

BILL ANALYSIS

Senate Research Center

H.B. 2425
By: McCall (Duncan)
Finance
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Engrossed

The analysis for H.B. 2425 reflects the latest version of the Ways and Means Committee analysis and includes house floor amendments.

DIGEST AND PURPOSE

As the sole administrator of the treasury and the state's many financial resources, the comptroller's office relies on statutory authority and rulemaking power to manage those resources. As the dynamics of financial markets and our economic systems continue to evolve, the tools available to the comptroller often require adjustment to maximize the effectiveness of the agency's resource control. Being the sole administrator of the state's financial resources also places the comptroller in the unique position of working in concert with other state governmental entities that rely on the comptroller's expertise to adequately provide the necessary financial support. H.B. 2425 makes adjustments in various portions of the Texas Statutes to facilitate the administration of the state's financial resources.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 21 of this bill.

ANALYSIS

SECTION 1. Amends Section 103.051(a), Civil Practice and Remedies Code, adding to the list of items that must be submitted to the comptroller for wrongful imprisonment compensation. The addition consists of a certification of the claimant's actual innocence signed by the current prosecuting attorney of the county in which the sentence was rendered.

SECTION 2. Amends Section 14(e), Article 42.12, Code of Criminal Procedure, clarifying when a county must remit Substance Abuse court fees. The reporting requirement is eliminated in the event that no fees are collected.

SECTION 3. Amends Section 19(f), Article 42.12, Code of Criminal Procedure, clarifying when a community corrections and supervision department must remit Substance Abuse court fees. The reporting requirement is eliminated in the event that no fees are collected.

SECTION 4. Amends Section 44.901, Education Code, authorizing school district boards of trustees to enter into energy savings performance contracts. The Section also requires payment of a performance bond. Methods of finance for energy savings performance contracts may include lease-purchase, bond proceeds, and vendor financing.

SECTION 5. Amends Section 51.927, Education Code, authorizing higher education boards to enter into energy savings performance contracts. The Section also requires payment of a performance bond. Methods of finance for energy savings performance contracts may include lease-purchase, bonds proceeds, and vendor financing. Contracts under this Section must be let as professional services.

SECTION 6. Amends Section 54.619, Education Code, allowing the Prepaid Higher Education Tuition Board to suspend new enrollment in the program to ensure actuarial soundness of the fund.

SECTION 7. Amends Section 54.622, Education Code, making permissive the Prepaid Higher Education Tuition Board's authority to make prepaid tuition contracts available.

SECTION 8. Amends Section 54.624, Education Code, establishing that a university must accept as payment in full of a person's tuition and fees the lesser of 1) the amount of tuition and required fees charged by the institution or 2) an amount paid by the Prepaid Higher Education Tuition Board under the contract equal to the weighted average or tuition and required fees of all public senior colleges and universities for that semester or other academic period as determined by the Prepaid Higher Education Tuition Board.

SECTION 9. Amends Section 403.027(g), Government Code, placing the definition of "digital signature" in the Government Code and deleting cross-references to portions of the Business & Commerce Code that no longer exist.

SECTION 10. Amends Section 403.054, Government Code, giving a state agency permissive, discretionary authority to issue a replacement warrant from operating funds if the agency can show proper documentation that recovery of initial funds has been initiated and the agency has filed a proper report with the Treasury.

SECTION 11. Amends Section 403.092, Subsection (a) and (b), Government Code, expanding the comptroller's authority to borrow available cash from funds outside the treasury being managed by the comptroller.

SECTION 12. Amends Sections 403.1042(b), (c), (e), and (f), Government Code, by changing the way persons are appointed to the tobacco settlement permanent trust account investment advisory committee.

SECTION 13. Amends Section 404.024, Government Code, allowing the comptroller to invest state monies in pooled funds established by the Texas Treasury Safekeeping Trust Company and operated like mutual funds and whose portfolios consist only of dollar-denominated securities. This Section also makes explicit the comptroller's authority to lend securities as an investment option.

SECTION 14. Amends Section 404.102, Government Code, making explicit the trust company's authority to pool funds and lend securities in order to manage funds and securities more efficiently and economically.

