

SUBJECT: Transferring interest from the comptroller's suspense account

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Oliveira, McCall, Hartnett, Bonnen, Y. Davis, Heflin, Keffer,
Ramsay, Ritter

0 nays

2 absent — Craddick, Hilbert

SENATE VOTE: On final passage, March 8 — 30-0-1

WITNESSES: None

BACKGROUND: In 1993, the 73rd Legislature amended the Tax Code to direct the comptroller to credit protested tax payments to the fund to which the tax is owed. Before that, disputed tax funds were placed in a "suspense" account unavailable for state spending, where they were held until the dispute was resolved. When the code was amended, the funds were transferred, but interest on those funds remained in the suspense account.

Under current law, if the state loses a tax dispute, it must return the tax with interest to the taxpayer. If the state wins, the fund to which the disputed tax was owed retains those funds.

Government Code, sec. 404.071 directs the comptroller to allocate the interest received in an account under its charge to the fund to which it was due. Unless otherwise allocated, the remainder of the interest is credited to general revenue.

DIGEST: SB 848 would direct the comptroller to allocate any accumulated interest in the suspense account to the account to which the disputed tax was owed.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the legislative session.

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SUPPORTERS
SAY:

SB 848 would transfer accumulated interest in the suspense account to the appropriate fund, where it would be available to be spent on meeting the state's current budget needs.

Recognizing that the state wins most protested tax cases, the 73rd Legislature required that certain protested taxes be deposited to the account to which they were owed. This change freed funds that otherwise would be held in escrow until the dispute was settled. At that time, however, the Legislature did not change the requirements for handling interest on the disputed funds, and the interest remained in the suspense account.

According to the comptroller, this account now holds more than \$99 million. The comptroller's "e-Texas" report recommended transferring the portion of those funds that is not attributable to pending protests to the appropriate fund, where they may be certified for spending.

SB 848 would treat the interest in the suspense account the same as all other interest on disputed taxes. Other statutes direct that interest on disputed taxes be deposited with the principal. The comptroller still would have to return a taxpayer's principal with interest if the state lost a tax dispute.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The bill's fiscal note estimates a net gain of \$99 million in general revenue during fiscal 2002. CSHB 1333 by Junell, the supplemental appropriation bill on today's House calendar, would appropriate this \$99 million in general revenue if both bills are enacted.