HOUSE RESEARCH ORGANIZATION bill analysis — 5/11/1999 — HB 351 Denny, et al. (CSHB 351 by Bosse)

SUBJECT:	Limiting liability of county tax assessor-collectors
COMMITTEE:	Civil Practices — committee substitute recommended
VOTE:	8 ayes — Bosse, Janek, Dutton, Goodman, Hope, Nixon, Smithee, Zbranek 0 nays 1 absent — Alvarado
WITNESSES:	For — Mary Horn, Tax Assessor-Collectors Association Against — None

DIGEST:

CSHB 351 would provide immunity from civil liability for a county tax assessor-collector for civil actions begun more than four years after that person left office. The assessor-collector's term of office would expire as provided by law, whether or not the assessor-collector served a subsequent term of office. If the assessor-collector did not serve a subsequent term, the term of office would end when a successor took office.

The comptroller could conduct an audit of a assessor-collector's office but would have to provide notice of such an audit within one year after the end of the assessor-collector's term of office. The audit would have to be completed within two years of the end of the term of office. A civil action against an assessor-collector could be commenced within four years of the completion of the audit.

This bill would take effect September 1, 1999, and would apply to all assessor-collectors serving on that date.

SUPPORTERS SAY:

CSHB 351 would protect tax assessor-collectors from being held personally liable for tax shortages that turned up during an audit conducted years after the assessor-collector had left office.

When a new tax-assessor collector takes office, a number of state agencies audit the office. However, assessor-collectors rarely are audited during their own term of office. A tax assessor-collector who has been in office 20 years may never be audited by the comptroller or another state agency. However, three years after a new tax assessor-collector takes office, an audit may turn up shortfalls that occurred 15 years before, during the previous assessor-collector's term. Under current law, the previous tax-assessor collector would be held personally liable for these funds.

CSHB 351 would place time limits and controls on the personal liability of tax assessor-collectors so that they would not have to fear being held liable for shortfalls during their term years after they had left office. This bill would make it clear that state agencies either should order frequent audits or should release assessor-collectors from liability.

OPPONENTS SAY:

Regardless of when assessor-collectors are audited or when their terms of office end, if there is a shortfall of public funds, those persons should be held liable for that insufficiency.

OTHER OPPONENTS SAY:

This bill would place burdens on the Comptroller's Office by requiring it to audit every tax assessor-collector in every county every four years, regardless of whether that same assessor-collector was still in office for another term, in order to preserve the state's right to hold the assessor-collector accountable for any shortfall.

NOTES:

The filed version of HB 351 would have required civil actions based on audits to be begun within the later of 90 days after the audit was completed or the date imposed by an applicable statute of limitations. The committee substitute would allow an action to be begun within four years of the expiration of the assessor-collector's term of office if an audit was not completed.

In the 1997 legislative session, a similar bill, HB 2864 by Denny, was reported favorably by the House Civil Practices Committee and was placed on the General State Calendar but was not considered by the House.