SECTION 15. Amends Section 404.107(b), stating that a participant having funds deposited with the trust company is required to pay fees developed under Section 404.103(f). The trust company may deduct fees from the principal or earning of a participant on deposit with the trust company or require a participant to pay a fee from an amount not on deposit with the trust company.

SECTION 16. Amends Section 404.123(b), Government Code, allowing the cash management committee to set the cap on outstanding notes and eliminating the 25 percent cap.

SECTION 17. Amends Chapter 447, Government Code, as amended by Chapters 573, 1158, and 1983, 77th Legislature, Regular Session, 2001, consolidating three bills amended to State Energy Conservation Office statutes and eliminating conflicting provisions.

SECTION 18. Amends Section 659.253, Government Code, allowing an employee moved from an exempt to a classified position to become eligible for a merit increase or promotion once returned to the classified position.

SECTION 19. Amends Subchapter K, Chapter 659, Government Code:

- Allowing an agency to post a position for competitive applicants and allow the agency to select an internal applicant willing to move to a different job classification with an increase in pay;
- Allowing internal applicants to apply for posting that are in the same salary group, although a different job classification and achieve an increase in pay; and

- Allowing an internal applicant the same opportunity at earning a higher salary as an external applicant.

SECTION 20. Amends Section 659.255, Government Code, allowing an employee who is employed in two different job classifications—positions defined by the Position Classification Act—to be eligible for a merit increase or a one-time merit payment in each position if 1) the employee had worked for the agency for six months and 2) the employee had not had a merit increase, promotion, enhanced compensation award or one-time merit payment in that particular position within six months prior to the effective date of the merit increase or one-time merit payment for that classified position.

SECTION 21. Amends Subchapter K, Chapter 659, Government Code, adding administrative rulemaking authority to the comptroller to determine policy on salary administration, including portions, reclassifications and other salary adjustments.

SECTION 22. Amends Section 832.002, Government Code, providing the authority to make a payroll deduction for the \$10 annual fee for the Judicial Retirement System Plan One fee.

SECTION 23. Amends Section 2101.0115, Subsections (a) and (b), Government Code, so that the comptroller no longer receives a copy of the non-financial information submitted to be a part of the comptroller's annual financial report.

SECTION 24. Amends Section 2113.205(b), Government Code, allowing the comptroller to approve the use of money appropriated for a fiscal year to pay for other costs of a similar nature that may cross fiscal years.

SECTION 25. Amends Section 2162.001, Government Code, providing a definition for "local government" in the portion of the Government Code dealing with the State Council on Competitive Government.

SECTION 26. Amends Section 2162.102, Government Code, allowing local governments to participate in the State Council on Competitive Government contracts.

SECTION 27. Amends Chapter 2166.406, Government Code, authorizing state agencies to enter into energy performance contracts. Requires the payment of a performance bond. Methods of finance for energy saving performance contracts may include lease-purchase, bond proceeds, and vendor financing. Requires contracts to be let as professional services.

SECTION 28. Amends Section 2251.025(b), Government Code, adjusting the interest rate on late payments by state agencies to vendors to the prime rate plus one percent. This would represent a reduction in payments by state agencies from 12 percent to 5.75 percent.

SECTION 29. Amends Section 2252.903(e), Government Code, eliminating verification of warrant hold within seven days prior to letting a contract if the contract will be paid using funds held in the treasury.

SECTION 30. Amends Section 2305.012, Government Code, revising the statutory language for the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 31. Amends Section 2305.032(a), Government Code, revising the statutory language for the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 32. Amends Section 2305.033, Subsections (b) and (d), Government Code, revising the statutory language for the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 33. Amends Section 2305.034, Government Code, revising the statutory language for

the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 34. Amends Section 2305.039(b), Government Code, revising the statutory language for the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 35. Amends Section 2306.783(a), Government Code, removing the comptroller from the membership list of the Texas Interagency Council for the Homeless.

SECTION 36. Amends the heading of Chapter 302, Local Government, by deleting the references to water conservation measures so that the Chapter applies strictly to energy savings performance contracts.

SECTION 37. Amends Section 302.001, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 38. Amends Section 302.002, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 39. Amends Chapter 302.003, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 40. Amends Section 302.004, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 41. Amends Chapter 302.005, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 42. Amends Section 74.103, Property Code, giving the comptroller the authority to estimate an unclaimed property audit if records are incomplete or unavailable.

