

## **BILL ANALYSIS**

S.B. 903  
By: Perry  
Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

State tax law currently prohibits a taxpayer from appealing the denial of a tax refund claim directly to a district court. After the comptroller of public accounts denies a refund claim, the taxpayer must request a refund hearing, complete the hearing process at the State Office of Administrative Hearings (SOAH), and file a motion for rehearing, before filing suit. Many taxpayers assert, however, that this process often involves issues that ultimately must be determined by a court, such as challenging the constitutionality of a statute or seeking to reverse comptroller policy or precedent. Furthermore, the hearings process at SOAH overwhelmingly finds in favor of the state. For many taxpayers, a mandatory administrative hearing prior to filing in a district court is unnecessary and expensive and unreasonably delays the opportunity to resolve their tax case. S.B. 903 seeks to remedy this situation by providing taxpayers the option to take refund claims directly to a district court, giving them the opportunity to resolve their tax cases more expeditiously.

### **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. 903 amends the Tax Code to authorize a person claiming a refund for an unlawfully or erroneously collected tax, penalty, or interest to file with the comptroller of public accounts a notice of intent to bypass the hearing to which the person is entitled. The notice must meet the following requirements:

- be filed on or before the 60th day after the date the comptroller issues a letter denying the claim for the refund;
- be in writing and specify the amount of the refund claimed; and
- assert the material facts and each specific legal basis on which the refund is claimed.

S.B. 903 authorizes the comptroller to require a conference between a person who files a notice of intent and a designated officer or employee of the comptroller to clarify any fact or legal issue in dispute regarding the refund claim and to discuss the availability of additional documentation that may assist in resolving outstanding issues regarding the claim. The person who filed the notice may amend a material fact or legal basis following the conference if the comptroller agrees in writing to the amendment.

S.B. 903 requires the comptroller, if the comptroller requires such a conference, to notify the person of the conference requirement not later than the 30th day after the date the notice of intent was filed. The notice of the conference requirement must be in writing and include a date and time for the conference, which must be no later than the 90th day after the date the notice of intent was filed.

S.B. 903 authorizes the person who filed the notice of intent to request to reschedule the conference date provided in the comptroller's notice and requires the comptroller to make a good faith effort to accommodate the request. If the comptroller and the person do not agree on or before the 90th day after the date the notice of intent was filed to a rescheduled date for the conference, the person may rescind the notice of intent on or before the 120th day after the date the notice was filed and request a tax refund hearing. Otherwise, a person who files a notice of intent waives the person's right to such a hearing.

S.B. 903 authorizes a person who files a notice of intent to bypass the hearing and bring a suit for a refund to recover the amount of the tax, penalty, or interest if either of the following conditions are met:

- the person participated in a conference required by the comptroller, in which case the suit must be filed on or before the 60th day after the date the conference concludes or a later date agreed to by the comptroller; or
- the comptroller does not timely provide notice that a conference is required, in which case the suit must be filed on or before the 90th day after the date the notice of intent was filed.

The bill clarifies that the person must file the suit during the provided time or it is barred. The bill requires a copy of the notice of intent to be attached to the original petition filed in such a suit with the court and to the copies of the original petition served on the comptroller and attorney general. The bill authorizes material facts and legal bases contained in the notice of intent to be raised as issues in such a suit. The suit applies only to a tax liability period covered by the filed notice of intent.

S.B. 903 changes the filing deadline for a suit for a tax refund in which the person has filed a motion for rehearing that has been denied by the comptroller from 30 days after the issue date of the denial of the motion for rehearing to 60 days after that issue date.

#### **EFFECTIVE DATE**

September 1, 2021.