

House Bill 590
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

SECTION __. Section 321.002, Tax Code, is amended to read as follows:

Sec. 321.002. DEFINITIONS.

(a) In this chapter:

(1) "Additional municipal sales and use tax" means only the additional tax authorized by Section 321.101(b).

(2) "Municipality" includes any incorporated city, town, or village.

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant. An outlet, office, facility, or any location that contracts with a retail or commercial business ~~[engaged in activities to which this chapter applies]~~ to process for that business invoices, purchase orders, [or] bills of lading, or other equivalent records onto which sales tax is added, including an office operated for the purpose of buying and selling taxable goods to be used or consumed by the retail or commercial business, is not a "place of business of the retailer" if the comptroller determines that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business. Notwithstanding any other provision of this subdivision, a kiosk is not a "place of business of the retailer." In this subdivision, "kiosk" means a small stand-alone area or structure that:

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- (A) is used solely to display merchandise or to submit orders for taxable items from a data entry device, or both;
 - (B) is located entirely within a location that is a place of business of another retailer, such as a department store or shopping mall; and
 - (C) at which taxable items are not available for immediate delivery to a customer.
- (b) Words used in this chapter and defined by Chapter 151 have the meanings assigned by Chapter 151. [FA1]

No equivalent provision.

SECTION __.SECTION ____ as added by this amendment takes effect September 1, 2011. [FA1]

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 OR LOCAL GOVERNMENTAL ENTITY TAX REVENUE. (a) In this section, "local governmental entity" includes any governmental entity created by the legislature that has a limited purpose or function, that has a defined or restricted geographic territory, and that is authorized by law to impose a local sales and use tax the imposition, computation, administration, enforcement, and collection of which is governed by this chapter.

(b) This section applies only if:

(1) the comptroller:

(A) reallocates local tax revenue from a municipality or local governmental entity to another municipality or local governmental entity; or

(B) refunds local tax revenue that was previously allocated to a municipality or local governmental entity; and

(2) the amount the comptroller reallocates or refunds is at

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least equal to the lesser of:

(A) \$200,000;

(B) an amount equal to 10 percent of the revenue received by the municipality or local governmental entity under this chapter during the calendar year preceding the calendar year in which the reallocation or refund is made; or

(C) an amount that increases or decreases the amount of revenue the municipality or local governmental entity receives under this chapter during a calendar month by more than 15 percent as compared to revenue received by the municipality or local governmental entity during the same month in any previous year.

(c) Subject to the criteria provided by this section, a municipality or local governmental entity may request a review of all available sales tax returns and reports in the comptroller's possession filed by not more than five individual taxpayers doing business in the municipality or local governmental entity that are included and identified by the municipality or local governmental entity from the information received from the comptroller under Section 321.3022 and that relate to a reallocation or refund in an amount described by Subsection (b).

(d) The comptroller shall provide the returns and reports requested under Subsection (c) for review regardless of whether the information in the returns or reports is confidential under state law, including Sections 111.006 and 151.027.

(e) The provision of confidential information to a municipality or local governmental entity under this section does not affect the confidential nature of the information in the returns or reports. A municipality or local governmental entity shall use the information only in a manner that

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maintains the confidential nature of the information and may not disclose or release the information to the public.
(f) A municipality or local governmental entity must submit the request under Subsection (c) not later than the 90th day after the date the municipality or local governmental entity discovers a reallocation or refund described by Subsection (b).
(g) Not earlier than the 30th day or later than the 90th day after the date the comptroller receives a request under Subsection (c), the comptroller shall provide the requested returns and reports to the requesting municipality or local governmental entity for review.
(h) The comptroller may set and collect from a municipality or local governmental entity a reasonable fee to cover the expense of compiling and providing information under this section.

SECTION 2. Section 322.108(a), Tax Code, is amended to read as follows:
(a) Except as provided by Subsection (b), the following apply to the taxes imposed by this chapter in the same manner as applicable to a municipality under Chapter 321:
(1) Section 321.002(a)(3);
(2) Section 321.003;
(3) Section 321.203;
(4) Section 321.205(d);
(5) Section 321.208;
(6) Section 321.209;
(7) Section 321.303;
(8) Section 321.304; ~~and~~
(9) Section 321.305; and
(10) Section 321.510.

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

Sec. 323.510. REALLOCATION OF COUNTY OR LOCAL GOVERNMENTAL ENTITY TAX REVENUE. (a) In this section, "local governmental entity" includes any governmental entity created by the legislature that has a limited purpose or function, that has a defined or restricted geographic territory, and that is authorized by law to impose a local sales and use tax the imposition, computation, administration, enforcement, and collection of which is governed by this chapter.

(b) This section applies only if:

(1) the comptroller:

(A) reallocates local tax revenue from a county or local governmental entity to another county or local governmental entity; or

(B) refunds local tax revenue that was previously allocated to a county or local governmental entity; and

(2) the amount the comptroller reallocates or refunds is at least equal to the lesser of:

(A) \$200,000;

(B) an amount equal to 10 percent of the revenue received by the county or local governmental entity under this chapter during the calendar year preceding the calendar year in which the reallocation or refund is made; or

(C) an amount that increases or decreases the amount of revenue the county or local governmental entity receives under this chapter during a calendar month by more than 15 percent as compared to revenue received by the county or local governmental entity during the same month in any previous year.

(c) Subject to the criteria provided by this section, a county or

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local governmental entity may request a review of all available sales tax returns and reports in the comptroller's possession filed by not more than five individual taxpayers doing business in the county or local governmental entity that are included and identified by the county or local governmental entity from the information received from the comptroller under Section 323.3022 and that relate to a reallocation or refund in an amount described by Subsection (b).

(d) The comptroller shall provide the returns and reports requested under Subsection (c) for review regardless of whether the information in the returns or reports is confidential under state law, including Sections 111.006 and 151.027.

(e) The provision of confidential information to a county or local governmental entity under this section does not affect the confidential nature of the information in the returns or reports. A county or local governmental entity 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.

(f) A county or local governmental entity must submit the request under Subsection (c) not later than the 90th day after the date the county or local governmental entity discovers a reallocation or refund described by Subsection (b).

(g) Not earlier than the 30th day or later than the 90th day after the date the comptroller receives a request under Subsection (c), the comptroller shall provide the requested returns and reports to the requesting county or local governmental entity for review.

(h) The comptroller may set and collect from a county or local governmental entity a reasonable fee to cover the

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expense of compiling and providing information under this section.

SECTION 4. This Act takes effect September 1, 2011.

SECTION 4. Same as House version.