SECTION 43. Amends Section 74.501, Property Code, clarifying which individuals are eligible to receive direct payment of unclaimed property proceeds, and codifies current policy of not making direct payments to creditors, heir finders, assignees, and other persons with power of attorney.

SECTION 44. Amends Section 112.058(a), Tax Code, deleting references to the Department of Insurance as the receiver of protest payments since the comptroller is responsible for those transactions.

SECTION 45. Amends Section 256.009, Transportation Code, providing that the county auditor, rather than the county judge, must submit a report regarding the county and road district highway fund.

SECTION 46. List of sections of statute to be repealed by this bill.

SECTION 47. Provides an additional appropriation for 2004-2005 to back funds outside the treasury from which General Revenue borrowed cash. Clarifies legislative intent.

EFFECTIVE DATE

SECTION 48. Effective dates.

LIST OF FLOOR AMENDMENTS

Amend CSHB 2425 by striking SECTIONS 6 and 7 of the bill (committee printing, page 14, line 25, through page 15, line 11) and renumbering subsequent SECTIONS of the bill appropriately.

Amend CSHB 2425 on page 14, line 27, through page 15, line 1, by striking "suspend new enrollment in the program as the board" and substituting "temporarily suspend new enrollment in the program on the request of the comptroller as the comptroller".

Amend CSHB 2425 by inserting a new appropriately numbered SECTION to read as follows:

SECTION _____. Section 151.027, Tax Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) This section does not prohibit: (1) the examination of information, if authorized by the comptroller, by another state officer or law enforcement officer, by a tax official of another state, by a tax official of the United Mexican States, or by an official of the United States if a reciprocal agreement exists; (2) the delivery to a taxpayer, or a taxpayer's authorized representative, of a copy of a report or other paper filed by the taxpayer under this chapter; (3) the publication of statistics classified to prevent the identification of a particular report or items in a particular report; (4) the use of records, reports, or information secured, derived, or obtained by the attorney general or the comptroller in an action under this chapter against the same taxpayer who furnished the information; (5) the delivery to a successor, receiver, executor, administrator, assignee, or guarantor of a taxpayer of information about items included in the measure and amounts of an unpaid tax or amounts of tax, penalties, and interest required to be collected; (6) the delivery of information to an eligible municipality in accordance with Section 321.3022 or 321.3023; or (7) the release of information in or derived from a record, report, or other instrument required to be furnished under this chapter by a governmental body, as that term is defined in Section 552.003, Government Code.

(d) Unless otherwise authorized by law, an officer or employee of an eligible municipality, or an agent acting on behalf of that municipality, who obtains access to information relating to a seller under Section 321.3023 may not: (1) reveal the information or any part of the information, such as a seller's business affairs, operations, profits, losses, or expenditures, to an unauthorized person; (2) permit the information or any abstract or part of the information to be seen or examined by an unauthorized person; or (3) retain the information after the person's service as an officer or employee of the municipality ends or the person's contract with the municipality expires.

(e) A person who violates Subsection (d) commits an offense. An offense under this subsection is a Class A misdemeanor.

SECTION 2. Subchapter D, Chapter 321, Tax Code, is amended by adding Section 321.3023 to read as follows:

Sec. 321.3023. INFORMATION ON CERTAIN TAXPAYERS. (a) A municipality that has imposed a tax under this chapter may provide to the comptroller information relating to: (1) a seller that the municipality, in good faith, believes has not collected or reported to the comptroller as required by law revenue from a tax imposed by the municipality under this chapter; or (2) tax revenue that the municipality, in good faith, believes has been paid by a seller but that was not properly reported by the seller as being revenue from a tax imposed by the municipality under this chapter.

(b) After investigating the information provided under Subsection (a), the comptroller may provide to the municipality information relating to whether the seller failed to: (1) collect or report to the comptroller as required by law revenue from a tax imposed by the municipality under this chapter and, if so: (A) the name and taxpayer identification number of the seller; and (B) the amount of municipal tax revenue that was not collected or reported; or (2) report collected tax revenue as being revenue from a tax imposed by the municipality under this chapter and, if so: (A) the name and taxpayer identification number of the seller; and (B) the amount of revenue that should have been reported as being revenue from a tax imposed by the municipality under this chapter.

