

## **BILL ANALYSIS**

S.B. 850  
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Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Under current state law, the tax collector for a taxing unit is not required to send a refund of an overpayment or erroneous payment of property taxes to a taxpayer unless that taxpayer applies for the refund. The bill sponsor has informed the committee that taxpayers should not have barriers to the funds to which they are entitled and that taxpayers deserve to have any overpayments of taxes returned to them with as few bureaucratic hurdles as possible. S.B. 850 seeks to address this issue by ensuring that, in the event a taxpayer is owed a refund of at least \$1 in overpaid or erroneously paid property taxes, the collector for the applicable taxing unit must send that taxpayer a refund without the taxpayer having to apply for the refund.

### **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**

S.B. 850 amends the Tax Code and the Government Code to revise provisions relating to the payment of certain property tax refunds.

#### **Application for Tax Refund**

S.B. 850 establishes that a person may but is not required to apply for a refund of taxes due to the person under the Property Tax Code if the amount of the refund is at least \$1.

#### **Refunds of Overpayments or Erroneous Payments**

S.B. 850 replaces the requirement for the tax collector of a taxing unit, if a taxpayer applies to the collector for a refund of an overpayment or erroneous payment of taxes, the collector for the unit determines that the payment was erroneous or excessive, and the auditor for the unit agrees with the collector's determination, to refund the amount of the excessive or erroneous payment from available current tax collections or from funds appropriated by the unit for making refunds with the following provisions:

- a requirement for the collector for a taxing unit, if a taxpayer submits a tax payment that exceeds by \$1 or more the amount of taxes the taxpayer owes for a tax year to the taxing unit, to refund the amount of the erroneous or excessive payment to the taxpayer after the collector determines the payment was erroneous or excessive if the auditor for the taxing unit agrees with the collector's determination;

- a requirement for the collector for a taxing unit, if a taxpayer submits a tax payment that exceeds by less than \$1 the amount of taxes the taxpayer owes for a tax year to the taxing unit and the taxpayer applies to the collector for a refund of the erroneous or excessive payment, to refund the amount of the erroneous or excessive payment to the taxpayer after the collector determines that the payment was erroneous or excessive if the auditor for the taxing unit agrees with the collector's determination; and
- a requirement for the collector for a taxing unit to make a refund under these provisions using available current tax collections or money appropriated by the taxing unit for the purpose of making refunds.

The bill removes a prohibition against the collector for a taxing unit making a refund of an overpayment or erroneous payment of taxes unless the following conditions are met, as applicable:

- in the case of a collector who collects taxes for one taxing unit, the governing body of the taxing unit also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds:
  - \$5,000 for a refund to be paid by a county with a population of 2.5 million or more; or
  - \$500 for a refund to be paid by any other taxing unit; or
- in the case of a collector who collects taxes for more than one taxing unit, the governing body of the taxing unit that employs the collector also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds:
  - \$5,000 for a refund to be paid by a county with a population of 2.5 million or more; or
  - \$2,500 for a refund to be paid by any other taxing unit.

The bill makes certain provisions regarding an application for a refund that is required to be approved by the governing body of a taxing unit applicable instead to an application for a refund that is filed with the collector for a taxing unit after the deadline for filing the application is extended by the taxing unit's governing body, as authorized under current law, and revises those provisions as follows:

- replaces the provision establishing that the governing body's presiding officer is not required to sign the application or any accompanying document to indicate the governing body's approval or disapproval of the refund with a provision establishing that the presiding officer is not required to sign the application or any accompanying document to indicate the governing body's approval or disapproval of the extension of the deadline as it relates to the application; and
- replaces the requirement for the collector for the taxing unit to indicate on the application whether the governing body approved or disapproved the refund with a requirement for the collector to indicate on the application whether the governing body approved or disapproved the extension of the deadline.

S.B. 850 revises the requirement for the collector for a taxing unit, if a taxpayer submits a payment of taxes that exceeds by \$5 or more the amount of taxes owed for a tax year to the taxing unit, to mail to the taxpayer or the taxpayer's representative, without charge, a written notice of the amount of the overpayment accompanied by a refund application form by doing the following:

- making the requirement applicable with respect to any payment of taxes that exceeds the amount of taxes owed for a tax year to the taxing unit by removing the minimum overpayment threshold of \$5;
- removing the requirement for any written notice of the amount of overpayment to be accompanied by a refund application form; and
- establishing the following:
  - if the amount of the overpayment is at least \$1, the notice must state that the taxpayer is not required to apply for the refund; and
  - if the amount of the overpayment is less than \$1, the notice must state that the taxpayer is required to apply for the refund and the collector must include with the notice a refund application form.

S.B. 850 revises the authorization for a taxpayer to file suit against a taxing unit in district court to compel payment of a refund by removing the provision establishing that the suit must be filed not later than the 60th day after the date the collector for the taxing unit denies the application for the refund generally and instead establishing the following:

- for a refund for which a taxpayer is not required to file an application, the suit must be filed not later than the 60th day after the date the taxpayer receives the written notice of the amount of the overpayment; and
- for a refund for which a taxpayer is required to file an application, the suit must be filed not later than the 60th day after the date the collector for the taxing unit denies the application for the refund.

