report. Requires the taxable entity to remit the tax prepayment to the comptroller:

- (1) not later than July 31, 2013;
- (2) in the manner prescribed by rules adopted by the comptroller; and
- (3) accompanied by any information required by the comptroller.

(c) Authorizes a large taxable entity that remits a tax prepayment as required by Subsection (b) to take a credit on the report originally due on May 15, 2014, in the amount of the tax prepayment.

(d) Provides that in lieu of a penalty that may be assessed under Section 171.362 (Penalty for Failure to Pay Tax or File Report), a large taxable entity that fails to

remit the tax prepayment required by this section on or before July 31, 2013, is liable for a penalty of 10 percent of the estimated amount of the tax prepayment due under this section.

(e) Provides that a tax prepayment remitted under this section is not considered a report for purposes of any provision of Subchapter E (Reports and Records), F (Forfeiture of Corporate and Business Privileges), or G (Forfeiture of Charter or Certificate of Authority).

(f) Requires the comptroller, notwithstanding Section 171.4011 (Allocation of Certain Revenue to Property Tax), to deposit revenue received from tax prepayments under this section to the credit of the general revenue fund. Requires the comptroller to deposit revenue received from tax payments remitted with reports originally due on May 15, 2014, in accordance with Subchapter I (Disposition of Revenue).

(g) Provides that this section expires September 1, 2015.

SECTION 16.02. Provides that the expiration of the amendment made to the Tax Code in accordance with this article does not affect tax liability accruing before the expiration of that amendment. Provides that that liability continues in effect as if the amendment had not expired, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

#### ARTICLE 17. REMITTANCE OF SALES AND USE TAXES

SECTION 17.01. Amends Section 151.401, Tax Code, by adding Subsections (c), (d), and (e), as follows:

(c) Requires a taxpayer who is required to pay the taxes imposed by this chapter on or before the 20th day of that month under Subsection (a) (relating to the due date of taxes imposed by this chapter), in August 2013, who pays the taxes imposed by this chapter by electronic funds transfer, and who does not prepay as provided by Section 151.424 (Discount for Prepayments) to remit to the comptroller a tax prepayment that is equal to 25 percent of the amount the taxpayer is otherwise required to remit during August 2013 under Subsection (a). Provides that the prepayment is in addition to the amount the taxpayer is otherwise required to remit during August. Requires the taxpayer to remit the additional payment in conjunction with the payment otherwise required during that month. Provides that Section 151.424 does not apply with respect to the additional payment required by this subsection.

(d) Authorizes a taxpayer who remits the additional payment as required by Subsection (c) to take a credit in the amount of the additional payment against the next payment due under Subsection (a).

(e) Provides that Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 17.02. Amends Section 151.402, Tax Code, as follows:

Sec. 151.402. TAX REPORT DATES. (a) Deletes existing text providing an exception to this subsection under Subsection (b).

(b) Authorizes a taxpayer to report a credit in the amount of any tax prepayment remitted to the comptroller as required by Section 151.401(c) on the tax report required by this chapter that is otherwise due in September 2013. Provides that this subsection expires September 1, 2015. Deletes existing text providing that a tax report for taxes required by Section 151.401(a) to be paid on or before August 20 is due on or before the 20th day of the following month.

SECTION 17.03. Provides that the expiration of the amendments made to the Tax Code in accordance with this article does not affect tax liability accruing before the expiration of those amendments. Provides that that liability continues in effect as if the amendments had not expired, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

#### ARTICLE 18. REPORTS REGARDING CERTAIN SALES OF ALCOHOLIC BEVERAGES

SECTION 18.01. Amends Section 111.006, Tax Code, by adding Subsections (h) and (i), as follows:

(h) Requires the comptroller to disclose information to a person regarding net sales by quantity, brand, and size that is submitted in a report required under Section 151.462 if:

(1) the person requesting the information holds a permit or license under Chapter 19 (Wholesaler's Permit), 20 (General Class B Wholesaler's Permit), 21 (Local Class B Wholesaler's Permit), 37 (Nonresident Seller's Permit), 64 (General Distributor's License), 65 (Local Distributor's License), or 66 (Branch Distributor's License), Alcoholic Beverage Code; and

(2) the request relates only to information regarding the sale of a product distributed by the person making the request.

(i) Provides that a disclosure made under Subsection (h) is not considered a disclosure of competitively sensitive, proprietary, or confidential information.