(c) The municipality may request, and the comptroller may provide, information described by Subsection (b) for any tax reporting period that ended during the four-year period preceding the date on which the municipality requested the information.

(d) Sections 151.027(d) and (e) apply to an officer or employee of the municipality or agent acting on behalf of the municipality who is authorized to examine information provided by the comptroller under this section.

(e) To receive information under Subsection (b), the governing body of a municipality requesting the information must certify to the comptroller by resolution: (1) the name of each officer or employee of the municipality or agent acting on behalf of the municipality who will be authorized to examine the information; and (2) that each agent named in the resolution as authorized to examine the information: (A) has a contract with the municipality to perform that service on the date the resolution is adopted; (B) is prohibited under that contract from disclosing any part of the information or any information derived from that information to any person other than a municipal officer or employee named in the resolution as authorized to examine the information; (C) is prohibited under that contract from performing consulting services for a seller, other than another political subdivision, during the term of the contract; (D) has received notice that the information is confidential by law and that Sections 151.027(d) and (e) apply to the agent; and (E) is prohibited under that contract from retaining the information or any information derived from that information after the contract expires.

(f) If the comptroller believes that information obtained by a municipality under Subsection (b) has been disclosed to a person not named in the municipality's resolution as authorized to examine the information or has been used for a purpose that does not comply with law, the comptroller may: (1) refuse to provide additional information to the municipality; (2) require the municipality to return information the comptroller previously provided; or (3) place conditions on the eligibility of the municipality to receive information in the future.

Amend CSHB 2425 by inserting the following appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION _____. (a) Subchapter L, Chapter 151, Tax Code, is amended by adding Section 151.715 to read as follows:

Sec. 151.715. COLLECTION ON EXEMPT ITEMS OR OVERCHARGING.

(a) A person is subject to a civil penalty of \$1,000 if the person continues to collect tax on an exempt item or to overcharge tax on a taxable item after receiving two written notices from the comptroller in relation to those actions. The person is subject to the civil penalty regardless of whether the person remits the collected tax to the comptroller.

(b) Each violation of Subsection (a) is subject to a separate civil penalty. (b) This section takes effect September 1, 2003, and applies to a violation that occurs on or after that date, regardless of when the comptroller provided the written notices required by Section 151.715(a), Tax Code, as added by this section. A violation that occurs before the effective date of this section is governed by the law in effect on the date the violation occurred, and that law is continued in effect for that purpose.

Amend CSHB 2425 by striking SECTIONS 7 of the bill (committee printing, page 15, lines 3-11) and renumbering subsequent SECTIONS of the bill appropriately.

Amend CSHB 2425, by inserting a new appropriately numbered SECTION to read as follows:

SECTION _____. Section 321.3022, Tax Code, is amended by amending Subsection (a) and adding Subsection (i) to read as follows:

(a) The comptroller on request shall provide to a municipality that has adopted a tax under this chapter and that has a population of not more than 275,000 information relating to the amount of tax paid to the municipality under this chapter during the preceding or current calendar year by each person doing business in the municipality who annually remits to the comptroller state and

local sales tax payments of more than \$25,000 [\$100,000].

(i) Notwithstanding Chapter 551, Government Code, the governing body of a municipality is not required to confer with one or more employees or a third party in an open meeting to receive information or question the employees or third party regarding the information received by the municipality under this section.

SECTION 2. Section 321.3022(f), Tax Code, is amended to read as follows:

(f) Information received by a municipality under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the municipality under this chapter, or for the purpose described in Subsection (g).

Amend CSHB 2425 by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION _____. Section 403.016(f), Government Code, is amended to read as follows:

(f)(1) Except as provided by Subdivisions [Subdivision] (2) and (4) and subject to any limitation in rules adopted by the comptroller, an automated clearinghouse, or the federal government, the comptroller may use the electronic funds transfer system to deposit payments only to one or more accounts of a payee at one or more financial institutions, including credit unions.

(2) The comptroller may also use the electronic funds transfer system to deposit a portion of an employee's gross pay into the employee's account at a credit union as prescribed by Subchapter G, Chapter 659.

(3) A single electronic funds transfer may contain payments to multiple payees. Individual transfers or warrants are not required for each payee.