S.B. 850 repeals the following provisions relating to the refund of overpayments or erroneous payments:

- the requirement for the collector for a taxing unit to provide a copy of the refund application form without charge on request of a taxpayer or a taxpayer's representative; and
- provisions establishing that, in the case of an overpayment or erroneous payment of taxes submitted by a taxpayer to a collector who collects taxes for one or more taxing units one of which is a county with a population of 2.5 million or more:
  - a taxpayer is not required to apply to the collector for the refund to be entitled to receive the refund if the amount of the refund is at least \$5 but does not exceed \$5,000; and
  - the collector is not required to mail to the taxpayer or the taxpayer's representative a written notice of the amount of the overpayment accompanied by a refund application form unless the amount of the payment exceeds by more than \$5,000 the amount of taxes owed for a tax year to a taxing unit for which the collector collects taxes.

### **Payment of Tax Refunds; Interest**

S.B. 850 revises provisions establishing that no interest is due on certain tax refunds paid on or before the 60th day after the date the liability for the refund arises and specifying the amount of interest that accrues if the refund is not paid on or before that 60th day, as follows:

- establishes an express requirement for an applicable tax refund to be paid not later than the 60th day after the date the liability for the refund arises;
- regarding refunds for which interest is due, replaces the specification that interest accrues at a rate of one percent for each month or part of a month that the refund is unpaid, beginning with the date on which the liability for the refund arises, with the specification that interest accrues at an annual rate of 12 percent, calculated from the date on which the liability for the refund arises until the date the refund is paid;
- removes the specification that these provisions do not apply to a refund in an amount less than \$5; and
- expands the applicability of these provisions to include refunds provided by specified statutory provisions relating to the following:
  - a temporary exemption from property taxation for qualified property damaged by a disaster;
  - applications for an exemption from property taxation of certain property used for low-income housing;
  - late applications for a veteran's organization exemption;
  - late applications for a disabled veterans residence homestead exemption;
  - a refund of prepayment of taxes on a fleet transaction;
  - the reappraisal of land subject to temporary quarantine for ticks;
  - an injunction restraining the collection of taxes by a taxing unit that has not complied with certain statutory requirements;
  - an automatic election to approve the tax rate of a school district;

- calculation of taxes on a residence homestead generally;
- calculation of taxes on a residence homestead of certain persons who qualify for certain residence homestead exemptions;
- calculation of taxes on a residence homestead of a 100 percent or totally disabled veteran;
- calculation of taxes on a donated residence homestead of a disabled veteran or a surviving spouse of a disabled veteran;
- payment of taxes assessed against real property by conveyance to the taxing unit of property; and
- conditional payments of property taxes subject to a pending challenge or protest.

For each of the newly included refunds, the bill specifies when the liability for a refund arises. For refunds under statutory provisions relating to an automatic election to approve the tax rate of a taxing unit other than a school district or a petition election to reduce the tax rate of a taxing unit other than a school district, which are subject to the interest provisions under current law, the bill changes the date on which liability for the refund arises from the date the results of the election to approve or reduce the tax rate, as applicable, are certified to the date the assessor for the taxing unit mails the corrected tax bills. For refunds of payments made to multiple like taxing units as a result of a certain dispute or error, which are also subject to the interest provisions under current law, the bill specifies that the interest provisions apply when the taxing units enter into an agreement to resolve the dispute or error and changes the date on which liability arises for such a refund from the deadline for making the refund as prescribed under current law to the date the agreement is made.

### **Provisions Regarding Specific Types of Refunds**

#### Temporary Exemption for Qualified Property Damaged by a Disaster

S.B. 850 removes the provision establishing that no interest is due on an amount refunded by the tax collector for a taxing unit to a person who qualifies for a temporary exemption from property taxation for qualified property damaged by a disaster and who paid a tax on the qualified property in an amount that exceeded the amount of tax due as a result of the exemption.

#### Late Application for a Residence Homestead Exemption

S.B. 850 removes the provision setting the deadline for the collector for a taxing unit to pay a refund to a property owner whose late application for a residence homestead exemption is approved and who previously paid a tax for the property as not later than the 60th day after the date the chief appraiser notifies the collector of the approval of the exemption.

#### Late Application for a Veteran's Organization Exemption

S.B. 850 does the following with respect to a refund in the event a late application for a veteran's organization exemption from property taxation is approved and the tax and related penalties and interest on the property for a tax year for which the exemption is granted were paid under protest:

- replaces the provision establishing that the organization is eligible for a refund of the tax, penalties and interest paid as provided by provisions regarding refunds of overpayments or erroneous payments with a provision requiring the collector for the taxing unit to refund to the organization the tax, penalties, and interest paid; and
- removes the provision establishing that the deadline prescribed by applicable state law for applying for a refund does not apply to such a refund.

#### Late Application for Disabled Veterans Residence Homestead Exemption

S.B. 850 removes the provision setting the deadline for the collector for a taxing unit to pay a refund to a property owner whose late application for a disabled veterans residence homestead exemption is approved and who previously paid a tax and any related penalties and interest for

the property as not later than the 60th day after the date the chief appraiser notifies the collector of the approval of the exemption.

