

Suspending limitations on conference committee
jurisdiction, H.B. No. 1905

By: Taylor of Galveston

S.R. No. 1065

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 84th Legislature, Regular Session, 2015, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 1905 (certain state and local taxes, including ad valorem taxes, and the repeal of certain of those taxes) to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text on matters not included in either the house or senate version of the bill by adding the following new provisions to the bill:

SECTION 3. Section 2001.103(d), Occupations Code, is amended to read as follows:

(d) An organization operating under a temporary license is subject to:

(1) the [~~taxes and~~] fees authorized or imposed by this chapter; and

(2) the other provisions of this chapter to the extent they can be made applicable.

SECTION 4. Section 2001.312, Occupations Code, is amended to read as follows:

Sec. 2001.312. FAILURE TO FILE [~~TAX OR~~] FEE REPORTS. A person is not eligible for a license or a license renewal unless all required reports[~~, tax returns,~~] and requested information

have been filed under this chapter.

SECTION 5. Section 2001.355(b), Occupations Code, is amended to read as follows:

(b) Before temporarily suspending a license, the director of bingo operations must follow any prehearing rules adopted by the commission to determine if the license holder's continued operation may constitute:

(1) an immediate threat to the health, safety, morals, or welfare of the public; or

(2) a financial loss to this state, which includes a license holder's failure to remit [~~taxes under Section 2001.501 or~~] prize fee payments under Section 2001.502 to the commission as required by that section [~~those sections~~].

SECTION 6. Section 2001.437(a), Occupations Code, is amended to read as follows:

(a) If the unit accounting agreement of a unit states that a unit manager is responsible for compliance with commission rules and this chapter, the unit manager is responsible for:

(1) the filing of one quarterly report for the unit on a form prescribed by the commission; and

(2) the payment of [~~taxes and~~] fees and the maintenance of the bingo inventory and financial records of the unit.

SECTION 7. Section 2001.438(f), Occupations Code, is amended to read as follows:

(f) Each licensed authorized organization that is a member of the unit shall be jointly and severally liable for:

(1) compliance with the requirements of this subchapter and the rules of the commission relating to the filing of required reports;

(2) the maintenance of bingo inventory and financial records; and

(3) the payment of [~~taxes,~~] fees[~~,~~] and any penalties imposed for a violation of this subchapter or commission rules related to the operations of the unit.

SECTION 8. The heading to Subchapter K, Chapter 2001, Occupations Code, is amended to read as follows:

SUBCHAPTER K. [~~TAXES AND~~] PRIZE FEES

SECTION 9. Section 2001.504, Occupations Code, is amended to read as follows:

Sec. 2001.504. PAYMENT AND REPORTING OF [~~TAX OR~~] FEE.

(a) A [~~tax or~~] fee on prizes authorized or imposed under this subchapter is due and is payable by the license holder or a person conducting bingo without a license to the commission quarterly on or before the 25th day of the month succeeding each calendar quarter.

(b) The report of the [~~a tax or~~] fee on prizes must be filed under oath on forms prescribed by the commission.

(c) The commission shall adopt rules for the payment of the fee on prizes [~~taxes and fees~~].

(d) A license holder required to file a report of the fee on prizes [~~tax return~~] shall deliver the quarterly report [~~return~~] with the net amount of the fee [~~tax~~] due to the commission.

~~[(c) The commission shall deposit the revenue collected under this section to the credit of the general revenue fund.]~~

SECTION 10. Section [2001.508](#), Occupations Code, is amended to read as follows:

Sec. 2001.508. PENALTIES FOR FAILURE TO PAY OR REPORT.

(a) If a person fails to file a report of the fee on prizes ~~[return]~~ as required by this chapter or fails to pay to the commission the fee on prizes ~~[taxes]~~ imposed under this chapter when the report ~~[return]~~ or payment is due, the person forfeits five percent of the amount due as a penalty, and after the first 30 days, the person forfeits an additional five percent.

(b) A delinquent payment of the fee on prizes ~~[tax]~~ accrues interest at the rate provided by Section [111.060](#), Tax Code, beginning on the 60th day after the due date.