(4) The comptroller may also use the electronic funds transfer system to deposit a portion of an employee's gross pay into an account of an eligible state employee organization for a membership as prescribed by Subchapter G, Chapter 659.

SECTION _____. Subchapter G, Chapter 659, Government Code, is amended by adding Section 659.1031 to read as follows:

Sec. 659.1031. DEDUCTION OF MEMBERSHIP FEES FOR ELIGIBLE STATE EMPLOYEE ORGANIZATIONS. (a) An employee of a state agency may authorize in writing a deduction each pay period from the employee's salary or wage payment for payment to an eligible state employee organization of a membership fee in the organization.

(b) In this section, "eligible state employee organization" means a state employee organization with a membership of at least 2,000 active or retired state employees who hold or who have held certification from the Commission on Law Enforcement Officer Standards and Education.

SECTION _____. Section 659.104(a), Government Code, is amended to read as follows:

(a) An authorization for a deduction under this subchapter must direct the comptroller or, if applicable, the appropriate financial officer of an institution of higher education to transfer the withheld funds to the program, eligible state employee organization, or credit union designated by the employee.

SECTION _____. Section 659.110 Government Code, is amended to read as follows:

Sec. 659.110. RULES. The comptroller may establish procedures and adopt rules to administer the credit union and the eligible state employee organization membership fee deduction

programs [program] authorized by this subchapter.

Amend CSHB 2425 by adding the following SECTION, appropriately numbered, and renumbering the SECTIONS of the bill as appropriate:

SECTION _____. Subchapter H., Chapter 74, Property Code, is amended by adding Section 74.7085 to read as follows:

Sec. 74. 7085. HEARING. (a) If, after an examination of records under Section 74.702, the comptroller determines that a person holds unclaimed property that should have been delivered to the comptroller as provided by this chapter, the person may petition the comptroller for a hearing on that determination and on the imposition of any interest or penalty resulting from that determination.

(b) A person must file a petition for a hearing with the comptroller under this section not later than the 30th day after the date the determination is made. If a petition for a hearing is not filed before the expiration of the period provided by this subsection, the determination is final on the expiration of that period.

Amend CSHB 2425 as follows:

(1) Insert the following appropriately numbered sections to read as follows and renumber subsequent sections accordingly:

SECTION ___. Section 151.011(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (c) of this section, "use" means the exercise of a right or power incidental to the ownership of tangible personal property over tangible personal property, including tangible personal property that has been processed, fabricated, or manufactured into other property or attached to or incorporated into other property transported into this state, and, except as provided by Section 151.056(b) of this code, includes the incorporation of tangible personal property into real estate or into improvements of real estate whether or not the real estate is subsequently sold.

SECTION ___. Section 153.119(d), Tax Code, is amended to read as follows:

(d) If the quantity of gasoline used in Texas by auxiliary power units or power take-off equipment on any motor vehicle can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of any device as a basis for determining the quantity of gasoline consumed in those operations for tax credit or tax refund. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a refund may not be allowed for the tax paid on any portion of the gasoline that is used for that purpose.

SECTION ___. Section 153.222(d), Tax Code, is amended to read as follows:

(d) If the quantity of diesel fuel used in Texas by auxiliary power units or power take-off equipment on any motor vehicle can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of any device as a basis for determining the quantity of diesel fuel consumed in those operations for tax credit or tax refund. If no separate metering device or other approved measuring method is provided, the following credit or refund procedures are authorized. A permitted supplier, a dyed diesel fuel bonded user, or an agricultural bonded user who operates diesel-powered motor vehicles equipped with a power take-off or a diesel-powered auxiliary power unit mounted on the motor vehicle and using the fuel supply tank of the motor vehicle may be allowed a deduction from the taxable gallons used in this state in each motor vehicle so equipped. The comptroller shall determine the percentage of the deduction. A user who is required to pay the tax on diesel fuel used in motor vehicles so equipped may file a claim for a refund not to exceed the percentage allowed by the comptroller of the total taxable fuel

used in this state in each motor vehicle so equipped. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a refund may not be allowed for the tax paid on any portion of the diesel fuel that is used for that purpose.

