

BILL ANALYSIS

C.S.H.B. 518
By: Darby
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties see a benefit in supporting nonprofit retailers that sell donated goods and that have centers to provide job training and placement services to people with disabilities and other barriers to employment. C.S.H.B. 518 seeks to create this support in the form of the retention and use of sales tax revenue collected by certain of these retailers to provide job training and placement services to certain persons.

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

C.S.H.B. 518 amends the Tax Code to authorize a retailer to apply to the comptroller of public accounts for certification as a qualifying organization and to require the comptroller to certify the applicant as a qualifying organization if the comptroller determines that the applicant meets the requirements to be a workforce training community center, defined by the bill as a retailer that is a charitable organization exempted from federal income tax, that collects and remits to the comptroller sales taxes imposed on the sale of donated goods, that has experience in assisting persons with a disability or other barriers to employment with job training and placement services and uses a portion of its revenue to provide those services, and that has annual sales of at least \$1 million. The bill authorizes a qualifying organization to retain the lesser of 30 percent or \$1 million of the sales taxes imposed under the Limited Sales, Excise, and Use Tax Act and collected by the organization on sales during its first year of certification as a qualifying organization and the lesser of 50 percent or \$1 million of the sales taxes imposed under the act and collected by the organization on sales during each subsequent year of the remaining period in which the qualifying organization holds that certification, including a renewal certification. The bill requires the qualifying organization to show the amount of sales taxes retained on a required tax report in addition to the other information required in a tax report and requires a qualifying organization to continue to remit to the comptroller sales taxes imposed by a political subdivision of the state and collected on sales with respect to which the qualifying organization retains sales taxes. The bill makes the reimbursement to a taxpayer for the cost of tax collections and the deduction a taxpayer who prepays tax liability may take inapplicable with respect to the amount of sales tax retained.

C.S.H.B. 518 restricts a qualifying organization's use of money so retained to providing a variety of job training and placement services to persons with a disability or other barriers to

employment, developing an individualized written training and employment plan for each person assisted to ensure appropriate and successful job placement, and monitoring job retention for each person placed for the first 90 days of employment and providing additional services as needed to support job retention or acquisition of a different job. The bill authorizes a qualifying organization to use retained money to improve its infrastructure and otherwise prepare to provide such services in its first year of certification but not after a qualifying organization's certification is renewed. The bill requires a qualifying organization, after its first year of certification and for every \$10,000 in sales tax collections retained, to provide job training and placement services to at least three persons and to successfully place an average of at least 2.25 persons in jobs.

C.S.H.B. 518 establishes that a retailer certified as a qualifying organization retains that certification until the third anniversary of the certification date. The bill authorizes the comptroller at any time after a qualifying organization's first year of certification during the certification period to require the qualifying organization to demonstrate, in a manner prescribed by the comptroller, that the qualifying organization has not used any retained tax collections for a purpose other than those described by the bill after the first year of certification and is successfully meeting or has successfully met, as applicable, the requirement to offer job training and placement services to the required number of persons and the requirement to place the specified average number of persons in jobs. The bill requires the comptroller to require a qualifying organization to demonstrate such compliance at the conclusion of the certification period.

C.S.H.B. 518 authorizes the comptroller to revoke, after written notice and a hearing, a certification issued to a retailer that fails to comply with the Limited Sales, Excise, and Use Tax Act or a rule adopted under that act and entitles a retailer whose certification the comptroller proposes to revoke to 20 days' written notice of the time and place of the hearing on the revocation. The bill requires the notice to state the reason the comptroller is seeking to revoke the certification and requires the retailer to show cause why the certification should not be revoked at the hearing. The bill requires the comptroller to give written notice of the revocation to the retailer and authorizes delivery of such notice by mail to the retailer's address as shown in the comptroller's records. The bill requires the comptroller to require an organization whose certification was revoked to remit an amount of tax collections retained in the comptroller's discretion but caps the amount at \$3,333 per person not successfully placed in a job. The bill authorizes a retailer that is certified as a qualifying organization to apply to renew the certification and authorizes the comptroller to renew a certification only if the retailer has complied with all requirements during the applicant's certification period and with any other requirements for renewal as prescribed by rules adopted by the comptroller. The bill adds a temporary provision set to expire January 1, 2020, prohibiting the comptroller from certifying a retailer as a qualifying organization before September 1, 2019, and making the authorization to retain sales taxes applicable only to sales taxes imposed under the Limited Sales, Excise, and Use Tax Act and collected by a qualifying organization on or after September 1, 2019.

