By: Stickland

H.B. No. 649

A BILL TO BE ENTITLED

AN ACT

relating to tax reimbursement for businesses that refuse to comply
with certain federal health care coverage requirements based solely
on the religious convictions of the owners of the businesses;

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

SECTION 1. Chapter 111, Tax Code, is amended by adding
Subchapter H to read as follows:

SUBCHAPTER H. BUSINESS TAX REIMBURSEMENT FOR NONCOMPLIANCE WITH
CERTAIN FEDERAL HEALTH CARE REQUIREMENTS

Sec. 111.401. DEFINITION. In this chapter, "emergency
contraception" means a drug that:

(1) is used postcoitally;
(2) prevents pregnancy by preventing fertilization of
an egg or preventing implantation of an egg in a uterus; and
(3) is approved by the United States Food and Drug
Administration.

Sec. 111.402. ENTITLEMENT TO TAX REFUND OR CREDIT; AMOUNT.
(a) A qualified business is entitled to a refund of or credit
against state sales and use taxes imposed under Chapter 151, state
franchise taxes imposed under Chapter 171, and any other tax paid by
the business to the state.

(b) The total amount of the refund or credit a qualified
business may claim in a calendar year is equal to the lesser of:
(1) the amount of net state sales and use taxes, franchise taxes, and other state taxes paid by the business, after any other applicable credit, in the calendar year for which the refund or credit is requested; or

(2) the total amount of fines and penalties described by Section 111.403 and assessed for the reasons specified in Section 111.403(2) that were paid by the business in the calendar year for which the refund or credit is requested.

Sec. 111.403. QUALIFICATION FOR TAX REFUND OR CREDIT. A business qualifies for a tax refund or credit under this subchapter if:

(1) the business makes available to its employees a health benefit plan;

(2) the business refuses to make available as part of the health benefit plan coverage for emergency contraception as required by Section 1001(a)(5) of the federal Patient Protection and Affordable Care Act (42 U.S.C. Section 300gg-13), based solely on the religious convictions of the owners of the business;

(3) on or after January 1, 2013, the federal government assesses a fine or penalty against the business for failure to comply with the federal requirement described by Subdivision (2); and

(4) the business has paid the fine or penalty.

Sec. 111.404. PROCEDURE FOR CLAIMING REFUND OR CREDIT. (a) An application for a refund or credit must be made to the comptroller on a form prescribed by the comptroller.

(b) A qualified business must provide to the comptroller any
information the comptroller needs to determine the validity of an
application. The burden of establishing entitlement to and the
value of the refund or credit is on the business.

(c) Except as provided by Subsection (d), a qualified
business must apply for a refund or credit under this subchapter
before August 1 of the year after the calendar year for which the
business requests the refund or credit.

(d) If a business requests a credit against franchise taxes
under this subchapter, the business must claim the credit on or with
the report for the accounting period on which the report is based.

(e) A refund payable under this subchapter does not earn
interest.

Sec. 111.405. COMPTROLLER POWERS AND DUTIES. (a) The
comptroller shall adopt rules and forms for the administration of
this subchapter.

(b) The comptroller may conduct any audit the comptroller
determines necessary for the enforcement or administration of this
subchapter.

Sec. 111.406. EXPIRATION. This subchapter expires January
1, 2016.

SECTION 2. The expiration of Subchapter H, Chapter 111, Tax
Code, as added by this Act, does not affect a qualified business's
right to claim a refund of or credit against state taxes that was
established under Subchapter H, Chapter 111, Tax Code, before the
date of expiration. A qualified business's right to claim a refund
of or credit against state taxes that was established under
Subchapter H, Chapter 111, Tax Code, before the date of expiration
is governed by the law in effect on the date the right to claim the
refund or credit was established, and the former law is continued in
effect for that purpose.

SECTION 3. (a) Except as provided by Subsection (b) of this
section, this Act takes effect September 1, 2013.

(b) Section 111.405, Tax Code, as added by this Act, takes
effect immediately if this Act receives a vote of two-thirds of all
the members elected to each house, as provided by Section 39,
Article III, Texas Constitution. If this Act does not receive the
vote necessary for that section to have immediate effect, that
section takes effect on the 91st day after the last day of the
legislative session.