SECTION __. Section 201.057, Tax Code, is amended by amending Subsections (e) and (f) and adding Subsection (k) to read as follows:

(e) The operator of a proposed or existing gas well, including a gas well that has not been completed, or the operator of any proposed or existing oil or gas well within a commission approved co-production project, may apply to the commission for certification that the well produces or will produce high-cost gas. Such application, if seeking certification as high-cost gas according to Subsection (a)(2)(A), must be in writing and must be made not later than the first anniversary of [may be made at any time after] the first day of production. The application may be made but is not required to be made concurrently with a request for a determination that gas produced from the well is high-cost natural gas for purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.) or with a request for commission approval of a co-production project. The commission may require an applicant to provide the commission with any relevant information required to administer this section. For purposes of this section, a determination that gas is high-cost natural gas according to Subsection (a)(2)(A) or a determination that gas is produced from within a commission approved co-production project is a certification that the gas is high-cost gas for purposes of this section, and in that event additional certification is not required to qualify for the exemption or tax reduction provided by this section.

(f) To qualify for the exemption or tax reduction provided by this section, the person responsible for paying the tax must apply to the comptroller. The application must contain the certification of the commission that the well produces high-cost gas and, if the application is for a well spudded or completed after September 1, 1995, must contain a report of drilling and completion costs incurred for each well on a form and in the detail as determined by the comptroller. Drilling and completion costs for a recompletion shall only include current and contemporaneous costs associated with the recompletion. Notwithstanding any other provision of this section, to obtain the maximum tax exemption or tax deduction, an application to the comptroller for certification according to Subsection (a)(2)(A) must be filed with the comptroller not later than the first anniversary of the first day of production [at the later of the 180th day after the date of first production or the 45th day after the date of approval by the commission. If the application is not filed by the applicable deadline, the tax exemption or tax deduction is reduced by 10 percent for the period beginning on the 180th day after the first day of production and ending on the date on which the application is filed with the comptroller. An application to the comptroller for certification according to Subsection (a)(2)(B) may not be filed before January 1, 1990, or after December 31, 1998]. The comptroller shall approve the application of a person who demonstrates that the gas is eligible for the exemption or tax reduction. The comptroller may require a person applying for the exemption or tax reduction to provide any relevant information in the person's monthly report that the comptroller considers necessary to administer this section. The commission shall notify the comptroller in writing immediately if it determines that an oil or gas well previously certified as producing high-cost gas does not produce high-cost gas or if it takes any action or discovers any information that affects the eligibility of gas for an exemption or tax reduction under this section.

(k) A person who, on September 1, 2003, otherwise meets the requirements necessary to file an application with the commission and the comptroller for certification, except for the requirement that the application be made not later than the first anniversary of the first day of production, must submit the application for certification before March 1, 2004, to be eligible for the tax exemption or tax deduction provided by this section. This subsection expires March 1, 2004.

SECTION __. Section 201.101, Tax Code, is amended to read as follows:

Sec. 201.101. MARKET VALUE. (a) In this section: (1) "Allowable marketing costs" means direct costs for: (A) compressing the gas sold; (B) dehydrating the gas sold; (C) sweetening the gas sold; and (D) delivering the gas to the purchaser.

(2) "Direct costs" means the cost of equipment that physically performs the activity and the direct labor associated with the activity.

(b) The market value of gas is its value at the mouth of the well from which it is produced. The value of the gas is computed by taking the producer's gross receipts for the gas and deducting allowable marketing costs incurred by the producer to transport the gas from the outlet of a lease separator to the market.

SECTION __. Section 201.102, Tax Code, is amended to read as follows:

Sec. 201.102. CASH SALES. If gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. Payments from a purchaser of gas to a producer for the purpose of reimbursing the producer for taxes due under this chapter or for the purpose of reimbursing the producer for costs incurred are [not] part of the gross cash receipts unless the reimbursement amount for taxes due under this chapter is separately stated in the sales contract.

(2) On page 67, between lines 11 and 12, insert the following:

(i) The changes in law made by this Act to Sections 153.119(d) and 153.222(d), Tax Code, apply only to fuel used on or after September 1, 2003, for climate-control air conditioning or heating in a motor vehicle. Fuel used before that date is governed by the law in effect on the date the fuel is used, and that law is continued in effect for that purpose.

(3) On page 68, line 5, strike "and".

