

BILL ANALYSIS

Senate Research Center
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S.B. 174
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, cities are authorized to assess and impose a hotel occupancy tax. The revenues derived from this tax are used to finance many important tourism development projects within a municipality. Hotel owners are to collect the occupancy tax, file a quarterly report with the city, and submit their payment to the city.

Occasionally, hotel owners fail to file their occupancy taxes. When this occurs, a city will make several attempts to collect. Eventually, if the hotel owner refuses to pay, the city is forced to take legal action. In 2003, the city of Fort Worth took collection action against twelve hotels for over \$216,000 in delinquent taxes.

Unfortunately, because the hotel has failed to disclose its financial information, the city has no real admissible evidence of the amount due. The city's only tool is to conduct an audit (at their own cost) which is often lengthy, expensive, and sometimes controversial. This approach greatly lengthens the amount of time spent in court and in the discovery process.

As proposed, S.B. 174 authorizes a city to hold a hotel operator who has failed to pay his/her taxes liable for the cost of an audit. S.B. 174 also authorizes municipalities to use previous years' tax filings to determine the amount due and authorizes a court to consider previous years' filings as prima facie evidence of the amount due.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 351.004, Tax Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Provides that, in addition to the amount of any tax owed under this chapter, the person is liable to the municipality for the costs of an audit conducted under Subsection (a-1)(1), as determined by the municipality using a reasonable rate. Renumbers existing sections to reflect addition.

(a-1) Authorizes the municipal attorney or other attorney acting for the municipality to determine the amount of tax due by certain prescribed procedures if a person required to file a tax report does not file the report as required by the municipality.

(a-2) Authorizes the municipal attorney or other attorney acting for the municipality to estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year if the person did not file a tax report under Section 156.151 (Report and Payment). Provides that an estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.