C.S.H.B. 518 expressly does not affect tax liability accruing before September 1, 2019.

EFFECTIVE DATE

September 1, 2018.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 518 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

85R 20372

17.90.57

Substitute Document Number: 85R 18640

SECTION 1. Subchapter I, Chapter 151, Tax Code, is amended by adding Section 151.433 to read as follows:

Sec. 151.433. USE OF SALES TAX COLLECTIONS FOR JOB TRAINING AND PLACEMENT.

(a) In this section:

(1) "Qualifying organization" means a retailer certified by the comptroller under Subsection (b).

(2) "Workforce training community center" means a retailer that:

(A) is exempt from the payment of federal income taxes under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code;

(B) collects and remits to the comptroller sales taxes imposed on the sale of donated goods;

(C) has experience in assisting persons with a disability or other barriers to employment with job training and placement services and uses a portion of its revenue to provide those services; and

(D) has annual sales of at least \$1 million.

(b) A retailer may apply to the comptroller for certification as a qualifying organization under this section. If the comptroller determines that the applicant meets the requirements to be a workforce training community center, the comptroller shall certify the applicant as a qualifying organization.

(c) Notwithstanding any other law, a qualifying organization is not required to remit to the comptroller and may retain 50 percent of the sales taxes imposed under this chapter and collected by the organization on sales during the period in which the qualifying organization holds a certification under Subsection (b).

The qualifying organization must show the amount retained on a tax report required by this chapter in addition to the information required by Section 151.406.

(d) A qualifying organization shall continue to remit to the comptroller sales taxes

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(b) A retailer may apply to the comptroller for certification as a qualifying organization under this section. If the comptroller determines that the applicant meets the requirements to be a workforce training community center, the comptroller shall certify the applicant as a qualifying organization.

(c) Notwithstanding any other law, a qualifying organization is not required to remit to the comptroller and may retain:

(1) the lesser of 30 percent or \$1 million of the sales taxes imposed under this chapter and collected by the organization on sales during its first year of certification as a qualifying organization; and

(2) the lesser of 50 percent or \$1 million of the sales taxes imposed under this chapter and collected by the organization on sales during each subsequent year of the remaining period in which the qualifying organization holds that certification, including a renewal certification.

(d) A qualifying organization must show the amount of sales taxes retained as authorized by Subsection (c) on a tax report required by this chapter in addition to the information required by Section 151.406.

(e) A qualifying organization shall continue to remit to the comptroller sales taxes

imposed by a political subdivision of this state and collected on sales with respect to which the qualifying organization retains sales taxes as authorized by Subsection (c).

(e) The reimbursement authorized by Section 151.423 and the deduction authorized by Section 151.424 do not apply with respect to the amount of sales taxes retained as authorized by Subsection (c).

(f) Except as provided by Subsection (g), a qualifying organization shall use money retained as authorized by Subsection (c) only to:

(1) provide a variety of job training and placement services to persons with a disability or other barriers to employment, including low educational attainment, a criminal record, homelessness, and status as a veteran;

(2) develop an individualized written training and employment plan for each person assisted to ensure appropriate and successful job placement; and

(3) monitor job retention for each person placed for the first 90 days of employment and provide additional services as needed to support job retention or acquisition of a different job.

(g) In its first year of certification, a qualifying organization may use money retained as authorized by Subsection (c) to improve its infrastructure and otherwise prepare to provide services described by Subsection (f). This subsection does not apply to the period after a qualifying organization's certification is renewed under Subsection (m).

(h) After the period described by Subsection (g), for every \$10,000 in sales tax collections retained under this section a qualifying organization:

(1) shall provide job training and placement services to at least three persons, including services related to job-seeking skills and vocational skills training, job placement, job coaching, and post-employment support; and

(2) must successfully place an average of at least 2.25 persons in jobs.

(i) Subject to Subsection (j), a retailer that is certified as a qualifying organization retains that certification until the third anniversary of the date of certification. At any time after the period described by Subsection (g) during the certification period, the

imposed by a political subdivision of this state and collected on sales with respect to which the qualifying organization retains sales taxes as authorized by Subsection (c).

(f) The reimbursement authorized by Section 151.423 and the deduction authorized by Section 151.424 do not apply with respect to the amount of sales taxes retained as authorized by Subsection (c).