(4) On page 68, between lines 5 and 6, insert the following:

- (11) Section 153.119(d), Tax Code;
- (12) Section 153.222(d), Tax Code;
- (13) Sections 201.057(e), (f), and (k), Tax Code;
- (14) Section 201.101, Tax Code;
- (15) Section 201.102, Tax Code; and

(5) On page 68, line 6, strike "(11)" and substitute "(16)".

(6) On page 68, after line 13, add the following:

(f) The amendment by this Act to Section 151.011(a), Tax Code, takes effect October 1, 2003.

Amend CSHB 2425 by adding the following appropriately numbered section to the bill and renumbering the subsequent sections of the bill accordingly:

SECTION _____. Section 661.152(d), Government Code, is amended to read as follows:

(d) An employee accrues vacation leave and may carry vacation leave forward from one fiscal year to the next in accordance with the following schedule:

	Hours Accrued Per Month for	Maximum Hours Carried Forward From One Fiscal Year Year to the Next
Employees With Total State Employment of:	Full-time Employment	for a Full-time Employee
less than 2 years	<u>8</u> [7]	<u>180</u> [168]
at least 2 but less than 5 years	<u>9</u> [8]	<u>244</u> [232]
at least 5 but less than 10 years	<u>10</u> [9]	<u>268</u> [256]

at least 10 but less than 15 years	<u>11</u> [10]	<u>292</u> [280]
at least 15 but less than 20 years	<u>13</u> [12]	<u>340</u> [328]
at least 20 but less than 25 years	<u>15</u> [14]	<u>388</u> [376]
at least 25 but less than 30 years	<u>17</u> [16]	<u>436</u> [424]
at least 30 but less than 35 years	<u>19</u> [18]	<u>484</u> [472]
at least 35 years or more	<u>21</u> [20]	<u>532</u> [520]

Amend HB 2425 on third reading by adding the following appropriately numbered sections to read as follows and renumbering subsequent sections accordingly:

SECTION __. Section 151.318, Tax Code, is amended by amending Subsections (b) and (s) and adding Subsection (q-1) to read as follows:

(b) The exemption includes: (1) chemicals, catalysts, and other materials that are used during a manufacturing, processing, or fabrication operation to produce or induce a chemical or physical change, to remove impurities, or to make the product more marketable; [and] (2) semiconductor fabrication cleanrooms and equipment; and (3) pharmaceutical biotechnology cleanrooms and equipment.

(q-1) For purposes of Subsection (b), "pharmaceutical biotechnology cleanrooms and equipment" means all tangible personal property, without regard to whether the property is affixed to or incorporated into realty, used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a pharmaceutical biotechnology product, without regard to whether the property is actually contained in the cleanroom environment. The term includes integrated systems, fixtures, and piping, all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances, and production equipment and machinery. The term does not include the building or a permanent, nonremovable component of the building that houses the cleanroom environment. The term includes moveable cleanroom partitions and cleanroom lighting. "Pharmaceutical biotechnology cleanrooms and equipment" are not "intraplant transportation equipment" as that term is used in Subsection (c)(1).

(s) The following do not apply to the semiconductor fabrication cleanrooms and equipment in Subsection (q) or the pharmaceutical biotechnology cleanrooms and equipment in Subsection (q-1): (1) limitations in Subsection (a)(2) that refer to tangible personal property directly causing chemical and physical changes to the product being manufactured, processed, or fabricated for ultimate sale; (2) Subsection (c)(1); and (3) Subsection (c)(4).

SECTION __. Section 151.3181, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) The use of a "pharmaceutical biotechnology cleanroom and equipment," as that term is defined by Section 151.318(q-1), to manufacture, process, or fabricate a pharmaceutical biotechnology product that is not sold is not a divergent use if the use occurs during the certification process by the United States Food and Drug Administration.

SECTION __. Section 313.021(2), Tax Code, is amended to read as follows:

(2) "Qualified property" means: (A) land: (i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code; (ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the owner applies for a limitation on appraised value under this subchapter; (iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and (iv) on which, in connection with the new building or new improvement

described by Subparagraph (ii), the owner of the land proposes to: (a) make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023; and (b) create at least 25 new jobs; (B) the new building or other new improvement described by Paragraph (A)(ii); and (C) tangible personal property that: (i) is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and (ii) except for new equipment described in Section 151.318(q) or (q-1), is first placed in service in the new building or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.