SECTION 11. Section [2001.509](#), Occupations Code, is amended to read as follows:

Sec. 2001.509. RECOMPUTATION OF PRIZE FEE ~~[TAX]~~. If the commission is not satisfied with a report of the fee on prizes ~~[tax return]~~ or the amount of the fee on prizes ~~[tax]~~ required to be remitted under this chapter to the state by a person, the commission may compute and determine the amount required to be paid on the basis of:

(1) the facts contained in the report of the fee on prizes ~~[return]~~ or report of receipts and expenses; or

(2) any information possessed by the commission or that may come into the possession of the commission, without regard to the period covered by the information.

SECTION 12. The heading to Section 2001.510, Occupations Code, is amended to read as follows:

Sec. 2001.510. DETERMINATION IF NO REPORT [~~RETURN~~] MADE.

SECTION 13. Sections 2001.510(a) and (c), Occupations Code, are amended to read as follows:

(a) If a license holder fails to make a required report of the fee on prizes [~~return~~], or if a person conducts bingo without a license, the commission shall make an estimate of the prizes awarded at a bingo occasion [~~or of the gross rentals received by a license holder for the rental of premises~~]. The commission shall make the estimate for the period in respect to which the license holder or other person failed to make a report [~~return~~].

(c) On the basis of the commission's estimate, the commission shall compute and determine the amount of the fee on prizes [~~taxes or fees~~] required to be paid to the state and shall add to that amount a penalty of 10 percent of the amount.

SECTION 14. Sections 2001.511(a) and (c), Occupations Code, are amended to read as follows:

(a) If the commission believes that the collection of the [~~a gross rental tax or~~] fee on prizes, an amount of the [~~tax or~~] fee on prizes required to be remitted to the state, or the amount of a determination will be jeopardized by delay, the commission shall make a determination of the [~~tax or~~] fee on prizes or amount of the [~~tax or~~] fee required to be collected, noting the finding of jeopardy on the determination. The determined amount is due and payable immediately.

(c) A delinquency penalty of 10 percent of the [~~tax or~~]

fee on prizes or amount of the [~~tax or~~] fee on prizes and interest at the rate of 10 percent a year attaches to the amount of the [~~tax or~~] fee on prizes or the amount of the [~~tax or~~] fee on prizes required to be collected.

SECTION 15. Section 2001.512, Occupations Code, is amended to read as follows:

Sec. 2001.512. APPLICATION OF TAX LAWS. (a) Subtitle B, Title 2, Tax Code, applies to the administration, collection, and enforcement of [~~the gross rentals tax imposed under Section 2001.501 and~~] the fee on prizes imposed under Section 2001.502 except as modified by this chapter.

(b) In applying the provisions of Subtitle B, Title 2, Tax Code, to [~~the gross rentals tax imposed under Section 2001.501 and~~] the fee on prizes imposed under Section 2001.502 only, the fee on prizes is treated as if it were a tax and the powers and duties assigned to the comptroller under that subtitle are assigned to the commission.

SECTION 16. Section 2001.513(a), Occupations Code, is amended to read as follows:

(a) At any time within three years after a person is delinquent in the payment of an amount of the [~~gross rentals tax or~~] fee on prizes, the commission may collect the amount under this section.

SECTION 17. Sections 2001.514(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) To secure payment of [~~the tax on gross rentals or~~] the fee on prizes imposed under this subchapter, each license holder

shall furnish to the commission:

- (1) a cash bond;
- (2) a bond from a surety company chartered or authorized to do business in this state;
- (3) certificates of deposit;
- (4) certificates of savings;
- (5) United States treasury bonds;
- (6) subject to the approval of the commission, an assignment of negotiable stocks or bonds; or
- (7) other security as the commission considers sufficient.

(c) On a license holder's failure to pay [~~the gross rentals tax or~~] the fee on prizes imposed under this subchapter, the commission may notify the license holder and any surety of the delinquency by jeopardy or deficiency determination. If payment is not made when due, the commission may forfeit all or part of the bond or security.

(d) If the license holder ceases to conduct bingo and relinquishes the license holder's license, the commission shall authorize the release of all bonds and other security on a determination that no amounts of [~~the gross rentals tax or~~] the fee on prizes remain due and payable under this subchapter.

SECTION 18. Section [2001.515](#), Occupations Code, is amended to read as follows:

Sec. 2001.515. COMMISSION'S [~~TAX~~] DUTIES. The commission shall perform all functions incident to the administration, collection, enforcement, and operation of the

fee on prizes [~~a tax~~] imposed under this subchapter.