(g) Except as provided by Subsection (h), a qualifying organization shall use money retained as authorized by Subsection (c) only to:

(1) provide a variety of job training and placement services to persons with a disability or other barriers to employment, including low educational attainment, a criminal record, homelessness, and status as a veteran;

(2) develop an individualized written training and employment plan for each person assisted to ensure appropriate and successful job placement; and

(3) monitor job retention for each person placed for the first 90 days of employment and provide additional services as needed to support job retention or acquisition of a different job.

(h) In its first year of certification, a qualifying organization may use money retained as authorized by Subsection (c) to improve its infrastructure and otherwise prepare to provide services described by Subsection (g). This subsection does not apply to the period after a qualifying organization's certification is renewed under Subsection (n).

(i) After the period described by Subsection (h), for every \$10,000 in sales tax collections retained under this section a qualifying organization:

(1) shall provide job training and placement services to at least three persons, including services related to job-seeking skills and vocational skills training, job placement, job coaching, and post-employment support; and

(2) must successfully place an average of at least 2.25 persons in jobs.

(j) Subject to Subsection (k), a retailer that is certified as a qualifying organization retains that certification until the third anniversary of the date of certification. At any time after the period described by Subsection (h) during the certification

comptroller may, and at the conclusion of the certification period the comptroller shall, require the qualifying organization to demonstrate, in a manner prescribed by the comptroller, that the qualifying organization:

(1) has not used any tax collections retained under this section for a purpose other than a purpose described by Subsection (f) after the first year of certification; and

(2) is successfully meeting or has successfully met, as applicable, the requirements described by Subsection (h).

(j) The comptroller, after written notice and a hearing, may revoke a certification issued to a retailer that fails to comply with this chapter or a rule adopted under this chapter. A retailer whose certification the comptroller proposes to revoke under this section is entitled to 20 days' written notice of the time and place of the hearing on the revocation. The notice must state the reason the comptroller is seeking to revoke the retailer's certification. At the hearing the retailer must show cause why the retailer's certification should not be revoked.

(k) The comptroller shall give written notice of the revocation of a certification under Subsection (j) to the retailer that was certified under this section. The notice may be sent by mail to the retailer's address as shown in the comptroller's records.

(l) The comptroller shall require an organization whose certification was revoked under Subsection (j) to remit an amount of tax collections retained under this section in the comptroller's discretion, but not to exceed \$3,333 per person not successfully placed in a job in accordance with Subsection (h)(2).

(m) A retailer that is certified as a qualifying organization may apply to renew the certification. The comptroller may renew a retailer's certification only if the retailer has complied with all requirements during the applicant's certification period and with any other requirements for renewal as prescribed by rules adopted by the comptroller.

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(1) has not used any tax collections retained under this section for a purpose other than a purpose described by Subsection (g) after the first year of certification; and

(2) is successfully meeting or has successfully met, as applicable, the requirements described by Subsection (i).

(k) The comptroller, after written notice and a hearing, may revoke a certification issued to a retailer that fails to comply with this chapter or a rule adopted under this chapter. A retailer whose certification the comptroller proposes to revoke under this section is entitled to 20 days' written notice of the time and place of the hearing on the revocation. The notice must state the reason the comptroller is seeking to revoke the retailer's certification. At the hearing the retailer must show cause why the retailer's certification should not be revoked.

(l) The comptroller shall give written notice of the revocation of a certification under Subsection (k) to the retailer that was certified under this section. The notice may be sent by mail to the retailer's address as shown in the comptroller's records.

(m) The comptroller shall require an organization whose certification was revoked under Subsection (k) to remit an amount of tax collections retained under this section in the comptroller's discretion, but not to exceed \$3,333 per person not successfully placed in a job in accordance with Subsection (i)(2).

(n) A retailer that is certified as a qualifying organization may apply to renew the certification. The comptroller may renew a retailer's certification only if the retailer has complied with all requirements during the applicant's certification period and with any other requirements for renewal as prescribed by rules adopted by the comptroller.

(o) Notwithstanding Subsection (b), the comptroller may not certify a retailer as a qualifying organization under that subsection before September 1, 2019. The authorization to retain sales taxes provided by Subsection (c) applies only to sales taxes imposed under this chapter and collected by

a qualifying organization on or after September 1, 2019. This subsection expires January 1, 2020.

SECTION 2. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 2. The change in law made by this Act does not affect tax liability accruing before September 1, 2019. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. This Act takes effect September 1, 2018.