

**SUBJECT:** Enforcing the attorney occupation tax through license suspension

**COMMITTEE:** Ways & Means — favorable, with amendment

**VOTE:** 9 ayes — Craddick, Finnell, Heflin, Holzheuser, Horn, T. Hunter, Marchant, Oliveira, Place  
0 nays  
2 absent — Wolens, Romo

**SENATE VOTE:** On final passage, March 9 — 29-0

**WITNESSES:** For — Antonio Alvarado, State Bar of Texas  
Against — None

**BACKGROUND:** Since 1992 the state Tax Code has imposed an annual occupation tax of \$200 on every active attorney under 70 years of age. This occupation tax is collected by the Comptroller's Office. The tax is separate from the annual dues attorneys pay to the State Bar of Texas. Twenty-five percent of the occupation tax is deposited in the foundation school fund; the remainder is deposited in the general revenue fund.

Many other professionals pay similar state taxes to a state professional regulatory organization; the attorney tax is the only occupational tax collected by the Comptroller's Office.

**DIGEST:** SB 403 would transfer the administration of the attorney occupation tax to the Supreme Court. SB 403 would require the court to suspend from practice an attorney who has not paid the occupation tax within 90 days from its due date. A suspension would be lifted as soon as the necessary taxes and penalties were remitted. SB 403 would impose a 5 percent penalty on late taxes and a 12 percent yearly interest charge.

The State Bar of Texas would be authorized to create rules for the administration and collection, including exemptions for, these taxes.

SB 403 would take effect on June 1, 1995; however, any proceeding currently ongoing to collect delinquent attorney taxes that was not final on that date would remain under the jurisdiction of the comptroller.

**SUPPORTERS  
SAY:**

The Comptroller's Office estimates that it has sent 14,000 delinquent tax notices to attorneys since 1992. But the agency lacks any simple, effective enforcement mechanism other than waiting until an attorney owes an amount large enough to merit turning the matter over the attorney general as a tax collection matter. The problem is that even the worst offenders are less than \$1,000 delinquent, even including penalties, and the Attorney General's Office must work on collection matters for substantially greater amounts in other areas. Providing the penalty of the suspension of practice for failure to pay such taxes would promote voluntary compliance.

Similar enforcement mechanisms are used for other professionals who must pay similar taxes. The bill is not intended to force attorneys out of practice, only to enhance their voluntary compliance with the law.

The Texas Performance Review recommended moving the administration of the attorney tax program to the Supreme Court so that the court could suspend the practice of delinquent taxpayers and enhance voluntary compliance. Better compliance would mean the state could gain an additional \$645,000 a year for the general revenue fund and \$215,000 a year for the foundation school fund, according to the fiscal note.

The Supreme Court already collects state bar dues from attorneys; the collection of taxes would not impose a burden on the court. The court would ensure that every attorney is given delinquency notices before any license is suspended. The state bar and the court intend to conduct an extensive education campaign if this legislation is enacted to ensure that all lawyers, especially ones who might not otherwise know about the occupation tax, are fully informed about the tax and the consequences of failure to pay it.

**OPPONENTS  
SAY:**

The suspension of a person's license to practice law is a very serious matter. While it is clear that the intention of the bill is simply to help ensure voluntary compliance, some attorneys could slip through the cracks

in the educational campaign and be adversely affected by inadvertent failure to pay the tax.

**NOTES:** The committee amendment would allow any ongoing tax collection proceeding not final on or before the effective date of SB 403 to remain under the jurisdiction of the comptroller.