

SUBJECT: Changes to the enforcement of state taxes by the comptroller

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 6 ayes — Keffer, Ritter, Otto, Bonnen, Y. Davis, Pitts

0 nays

3 absent — Flores, Paxton, Pena

WITNESSES: (*On original version:*)

For — None

Against — John Kennedy, Texas Taxpayers and Research Association;  
James LeBas, Association of Electric Companies of Texas

On — Karey Barton, Texas Association of Manufacturers; Richard Craig,  
Steve Hughes, Comptroller's Office; Ronald Del Vento, Texas Attorney  
General's Office (*Registered, but did not testify*: James Archer,  
Comptroller's Office)

(*On committee substitute:*)

For — None

Against — None

On — Richard Craig, Comptroller's Office

DIGEST: CSHB 3314 would make changes to the collection and enforcement of  
state taxes by the Comptroller of Public Accounts.

The bill would specify that the district courts of Travis County would have  
venue and jurisdiction of any suit challenging or attempting to avoid a  
comptroller collection action or state tax lien.

A person would be presumed to have collected a tax if he or she filed a  
return with the comptroller showing tax due. The person could rebut this  
presumption by providing documentation that the tax was not collected.

The bill would add situations in which the statute of limitations could be stayed for personal liability actions.

The bill would create a class A misdemeanor offense (up to one year in jail and/or a maximum fine of \$4,000) for a person who interfered with the comptroller's seizure of the property of a delinquent taxpayer.

A person who did not honor a freeze or levy would be liable for a penalty equal to 50 percent of the amount frozen or levied, in addition to the liability.

A condition placed on a check purporting to limit the amount of taxes owed would be voided.

Individual officers, managers, and directors of businesses would be made personally liable for fraudulent tax evasion, including evasion of mixed beverage taxes.

The bill would create a 10-year deadline for bringing a suit to determine the validity of a state tax lien.

A seller of seller-financed motor vehicles would not be considered to have transferred a loan when the loan was pledged for collateral for the sale of bonds and nonpayment risk remained with the seller.

The bill would raise the maximum amount of a mixed beverage bond from \$50,000 to the greater of \$100,000 or four times the amount of the permittee's average monthly tax liability.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 3314 would improve the collection of state taxes by clarifying the legal remedies available to the comptroller for the collection of delinquent taxes. The committee substitute would address concerns raised in committee by some business taxpayers that there be no prima facie presumption of guilt based upon certain actions and omissions by a taxpayer. The committee substitute removed that provision but would retain strong measures to ensure that those guilty of tax fraud be held to account.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

As filed, HB 3314 would have classified certain actions as "prima facie" evidence of a plan to avoid the payment of taxes.