

## **BILL ANALYSIS**

C.S.H.B. 1871  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Local governments rely on the comptroller of public accounts to collect and administer the local sales tax. Interested parties note that as technology has changed, local governments have become more sophisticated in the way they deal with information. Such parties contend that many local entities are now better able to use sales tax information that the comptroller has received from taxpayers to manage the tax dollars entrusted to them by the voters. C.S.H.B. 1871 seeks to allow the comptroller to share more information with local governments concerning local sales tax collections, administration, and compliance.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1871 amends the Tax Code to add to the information included in an additional quarterly report made to a municipality by the comptroller of public accounts on request of the municipality the amount of tax received and the amount of tax due to the municipality from each person doing business in the municipality who has failed to pay the full amount of the municipal sales and use tax due to the municipality or the full amount of state sales and use tax due. The bill specifies that the requirement for the report to show whether or not the taxpayer is delinquent in the payment of sales and use taxes applies to taxes due to the municipality as well as taxes due to the state. The bill clarifies that the steps taken by the comptroller that are required to be described in the report are the steps taken to collect or allocate the delinquent taxes due to the municipality.

C.S.H.B. 1871 changes the condition under which a municipality must report to the comptroller the name and address of a certain person doing business in the municipality from the municipality determining that the person is not included in a comptroller's report to the municipality determining the person has not fully collected or reported municipal sales and use taxes due to the municipality. The bill extends from 90 to 120 the number of days within which the comptroller must send the municipality a certain response after receiving the report. The bill includes in the optional response consisting of a statement that the person is obligated for the municipal tax and the tax is delinquent a description of the action the comptroller is taking to collect and allocate the delinquent tax and the date and periods covered by the most recent audit of the person by the comptroller or a statement that the comptroller has not conducted an audit of the person. The bill includes in the response consisting of a certification that the person is

obligated for the municipal tax the periods for which the person is obligated, the amount of the tax due, and a statement as to whether the tax due has been credited to the municipality's account, with the latter two elements replacing the certification that the full amount of the tax due has been credited to the municipality's account.

C.S.H.B. 1871 authorizes the comptroller to set and collect from the municipality or other local governmental entity reasonable fees to cover the expense of compiling and providing information. The bill establishes that a municipality providing a report to the comptroller regarding a person doing business in the municipality who has not fully collected or reported municipal sales and use tax preserves the right to receive from the comptroller the tax due to the municipality from the person that is the subject of the report for the four years preceding the date the comptroller receives the report from the municipality and for each subsequent reporting period until the comptroller has fulfilled the comptroller's duties in responding to the municipality's report.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1871 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Section 321.302, Tax Code, is amended by amending Subsections (b) and (c) and adding Subsections (e), (f), and (g) to read as follows:

(b) If a municipality requests an additional report, the comptroller shall make an additional quarterly report to the municipality including the name, address, and account number, if any, of, and the amount of tax received and the amount due to the municipality from, each person doing business in the municipality who has failed to pay the tax under this chapter to the municipality or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment, and, if so, the proportional allocation to the municipality of the partial payment, by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 321.302, Tax Code, is amended by amending Subsections (b) and (c) and adding Subsections (e) and (f) to read as follows:

(b) If a municipality requests an additional report, the comptroller shall make an additional quarterly report to the municipality including the name, address, and account number, if any, of, and the amount of tax received and the amount due to the municipality from, each person doing business in the municipality who has failed to pay the full amount of tax due under this chapter to the municipality or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes due to the municipality or to the state; and

(3) describing the steps taken by the comptroller to collect or allocate the delinquent taxes due to the municipality.

(c) If a municipality determines that a person doing business in the municipality has wholly or partly collected or reported taxes incorrectly under this chapter [~~is not included in a comptroller's report~~], the municipality shall report to the comptroller the name and address of the person. Within 120 [~~90~~] days after receiving the report from a municipality, the comptroller shall send to the municipality:

(1) an explanation as to why the person is not obligated for the municipal tax;

(2) a statement that the person is obligated for the municipal tax and the tax is delinquent that includes:

(A) a description of the action the comptroller is taking to collect the delinquent tax; and

(B) the date and periods covered by the most recent audit of the person by the comptroller or a statement that the comptroller has not conducted an audit of the person; [~~or~~]

(3) a certification that the person is obligated for the municipal tax, the periods for which the person is obligated, [~~and that~~] the [~~full~~] amount of the tax due, and a statement as to whether the tax due has been credited to the municipality's account; or

(4) a statement authorizing a person employed by or designated by the municipality to perform the duties assigned to the comptroller under Sections 111.004 and 151.023.

(e) If a municipality disagrees with a determination made by the comptroller under Subsection (c), the municipality may petition the comptroller for a redetermination under Section 111.009. For purposes of that section and any related provisions in Chapter 111, a municipality is a party having a direct interest in the comptroller's determination.

(f) The comptroller may set and collect from the municipality or other local governmental entity reasonable fees to cover the expense of compiling and providing information or providing access to the administrative appeals process authorized by this section.

(g) A municipality providing a report to the comptroller under Subsection (c) preserves the right to receive from the comptroller any tax due to the municipality and collected by the comptroller from the person that is the subject of the report for the four years preceding the date the comptroller receives

(c) If a municipality determines that a person doing business in the municipality has not fully collected or reported taxes due to the municipality under this chapter [~~is not included in a comptroller's report~~], the municipality shall report to the comptroller the name and address of the person. Within 120 [~~90~~] days after receiving the report from a municipality, the comptroller shall send to the municipality:

(1) an explanation as to why the person is not obligated for the municipal tax;

(2) a statement that the person is obligated for the municipal tax and the tax is delinquent that includes:

(A) a description of the action the comptroller is taking to collect and allocate the delinquent tax; and

(B) the date and periods covered by the most recent audit of the person by the comptroller or a statement that the comptroller has not conducted an audit of the person; or

(3) a certification that the person is obligated for the municipal tax, the periods for which the person is obligated, [~~and that~~] the [~~full~~] amount of the tax due, and a statement as to whether the tax due has been credited to the municipality's account.

(e) The comptroller may set and collect from the municipality or other local governmental entity reasonable fees to cover the expense of compiling and providing information.

(f) A municipality providing a report to the comptroller under Subsection (c) preserves the right to receive from the comptroller the tax due to the municipality from the person that is the subject of the report for the four years preceding the date the comptroller receives the report from the municipality

the report from the municipality and for each subsequent reporting period until the comptroller has fulfilled the comptroller's duties under that subsection.

SECTION 2. This Act takes effect September 1, 2015.

and for each subsequent reporting period until the comptroller has fulfilled the comptroller's duties under that subsection.

SECTION 2. Same as introduced version.