SECTION 18.02. Amends Chapter 151, Tax Code, by adding Subchapter I-1, and adding heading to that subchapter to read as follows:

#### SUBCHAPTER I-1. REPORTS BY PERSONS INVOLVED IN THE MANUFACTURE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES

SECTION 18.03. Amends Subchapter I-1, Chapter 151, Tax Code, as added by this Act, by adding Sections 151.462, 151.463, 151.464, 151.465, 151.466, 151.467, 151.468, 151.469, 151.470, and 151.471, and transferring Section 151.433, Tax Code, to Subchapter I-1, Chapter 151, Tax Code, redesignating it as Section 151.461, Tax Code, and amending it, as follows:

Sec. 151.461. New heading: DEFINITIONS. Redesignates existing Section 151.433(a) as Section 151.461. Deletes existing Subsection (a) designation. Defines, in this subchapter, "brewer," "distributor," "manufacturer," "package store local distributor," "retailer," and "wholesaler."

Sec. 151.462. REPORTS BY BREWERS, MANUFACTURERS, WHOLESALERS, AND DISTRIBUTORS. (a) Redesignates existing Section 151.433(b) as Section 151.462(a). Requires, rather than authorizes, the comptroller, when considered necessary by the comptroller for the administration of a tax under this chapter, to require each brewer, manufacturer, wholesaler, distributor, or package store local distributor to file with the comptroller a report each month of alcoholic beverage sales to retailers in this state. Makes nonsubstantive changes.

(b) Redesignates existing Section 151.433(c) as Section 151.462(b). Requires each brewer, manufacturer, wholesaler, distributor, or package store local distributor to file a separate report for each permit or license held on or before the 25th day of each month. Requires that the report contain the following information for the preceding calendar month's sales in relation to each retailer:

(1) the brewer's, manufacturer's, wholesaler's, distributor's, or package store local distributor's name, address, taxpayer number and outlet number assigned by the comptroller, and alphanumeric permit or license number issued by TABC;



(2) the retailer's name and address, including street name and number, city, and zip code; taxpayer number assigned by the comptroller; and alphanumeric permit or license number issued by TABC for each separate retail location or outlet to which the brewer, manufacturer, wholesaler, distributor, or package store local distributor sold the alcoholic beverages that are listed on the report, rather than the name of the retailer and the address of the retailer's outlet location to which the wholesaler or distributor delivered beer, wine, or malt liquor, including the city and zip code; the taxpayer number assigned by the comptroller to the retailer, if the wholesaler or distributor is in possession of the number; the permit or license number assigned to the retailer by TABC; and

(3) the monthly net sales made by the brewer, manufacturer, wholesaler, distributor, or package store local distributor to the retailer for each outlet or location covered by a separate retail permit or license issued by TABC, including separate line items for the number of units of alcoholic beverages, the individual container size and pack of each unit, the brand name, the type of beverage, such as distilled spirits, wine, or malt beverage, the universal product code of the alcoholic beverage, and the net selling price of the alcoholic beverage, rather than made by the wholesaler or distributor, including the quantity and units of beer, wine, and malt liquor sold to the retailer.

(c) Redesignates existing Section 151.433(d) as Section 151.462(c). Requires the brewer, manufacturer, wholesaler, distributor, or package store local distributor, except as provided by this subsection, to file the report with the comptroller electronically. Authorizes the comptroller to establish procedures to temporarily postpone the electronic reporting requirement, rather than for allowing an alternative method of filing, for a brewer, manufacturer, wholesaler, distributor, or package store local distributor who demonstrates to the comptroller an inability to comply because undue hardship would result if it were required to file the return electronically, rather than to comply with the electronic reporting requirement. Authorizes the comptroller, if the comptroller determines that another technological method of filing the report is more efficient than electronic filing, to establish procedures requiring its use by brewers, manufacturers, wholesalers, distributors, and package store local distributors.

Sec. 151.463. RULES. Authorizes the comptroller to adopt rules to implement this subchapter.

Sec. 151.464. CONFIDENTIALITY. Redesignates existing Section 151.433(e) as Section 151.464. Provides that, except as provided by Section 111.006, information contained in a report required to be filed by this subchapter, rather than this section, is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 151.465. APPLICABILITY TO CERTAIN BREWERS. Provides that this subchapter applies only to a brewer whose annual production of malt liquor in this state, together with the annual production of beer at the same premises by the holder of a manufacturer's license under Section 62.12 (Sales by Certain Manufacturers), Alcoholic Beverage Code, does not exceed 75,000 barrels.

Sec. 151.466. APPLICABILITY TO CERTAIN MANUFACTURERS. Provides that this subchapter applies only to a manufacturer whose annual production of beer in this state does not exceed 75,000 barrels.