### Conditional Payments

S.B. 850 revises provisions relating to the refund of conditional payments of taxes made before the delinquency date for property taxes that are subject to a pending challenge or protest as follows:

- revises the requirement for the collector for the taxing unit, if the property is no longer subject to a challenge, protest, or appeal at any time before the delinquency date, to apply the conditional payments to the tax imposed on the property and refund the remainder, if any, to the property owner by specifying that the refund is made in accordance with provisions relating to the payment of certain tax refunds and interest on those refunds, as amended by the bill; and
- with respect to a refund of conditional payments retained during an appeal when the appeal is completed:
  - requires the collector to make the refund not later than the 60th day after the date the appeal is completed; and
  - requires the collector, if the collector does not make the refund within that period, to include with the refund interest on the amount refunded at an annual rate of 12 percent, calculated from the delinquency date for the taxes being refunded until the date the refund is made.

### Escrow Accounts

S.B. 850 revises provisions relating to the payment of taxes for property for which an escrow account is established by setting a deadline for the collector for a taxing unit to issue a refund to the taxpayer of any amount in the account in excess of the amount of taxes paid, if applicable, as not later than the 60th day after the date the collector determines that the amount of money in the escrow account exceeds the amount of taxes imposed.

### Refunds of Payments Made to Multiple Like Taxing Units

S.B. 850 revises provisions relating to refunds issued in a dispute or error arising as a result of disputed, overlapping, or erroneously applied geographic boundaries between like taxing units in which those units have imposed property taxes on the same property, as follows:

- regarding disputes or errors resolved by the agreement of the taxing units:
  - removes the requirement for an applicable refund to be made not later than the 90th day after the date on which the agreement is made; and
  - requires instead that such a refund be made in accordance with provisions relating to the payment of certain tax refunds and interest on those refunds as amended by the bill;
- regarding disputes or errors not resolved by the agreement of the taxing units and for which the Texas Supreme Court enters a final order determining the amount of taxes owed on the property and the taxing units or units to which the taxes are owed:
  - changes the deadline by which a refund required as a result of the order must be made from not later than the 180th day after the date the order is entered to not later than the 60th day after the date the order is entered; and
  - requires the taxing unit, if it does not make the refund within that period, to include with the refund interest on the amount refunded at an annual rate of 12 percent, calculated from the delinquency date for the taxes being refunded until the date the refund is made.

### Refunds Relating to Appeal through Binding Arbitration

S.B. 850 does the following with respect to a refund of property taxes in the event an appeal through binding arbitration decreases the property owner's tax liability to less than the amount of taxes paid:

- sets the deadline for the collector for the taxing unit to make the refund as not later than the 60th day after the date of the final determination of the appeal; and
- requires the collector, if the collector does not make the refund within that period, to include with the refund interest on the amount refunded at an annual rate of 12 percent, calculated from the delinquency date for the taxes being refunded until the date the refund is made.

### Refunds Relating to Appeal through Judicial Review

S.B. 850 does the following with respect to a refund of property taxes in the event that the final determination of an appeal of a taxpayer protest through judicial review decreases a property owner's tax liability:

- with respect to the requirement for the taxing unit to include with the refund interest on the amount refunded calculated at an annual rate of 9.5 percent, authorizes a property owner to waive the interest;
- changes the conditions under which the taxing unit must include with the refund interest on the amount refunded at an annual rate of 12 percent from the taxing unit failing to make the refund, including interest, before the 60th day after the date the chief appraiser certifies a correction to the appraisal roll under applicable state law to the taxing unit failing to make the refund, including any interest, before the 60th day after the date of the final determination of the appeal to which the refund relates;
- with respect to the entitlement of a property owner who prevails in a suit to compel a refund to court costs and reasonable attorney's fees, changes the first day on which such a suit may be filed for that entitlement to apply from the 180th day after the date the chief appraiser certifies a correction to the appraisal roll to the 60th day after the date of the final determination of the appeal to which the refund relates; and
- prohibits the final judgment in an appeal through judicial review from requiring the property owner to file a form with the IRS as a prerequisite to the issuance of a refund unless the form is required under federal law.

### Refunds Relating to Appeal to the State Office of Administrative Hearings

S.B. 850 does the following with respect to a refund of property taxes in the event a final determination of an appeal to the State Office of Administrative Hearings decreases the property owner's tax liability to an amount less than the amount of taxes paid:

- requires the taxing unit to make the refund not later than the 60th day after the date of the final determination of the appeal; and
- requires the taxing unit, if it does not make the refund within that period, to include with the refund interest on the amount refunded at an annual rate of 12 percent, calculated from the delinquency date for the taxes being refunded until the date the refund is made.

### **Repealed Provisions**

S.B. 850 repeals Sections 31.11(d) and (i), Tax Code.

### **Procedural Provision**

S.B. 850 applies only to a property tax refund the liability for which arises on or after the bill's effective date.

**EFFECTIVE DATE**

September 1, 2025.