SECTION 19. (a) Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.211 to read as follows:

Sec. 11.211. REAL PROPERTY LEASED TO CERTAIN SCHOOLS. A person is entitled to an exemption from taxation of the real property that the person owns and leases to a school that is qualified as provided by Section 11.21(d) if:

(1) the real property is used exclusively by the school for educational functions;

(2) the real property is reasonably necessary for the operation of the school;

(3) the owner certifies by affidavit to the school that the rent for the lease of the real property will be reduced by an amount equal to the amount by which the taxes on the property are reduced as a result of the exemption;

(4) the owner provides the school with a disclosure document stating the amount by which the taxes on the real property are reduced as a result of the exemption and the method the owner will implement to ensure that the rent charged for the lease of the property fully reflects that reduction; and

(5) the rent charged for the lease of the real property reflects the reduction in the amount of taxes on the property resulting from the exemption through a monthly or annual credit against the rent.

(b) This section applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this section.

SECTION 20. (a) Section 11.231, Tax Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to an organization described by Subsection (a), in this section, "nonprofit community business organization" also means a Type A corporation governed by Chapter 504, Local Government Code, and a Type B corporation governed by Chapter 505, Local Government Code.

(b) This section applies only to ad valorem taxes imposed for a tax year that begins on or after the effective date of this section.

SECTION 21. Section 151.314, Tax Code, is amended by amending Subsections (b-1), (c-2), and (h) and adding Subsection (c-4) to read as follows:

(b-1) For purposes of this section, "snack items" means ~~[includes]~~:

(1) breakfast bars, granola bars, nutrition bars, sports bars, protein bars, or yogurt bars, unless labeled and marketed as candy;

(2) snack mix or trail mix;

(3) nuts, but not including pine nuts or ~~[unless]~~ candy-coated nuts;

(4) popcorn; ~~[and]~~

(5) chips, crackers, ~~[or]~~ hard pretzels, pork rinds, or corn nuts;

(6) sunflower seeds or pumpkin seeds;

(7) ice cream, sherbet, or frozen yogurt; and

(8) ice pops, juice pops, sorbet, or other frozen

fruit items containing not more than 50 percent fruit juice by volume.

(c-2) The exemption provided by Subsection (a) does not include the following prepared food:

(1) food, food products, and drinks, including meals, milk and milk products, fruit and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juice, and ice cream in cones or small cups, served, prepared, or sold ready for immediate consumption [~~in or~~] by restaurants, lunch counters, cafeterias, delis, vending machines, hotels, or like places of business or sold ready for immediate consumption from pushcarts, motor vehicles, or any other form of vehicle;

(2) food sold in a heated state or heated by the seller; or

(3) two or more food ingredients mixed or combined by the seller for sale as a single item, including items that are sold in an unheated state by weight or volume as a single item, but not including food that is only cut, repackaged, or pasteurized by the seller.

(c-4) For purposes of Subdivision (c-2)(1), if a grocery store or convenience store contains a type of location listed in that subdivision, the store is considered a like place of business for purposes of that subdivision, but only in relation to items sold at that location.

(h) The exemption provided by Subsection (a) does not apply to a snack item if the item is sold through a vending machine or is sold in individual-sized portions. For purposes

of this subsection, an individual-sized portion is a portion that:

(1) is labeled as having not more than one serving;
or

(2) contains less than 2.5 ounces [~~, if the package does not specify the number of servings~~].

SECTION 22. (a) Section 156.001, Tax Code, is amended to read as follows:

Sec. 156.001. DEFINITIONS [~~DEFINITION~~]. (a) In this chapter, "hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include:

(1) a hospital, sanitarium, or nursing home;
(2) a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or

(3) an oilfield portable unit, as defined by Section 152.001.

(b) For purposes of the imposition of a hotel occupancy tax under this chapter, Chapter 351 or 352, or other law, "hotel" includes a short-term rental. In this subsection, "short-term

rental" means the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101.

(b) The heading to Section 351.005, Tax Code, is amended to read as follows:

Sec. 351.005. REIMBURSEMENT FOR ~~[TAX—COLLECTION]~~
EXPENSES OF TAX COLLECTION AND USE OF ELECTRONIC TAX
ADMINISTRATION SYSTEM.

(c) Section 351.005(a), Tax Code, is amended to read as follows:

(a) A municipality may permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax and, if applicable, the use of an electronic tax administration system described by Section 351.1012.

