

BILL ANALYSIS

Senate Research Center

S.B. 1266
By: Armbrister
Finance
4-9-97
Committee Report (Amended)

DIGEST

On September 1, 1996, the office of the state treasurer was abolished and all powers, duties, obligations, rights, and contracts transferred to the comptroller of public accounts. The comptroller acquired responsibility for the sale and storage of cigarette tax stamps; the collection of cigarette and tobacco taxes; cigarette, cigar, and tobacco products audit and enforcement; the issuance of permits for the sale and distribution of cigarettes and tobacco products; and administration of the Cigarette Tax Stamp Recovery Fund. The comptroller also assists the Texas Alcoholic Beverage Commission in the storing and shipping of stamps to designated border locations.

This bill would amend current law to update and clarify both administrative and enforcement provisions. S.B. 1266 also amends and adds certain definitions, and deletes certain references to stamp meter machines since such machines are no longer used. In addition, this bill would amend current administrative hearings procedures to make them consistent with current procedures for the Comptroller's Hearing Division and pursuant to general tax hearing procedures. This bill would also add the requirement that distributor records and reports include the manufacturer's list price for tobacco products. Finally, this bill would change all references to "treasurer" to "comptroller."

PURPOSE

As proposed, S.B. 1266 updates and clarifies administrative and enforcement provisions regarding cigarettes and tobacco products. This bill also makes changes to certain hearing procedures, and record and reporting requirements, and changes all references to "treasurer" to "comptroller."

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 154.001, Tax Code to redefine "common carrier," "counterfeit stamp," "distributor," "individual package of cigarettes," "place of business," and "stamp." Defines "export warehouse," "importer" and "import broker." Makes conforming changes.

SECTION 2. Amends Chapter 154C, Tax Code, as follows:

SUBCHAPTER C. New heading: TAX STAMPS

SECTION 3. Amends Section 154.050, Tax Code, to require the comptroller, rather than the treasurer, to require that payment in full for stamps, rather than for stamps or meter settings, be made within 30 days after the date stamps, rather than after the date stamps or a set meter, and an accompanying invoice from the comptroller, rather than treasurer, are received by the distributor, except that at the close of each biennium, payment for stamps, rather than payment for stamps or meter settings, purchased or received on or before August 31 of that fiscal year shall be made in full on or before August 31 of that fiscal year, providing that such payment be received in the office of the comptroller, rather than treasurer, no later than August 31 of that fiscal year notwithstanding any other statute regarding tax due dates to the contrary. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Sections 154.051(a)-(c), (e)-(k), (n), and (o), Tax Code, to provide that in

investing the assets of the fund, the comptroller, has the obligations, duties, and powers provided for the investment of state funds by Sections 404.021 through 404.0245, Government Code, rather than by Sections 404.021 through 404.025, Government Code, and by the orders of the State Depository Board. Makes conforming changes.

SECTION 5. Amends Sections 154.405(b)-(d), to require the comptroller to include with the notice an inventory of the property seized and a statement that the owner of property seized is entitled to a hearing on the seizure, rather than a statement of the date, time, and place of a hearing on the seizure. Authorizes the comptroller, if a hearing is requested under Subsection (b), to order the forfeiture to the state of any property seized under this chapter or the proceeds of the sale of any cigarettes seized under this chapter under certain conditions. Makes conforming changes.

SECTION 6. Amends Section 154.415, Tax Code, as follows:

Sec. 154.415. New heading: DONATIONS. Deletes Subsection (a) regarding the rights of the treasurer. Makes conforming changes.

SECTION 7. Amends Section 155.001, Tax Code to redefine "common carrier," "distributor," and "place of business." Defines "export warehouse," and "importer" or "import broker."

SECTION 8. Amends Section 155.101, Tax Code, to require records, kept by each distributor, wholesaler, bonded agent, and export warehouse to include certain information.

SECTION 9. Amends Section 155.102(b), Tax Code, to require the records for each sale, distribution, exchange, or use of tobacco products to show, for sales from a manufacturer to a distributor, the manufacturer's list price for the tobacco products. Makes conforming changes.

SECTION 10. Amends Section 155.111, Tax Code, to require a distributor to file with the comptroller on or before the 30th day of each month, a report for the preceding month showing the manufacturer's list price of tobacco products purchased, received, and acquired. Makes conforming changes.

SECTION 11. Amends Section 155.141, Tax Code, as follows:

Sec. 155.141. New heading: DONATIONS. Deletes text regarding the rights and powers of the treasurer. Makes a conforming change.

SECTION 12. Amends Sections 155.145(b)-(d), Tax Code, to make conforming changes.

SECTION 13. Repealer: Sections 111.1041, 154.048, 154.049, Tax Code (Application of Subchapter to Treasurer, Settlements, Refunds, and Credits, Collection Procedures; Stamp Meters, Tax Stamps and Meters, Cigarette Tax; Meter Settings, Tax Stamps and Meters, Cigarette Tax).

SECTION 14. Effective date: October 1, 1997.

SECTION 15. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Page 3, lines 6 and 7, to redefine "individual package of cigarettes" from a package that contains not fewer than 10 cigarettes to a package that contains not fewer than 20 cigarettes.