Sec. 151.467. SUSPENSION OR CANCELLATION OF PERMIT. Redesignates existing Section 151.433(f) as Section 151.467. Authorizes the comptroller, if a person fails to file a report required by this subchapter, rather than this section, or fails to file a

complete report, to suspend or cancel one or more permits issued to the person under Section 151.203 (Suspension and Revocation of Permit).

Sec. 151.468. CIVIL PENALTY; CRIMINAL PENALTY. (a) Authorizes the comptroller, if a person fails to file a report required by this subchapter or fails to file a complete report, to impose a civil or criminal penalty, or both, under Section 151.7031 (Failure to Report on Three or More Occasions; Civil Penalty) or 151.709 (Failure to Furnish Report; Criminal Penalty).

(b) Requires a brewer, manufacturer, wholesaler, distributor, or package store local distributor, in addition to the penalties imposed under Subsection (a), to pay the state a civil penalty of not less than \$25 or more than \$2,000 for each day a violation continues if the brewer, manufacturer, wholesaler, distributor, or package store local distributor violates this subchapter, or violates a rule adopted to administer or enforce this subchapter.

Sec. 151.469. ACTION BY TEXAS ALCOHOLIC BEVERAGE COMMISSION. Redesignates existing Section 151.433(g) as Section 151.469. Authorizes the comptroller, if a person fails to file a report required by this subchapter, rather than this section, or fails to file a complete report, to notify TABC of the failure and authorizes TABC to take administrative action against the person for the failure under the Alcoholic Beverage Code.

Sec. 151.470. AUDIT; INSPECTION. Authorizes the comptroller to audit, inspect, or otherwise verify a brewer's, manufacturer's, wholesaler's, distributor's, or package store local distributor's compliance with this subchapter.

Sec. 151.471. ACTION BY ATTORNEY GENERAL; VENUE; ATTORNEY'S FEES. (a) Authorizes the comptroller to bring an action to enforce this subchapter and obtain any civil remedy authorized by this subchapter or any other law for the violation of this subchapter. Requires the attorney general to prosecute the action on the comptroller's behalf.

(b) Provides that venue for and jurisdiction of an action under this section is exclusively conferred on the district courts in Travis County.

(c) Entitles the comptroller and the attorney general, if the comptroller prevails in an action under this section, to recover court costs and reasonable attorney's fees incurred in bringing the action.

SECTION 18.04. Makes application of Subchapter I-1, Chapter 151, Tax Code, as added by this article, prospective.

#### ARTICLE 19. AUTHORIZED USES FOR CERTAIN DEDICATED PERMANENT FUNDS

SECTION 19.01. Amends Section 403.105, Government Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Creates an exception to this subsection under Subsection (b-1). Makes no further changes to this subsection.

(b-1) Authorizes the legislature to appropriate money in the Permanent Fund for Health and Tobacco Education and Enforcement, including the available earnings of the fund determined under Section 403.1068 (Management of Certain Funds), to pay the principal of or interest on a bond issued for the purposes of Section 67 (Cancer Prevention and Research Institute of Texas), Article III, Texas Constitution. Provides that this subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

SECTION 19.02. Amends Section 403.1055, Government Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Creates an exception to this subsection under Subsection (b-1). Makes no further changes to this subsection.

(b-1) Authorizes the legislature to appropriate money in the Permanent Fund for Children and Public Health, including the available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. Provides that this subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

SECTION 19.03. Amends Section 403.106, Government Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Creates an exception to this subsection under Subsection (b-1). Makes no further changes to this subsection.

(b-1) Authorizes the legislature to appropriate money in the Permanent Fund for Emergency Medical Services and Trauma Care, including the available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. Provides that this subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

SECTION 19.04. Effective date, this article: upon passage or September 1, 2011.

#### ARTICLE 20. EMPLOYER ENROLLMENT FEE FOR PARTICIPATION IN CERTAIN HEALTH BENEFIT PLANS

SECTION 20.01. Amends Subchapter G, Chapter 1551, Insurance Code, by adding Section 1551.3076, as follows:

Sec. 1551.3076. EMPLOYER ENROLLMENT FEE. (a) Requires the board of trustees of the Employees Retirement System of Texas (board) to assess each employer whose employees participate in the group benefits program an employer enrollment fee in an amount not to exceed a percentage of the employer's total payroll, as determined by the General Appropriations Act.

(b) Requires the board to deposit the enrollment fees to the credit of the employees life, accident, and health insurance and benefits fund to be used for the purposes specified by Section 1551.401 (Employees Life, Accident, and Health Insurance and Benefits Fund).

#### ARTICLE 21. EFFECTIVE DATE

SECTION 21.01. Effective date, except as otherwise provided by this Act: September 1, 2011.