(d) Subchapter B, Chapter 351, Tax Code, is amended by adding Section 351.1012 to read as follows:

Sec. 351.1012. ELECTRONIC TAX ADMINISTRATION SYSTEM.

(a) Notwithstanding any other provision of this chapter, a municipality may spend not more than one percent of the revenue derived from the tax authorized by this chapter for the creation, maintenance, operation, and administration of an electronic tax administration system.

(b) A municipality may contract with a third party to assist in the creation, maintenance, operation, or

administration of the electronic tax administration system.

(e) The amendments made by this section to Section 156.001, Tax Code, are a clarification of existing law and do not imply that existing law may be construed as inconsistent with the law as amended by this section.

(f) This section 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 this section to have immediate effect, this section takes effect September 1, 2015.

SECTION 24. Section 162.104(a), Tax Code, is amended to read as follows:

(a) The tax imposed by this subchapter does not apply to gasoline:

(1) sold to the United States for its exclusive use, provided that the exemption does not apply with respect to fuel sold or delivered to a person operating under a contract with the United States;

(2) sold to a public school district in this state for the district's exclusive use;

(3) sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline only to provide those services;

(4) exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for gasoline in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for gasoline in a situation described by Subsection (e), the bill of lading indicates the destination state, the gasoline is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the gasoline removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) delivered or sold into a storage facility of a licensed aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country; [~~or~~]

(8) sold to a volunteer fire department in this

state for the department's exclusive use; or

(9) sold to a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and that uses the gasoline exclusively to provide emergency medical services, including rescue and ambulance services.

SECTION 25. Section 162.125, Tax Code, is amended by adding Subsection (g-2) to read as follows:

(g-2) A nonprofit entity exempted under Section 162.104(a)(9) from the tax imposed under this subchapter that paid tax on the purchase of gasoline is entitled to a refund of the tax paid, and the entity may file a refund claim with the comptroller for that amount.

SECTION 26. Section 162.204(a), Tax Code, is amended to read as follows:

(a) The tax imposed by this subchapter does not apply to:

(1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel

only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section [162.206](#);

(9) the volume of water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use;

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section [548.001](#), Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel

supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule; ~~or~~

(14) diesel fuel sold to a volunteer fire department in this state for the department's exclusive use; or

(15) diesel fuel sold to a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and that uses the diesel fuel exclusively to provide emergency medical services, including rescue and ambulance services.

SECTION 27. Section 162.227, Tax Code, is amended by adding Subsection (f-2) to read as follows:

(f-2) A nonprofit entity exempted under Section 162.204(a)(15) from the tax imposed under this subchapter that paid tax on the purchase of diesel fuel is entitled to a refund of the tax paid, and the entity may file a refund claim with the comptroller for that amount.

SECTION 36. The following are repealed:

. . .

(2) Section 2001.501, Occupations Code;

Explanation: The additions are necessary to repeal certain taxes and to address the application and administration of certain other taxes.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following text to

SECTION 28 of the bill, in added Section [162.356\(a\)\(9\)](#), Tax Code: a motor vehicle operated exclusively by a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and that uses the fuel exclusively to provide emergency medical services, including rescue and ambulance services;

Explanation: The change is necessary to provide an exemption from the tax imposed on compressed natural gas or liquefied natural gas for certain nonprofit entities.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following text to SECTION 29 of the bill, in added Section [162.365\(a\)\(10\)](#), Tax Code:

(10) is a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the nonprofit entity to provide emergency medical services, including rescue and ambulance services.

Explanation: The change is necessary to allow for a credit on a tax return or an application for a refund for tax paid on compressed natural gas or liquefied natural gas by certain nonprofit entities.

(4) Senate Rule 12.03(1) is suspended to permit the committee to amend text not in disagreement in proposed SECTION 39 of the bill to read as follows:

SECTION 39. (a) Except as otherwise provided by this Act, this Act takes effect September 1, 2015.

(b) Section 19 of this Act takes effect January 1, 2016, but only if a constitutional amendment authorizing the legislature to exempt from ad valorem taxation real property leased to certain schools organized and operated primarily for the purpose of engaging in educational functions is approved by the voters. If that amendment is not approved by the voters, Section 19 of this Act has no effect.

(c) Section 20 of this Act takes effect January 1, 2016.

Explanation: The change is necessary to provide for different effective dates for certain provisions in the bill.

President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on May 31, 2015, by the following vote: Yeas 19, Nays 12.

Secretary of the Senate