

BILL ANALYSIS

Senate Research Center
78R1731 SMH-F

S.B. 175
By: Barrientos
Finance
2/10/2003
As Filed

DIGEST AND PURPOSE

Currently, Texas, along with thirteen other states, requires businesses to render personal property, such as equipment, equipment inventories, fixtures, furniture, and machinery. However, unlike those other thirteen states, Texas does not impose a statutory penalty for businesses that fail to render personal property. Because Texas does not provide a rendition disincentive, a large number of Texas businesses fail to render their personal property, which costs the state up to \$900 million in unclaimed tax revenue. As proposed, S.B. 175 would promote compliance with the rendition of personal property by Texas businesses by establishing a penalty for the failure to render such personal property. S.B. 175 provides that businesses that fail to report their personal property by the rendition deadline must pay an additional five percent in taxes; and provides that, for businesses that fail to report their personal property within 30 days of the date a rendition is due, the penalty increases to 10 percent. S.B. 175 also authorizes investigations and audits of rendition statements and property reports.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 5 (Section 23.0115, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 22B, Tax Code, by adding Section 22.231, as follows:

Sec. 22.231. REQUIREMENT TO DELIVER RENDITION STATEMENT OR PROPERTY REPORT; INJUNCTION. (a) Provides that delivery of a rendition statement or property report to a chief appraiser is mandatory when required under this chapter.

(b) Authorizes the chief appraiser to bring suit for an injunction to require delivery of a rendition statement or property report by a person who fails to deliver in a timely manner the statement or report.

SECTION 2. Amends Section 22.24, Tax Code, by amending Subsections (c) with the addition of Subsections (c-1) and (c-2) and amending Subsection (d), as follows:

(c-1) Requires the owner of tangible personal property used for the production of income to describe the property and to state certain information in a rendition or report form.

(c-2) Authorizes a rendition or report form to require the inclusion of other information by the property owner if the Comptroller of Public Accounts of the State of Texas (comptroller) deems it necessary for the proper administration of taxation of property subject to this chapter.

(d) Provides that a rendition or report form for property other than tangible personal property used for the production of income shall permit but may not require a property owner to state an opinion about the property's market value. Makes nonsubstantive changes.

SECTION 3. Amends Chapter 22B, Tax Code, by adding Sections 22.28 and 22.29, as follows:

Sec. 22.28. PENALTY FOR FAILURE TO DELIVER RENDITION STATEMENT OR PROPERTY REPORT. (a) Provides that a penalty is imposed by each taxing unit that imposes such taxes on certain property belonging a person who, in accordance with Section 22.01 (Rendition Generally), 22.04 (Report by Bailee, Lessee, or Other Possessor), or 22.05 (Rendition by Railroad), is required to deliver in a timely manner a rendition statement or property report to the chief appraiser and who fails to do so.

(b) Sets forth a method for calculating the penalty.

(c) Provides that, notwithstanding Subsection (b), if the computed penalty is less than \$1, the amount of the penalty is \$1.

(d) Provides circumstances under which the penalty provided by this section is not imposed.

(e) Requires the chief appraiser to follow certain procedures if a person fails to deliver in a timely manner a rendition statement or property report as required by Section 22.01, 22.04, or 22.05.

(f) Requires the assessor for each taxing unit imposing taxes on the property to adhere to certain guidelines relating to the amount, delivery, and collection of the penalty.

(g) Provides that a penalty imposed under Subsection (a) that becomes delinquent will accrue penalties and interest in the same manner as a delinquent tax.

(h) Provides that the imposition of a penalty under Subsection (a) and any penalty or interest accruing on the penalty, are the personal obligation of the property owner and constitute a lien on the property.

Sec. 22.29. INVESTIGATIONS AND AUDITS. (a) Authorizes the chief appraiser, or a person authorized by the chief appraiser, to perform certain functions to verify the accuracy of a rendition statement or property report and to require the property owner or certain representatives of the property owner to produce the books, records, and papers used in preparation of the rendition statement or property report.

(b) Requires, if the chief appraiser determines as the result of an investigation under this section that the chief appraiser's reliance on a rendition statement or property report resulted in the omission or undervaluation of taxable property in the current tax year or in any one of the five preceding years, the chief appraiser to add the omitted property or the portion of the appraised value of undervalued property erroneously omitted for each tax year to the appraisal roll as provided by Section 25.21 (Omitted Property) for other property that escapes taxation.

(c) Prohibits the chief appraiser from conducting an investigation of a property owner under this section more than once every three years, unless the chief appraiser takes action under Subsection (b) as a result of an investigation of a property owner, the chief appraiser may conduct an investigation of the property owner in the following year.

(d) Provides that the same degree of confidentiality will be maintained for copies of books, records, or papers made or retained by the chief appraiser or the chief appraiser's agent or representative in the course of an investigation under Section 22.27 (Confidential Information) as for that of a rendition statement or property report.

(e) Prohibits the chief appraiser from employing a person on a contingency fee basis to conduct an audit under this section.

SECTION 4. Amends the heading to Section 23.011, Tax Code, to read as follows:

Sec. 23.011. COST METHOD OF APPRAISAL: REAL PROPERTY

SECTION 5. Amends Chapter 23A, Tax Code, as follows:

Sec. 23.0115. COST METHOD OF APPRAISAL: TANGIBLE PERSONAL PROPERTY. (a) Requires the chief appraiser to use the methods and procedures specified by the appraisal manuals developed under Subsection (b) to determine the depreciated value of tangible personal property if the chief appraiser uses the cost method of appraisal to determine the value of the property used for the production of income on the basis of information provided in a rendition statement or property report.

(b) Requires the comptroller by rule to develop and distribute to each appraisal office appraisal manuals that prescribe depreciation schedules for common types of tangible personal property, specify methods of applying the schedules to appraise property, and prescribe the method a chief appraiser shall use to calculate depreciation for property not covered by a depreciation schedule prescribed by the comptroller.

SECTION 6. Amends Section 41.43, Tax Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Makes conforming and nonsubstantive changes.

(d) Provides that, if a property owner fails to deliver a rendition statement or property report before the date of a hearing as required by Chapter 22 (Renditions and Other Reports) for property that is the subject of a protest authorized by Section 41.41 (a) (1) or (2), the property owner has the burden of establishing the value of the property by presenting a preponderance of evidence at the hearing; and provides that the protest shall be determined in favor of the appraisal district if the property owner fails to establish such a preponderance of evidence.

SECTION 7. Amends Section 42.29, Tax Code, by adding Subsection (c) to prohibit a property owner, notwithstanding Subsection (a), from being awarded attorney's fees for failing to deliver in a timely manner a rendition statement or property report required by Chapter 22 (Renditions and Other Reports) for property that is the subject of the appeal.

SECTION 8. (a) Effective date: January 1, 2004.

Makes application of this Act prospective.

(b) Provides that Section 22.29, Tax Code, authorizes the addition, to an appraisal roll, of either omitted property or the portion of the appraised value of undervalued property that was erroneously omitted, only for a tax year beginning on or after the effective date of this Act.