

- SUBJECT:** Permitting municipalities to obtain detailed sales tax information
- COMMITTEE:** Local Government Ways and Means — favorable, with amendment
- VOTE:** 5 ayes — Hill, Hegar, Laubenberg, Mowery, Quintanilla
0 nays
2 absent — McReynolds, Puente
- WITNESSES:** For — Charles Cryan, City of College Station
Against — None
- BACKGROUND:** Tax Code, ch. 321 authorizes cities, towns, and villages to impose a municipal sales and use tax, administered by the state comptroller. Sec. 321.3022(a) requires the comptroller to furnish any municipality with a population of not more than 275,000 with information about any person or business in the municipality that annually collects and remits more than \$100,000 in municipal sales taxes. SB 843 by Carona, enacted by the 76th Legislature in 1999, raised the population bracket for cities eligible to receive this information from less than 50,000 to not more than 275,000.
- Tax Code, sec. 321.3022(f) declares such information confidential and not open for public inspection. The information may be used only for economic forecasting or for determining the amount of sales tax paid by a person or business in an interlocal agreement, tax abatement agreement, reinvestment zone, tax incremental financing district, revenue sharing agreement, enterprise zone, or neighborhood empowerment zone.
- DIGEST:** HB 3154, as amended, would allow a taxing municipality to provide the comptroller with information relating to a seller that the municipality did not believe had collected or reported to the comptroller tax revenue as required by law, or revenue that the municipality believed the seller had paid but not properly reported as revenue from a municipal tax.

If, following an investigation, the comptroller identified that the seller had failed to collect or report revenue as required, the comptroller could report to the municipality the seller's name and taxpayer identification number and the amount of tax revenue that had not been collected or reported. If the comptroller found that the seller had failed properly to report revenue from a municipal tax, the comptroller could report to the municipality the seller's name and taxpayer identification number and the amount of tax revenue that should have been reported as municipal revenue.

To receive this information from the comptroller, the municipality would have to provide the name of each municipal officer or contractor acting on behalf of the municipality who would have access to the information, and certify that any contractor would be bound by contract to keep such information confidential and to avoid conflicts of interest with area sellers. A municipal officer or contractor who revealed confidential taxpayer information to an unauthorized person, allowed it to be seen by an unauthorized person, or retained the information outside of the individual's official duties with the municipality would commit a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

If the comptroller believed that information received by a municipality had been wrongfully disclosed, the comptroller could refuse to send the municipality additional information, require the municipality to return the information already given, or place conditions on the eligibility of the municipality to receive information in the future.

The bill would take effect immediately if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 3154 would greatly assist cities in receiving payment information from the Comptroller's Office, thereby aiding cities in collecting sales tax revenues from taxpayers who had not reported or improperly had reported sales tax due. It would ensure that taxpayers were paying city sales taxes as required and would give cities access to improved data for the projection of future sales tax revenues. Local sales taxes are the major source of revenue for municipal governments. Due to the continued weakness of sales tax revenue

throughout the state, it is essential that governmental entities receive all the revenues that are due them, which this bill would facilitate.

The bill would prevent tax dollars from being credited to the wrong city. In the past, sales tax receipts have been reported and credited incorrectly. Cities do not know which businesses collect and report sales taxes and because of confidentiality requirements, they receive an aggregate total of sales tax revenues rather than detailed information. Many cities share contiguous boundaries with other cities, making it difficult for taxpayers to keep track of and accurately report their sales tax collections. Often, taxes incorrectly are reported as being collected in one jurisdiction and then must be reallocated to the correct jurisdiction, if the error is discovered. Even a small percentage of non-compliance or reporting errors can have a big impact on a city's ability to budget or plan. Giving cities a method of obtaining more detailed information on sales tax revenues would help keep money in the correct accounts.

HB 3154 would provide confidentiality provisions to ensure that information was properly maintained by municipal officers or contractors and used only for its intended purposes. These employees or contractors would be required to keep taxpayer information confidential and would face criminal penalties for any improper use of such information. In addition, the taxpayer information would not be a public record.

Contractors who are not city employees already carry out a variety of sensitive and specialized functions for municipalities, such as ambulance services, so it would be appropriate for cities to use contractors as described by this bill when necessary or desirable for technical or budgetary reasons.

The bill would not burden the Comptroller's Office because it would be permissive and would not require action from any party.

**OPPONENTS
SAY:**

HB 3154 would increase the risk of illegal disclosure of confidential taxpayer information, especially since it would allow not just city employees but also non-employee agents of municipalities to have access to such information.

This bill would be burdensome on the comptroller because it would have to provide significantly more information to requesting municipalities than is currently required.

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NOTES: The committee amendment would clarify that the provisions of this bill would apply to any municipality, including municipalities with populations of 275,000 or less described in Tax Code, sec. 321.3022.

SB 1433 by Averitt is the companion to HB 3154 and was referred to the Senate Intergovernmental Relations Committee on March 20.