

BILL ANALYSIS

Senate Research Center
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H.B. 2582
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Engrossed

DIGEST AND PURPOSE

The United States Constitution exempts exports from state taxation and the State of Texas has enacted statutes recognizing the exemption and provides a means for obtaining a refund of state sales tax paid on exports. One of those means is by a licensed customs broker issuing documentation certifying that merchandise is an export. The statutes under which this documentation is issued do not provide sufficient direction regarding when and under what procedures this documentation may be issued certifying merchandise as an export. Correcting these deficiencies could help ensure the state's proper collection of taxes and benefit the economy of the state by encouraging the sale of exports from Texas to Mexico. H.B. 2582 establishes procedures under which licensed customs brokers operate, including procedures under which they may issue documentation certifying merchandise as an export, and provides for fines and penalties to be imposed when procedures are not followed.

RULEMAKING AUTHORITY

Rulemaking authority is expressly delegated to the comptroller of public accounts in SECTION 1.02 (Section 151.1575, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

H.B. 2582 amends the Tax Code to establish procedures under which licensed custom brokers (broker) operate. The bill increases, from \$500 to \$5,000, the amount of the bond or security a broker is required to post for the comptroller of public accounts (comptroller) to issue a license to a broker. The comptroller is prohibited from requiring a bond or security in an amount greater than \$10,000, rather than \$2,500. The bill authorizes the comptroller to suspend or revoke a license if the broker does not comply with certain provisions or knowingly or intentionally issues documentation that is false to obtain a refund of taxes paid on tangible personal property not exported or to assist another person in obtaining such a refund.

The bill sets forth provisions regarding the requirements which authorize a broker licensed by the comptroller or an authorized employee of the broker to issue documentation certifying that delivery of tangible personal property was made to a point outside the territorial limits of the United States. The bill authorizes the broker or authorized employee of the broker to issue and deliver documentation at any time after the tangible personal property is purchased and the broker or employee completes the certification process. The bill sets forth the information the documentation must include. The comptroller may require a broker to pay the comptroller the amount of any tax refund if the customs broker does not comply with applicable provisions and rules adopted by the comptroller. The bill authorizes the comptroller to require the broker to pay a penalty in an amount equal to two times the amount of the refunded tax, but not less than \$500 nor more than \$5,000. The bill provides that a proceeding to require a broker to pay a penalty is a contested case in the same manner as a proceeding to revoke or suspend a broker's license. The above provisions expire on September 1, 2003, after which the law as it previously existed before the enactment of these provisions takes effect.

The bill increases, from an amount not to exceed five cents to an amount of fifty cents, that the comptroller is required to charge for each stamp. The bill requires that one-third of any surplus revenue

from the sale of stamps to be allocated for the enforcement of provisions relating to a customs broker and requires that two-thirds of any surplus revenue from the sale of stamps to be allocated to the Texas Department of Transportation for expenses related to transportation infrastructure maintenance and improvement. The bill provides that such revenue shall be expended proportionally in the districts from which the stamp fee is raised.

EFFECTIVE DATE: September 1, 2001.