

BILL ANALYSIS

Senate Research Center
79S10300 JJT/KEL-F

S.B. 45
By: Duncan
Finance
7/15/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As the sole administrator of the treasury and the state's many financial resources, the Office of the Comptroller of Public Accounts (comptroller) 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.

S.B. 45 makes adjustments in various portions of the Texas statutes to facilitate the administration of the state's financial resources.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 12 (Section 403.016, Government Code), SECTION 15 (Sections 403.352, 403.353, 403.355, 403.356, and 403.357, Government Code), SECTION 19 (Section 659.007, Government Code), SECTION 38, SECTION 63 (Section 74.601, Property Code), and SECTION 79 (Section 151.715, Tax Code) of this bill.

Rulemaking authority previously granted to the comptroller of public accounts is modified in SECTION 13 (Section 403.071, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 103.051, Civil Practice and Remedies Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Deletes existing text requiring the claimant, in order to apply for compensation under this subchapter, to file a certification of his/her actual innocence of the crime for which the claimant was sentenced that is signed by the attorney representing the state with the comptroller's judiciary section.

(b-1) Provides that the comptroller's duty on receipt of an application is limited to the ministerial function of determining the completeness of the application. Requires the comptroller to deny the claim without prejudice, upon determining that the claimant's application does not provide all of the documentation required by Subsection (a).

SECTION 2. Amends Article 103.002, Code of Criminal Procedure, to prohibit an officer from imposing a cost or fee for a service not performed or for a service or purpose for which a cost or fee is not expressly provided by law. Requires all moneys collected as costs or fees that are not expressly provided by law to be remitted to the comptroller for deposit into the general revenue fund to be administered under Chapters 101 (General Provisions) and 111 (Collection Procedures), Tax Code.

SECTION 3. Amends Article 103.0031(e), Code of Criminal Procedure, to require the private attorney or vendor to receive a certain percentage of the total amount collected and requires the remainder of the amount collected to be allocated in accordance with this chapter and Chapter 133 (Criminal and Civil Fees Payable to the Comptroller), Local Government Code, if a county

or municipality has entered into a contract under Subsection (a) and a person pays an amount that is less than the aggregate total to be collected under Subsections (a) and (b).

SECTION 4. Amend Section 43.002(a), Education Code, to require the Texas Education Agency (TEA), rather than the comptroller, on the first working day of each month in a state fiscal year, to transfer a specific amount from the permanent school fund to the available school fund.

SECTION 5. Amends Section 51.009(c), Education Code, as amended by S.B. 1227, Acts of the 79th Legislature, Regular Session, 2005, as effective September 1, 2005, to delete existing text requiring indirect cost recovery fees to be accounted for as educational and general funds. Makes a nonsubstantive change.

SECTION 6. Amends Section 63.202, Education Code, by amending Subsection (b) and adding Subsection (h), as follows:

(b) Prohibits money in the permanent fund for higher education (fund) established under this subchapter from being used for any purpose, except as provided by Subsections (c), (d), and (h).

(h) Requires expenses of managing and administering the assets of the fund to be paid from the fund.

SECTION 7. Amends Section 63.302, Education Code, by amending Subsection (b) and adding Subsection (h), as follows:

(b) Prohibits money in the permanent fund for higher education (fund) established under this subchapter from being used for any purpose, except as provided by Subsections (c), (e), and (h).

(h) Requires expenses of managing and administering the assets of the fund to be paid from the fund.

SECTION 8. Amends Sections 25.0015(b) and (c), Government Code, as follows:

(b) Requires the amount [of the state's contribution to certain judicial salaries] to be paid to the county's salary fund in equal quarterly, rather than monthly, installments.

(c) Makes a conforming change.

SECTION 9. Amends Section 25.00211(b), Government Code, to make a conforming change.

SECTION 10. Amends Section 26.007(b), Government Code, to make a conforming change.

SECTION 11. Amends Sections 74.061(c) and (h), Government Code, as follows:

(c) Deletes existing text requiring the salary of a retired judge or justice to be paid out of a specific account.

(h) Provides that notwithstanding Subsection (d), rather than (c), the salary from the state of a retired judge or justice assigned to a district court is determined pro rata on the greater of a specific amount, rather than the sum of the regular judge's salary from the county plus the greater of a specific amount.

SECTION 12. Amends Section 403.016, Government Code, by adding Subsection (k), as follows:

(k) Provides that notwithstanding other provisions of the law, the comptroller is authorized to enter into an interagency agreement with the Health and Human Services Commission (HHSC) to implement a method of salary payment using electronic paycards for employees of health and human services agencies.

- (1) Authorizes the comptroller to solicit proposals to implement the electronic paycards with a private vendor.
- (2) Authorizes the comptroller to replace warrants with the electronic paycard, if cost-effective.
- (3) Prohibits employees from being charged for the electronic paycard or the receipt of salary payment on the electronic paycard.
- (4) Authorizes the comptroller to adopt rules as necessary to implement this subsection.

SECTION 13. Amends Sections 403.071(g) and (h), Government Code, as follows:

(g) Authorizes the comptroller to audit claims presented by a state agency after the comptroller prepares warrants or uses the electronic funds transfer system to pay the claims, notwithstanding Subsection (a). Authorizes the comptroller to determine, rather than decide, the types of claims that will be audited after payment. Deletes existing text authorizing a state agency to contract, in writing, for the comptroller to audit claims. Makes nonsubstantive changes.

(h) Requires the comptroller to audit claims after payment under Subsection (g) in the same manner that the comptroller audits claims before payment under Subsection (a). Deletes existing text relating to this subsection applying to a state agency having contracted the comptroller in accordance with Subsection (g) and authorizing the comptroller to cancel the contract with the state agency upon determining that the claim presented was invalid.

SECTION 14. Amends Section 403.074(d), Government Code, to include a reference to Article 26.051 (Indigent Inmate Defense), Code of Criminal Procedure.

SECTION 15. Amends Chapter 403, Government Code, by adding Subchapter O, as follows:

SUBCHAPTER O. INDIVIDUAL DEVELOPMENT ACCOUNTS FOR CERTAIN LOW-INCOME INDIVIDUALS AND HOUSEHOLDS

Sec. 403.351. DEFINITIONS. Defines "financial institution," "individual development account," "participant," "program," "service provider," and "sponsoring organization."

Sec. 403.352. ESTABLISHMENT OF PROGRAM; RULES. (a) Requires the comptroller, by rule, to develop and implement a specific program.

(b) Requires the comptroller to contract with sponsoring organizations to facilitate the establishment of and to administer the individual development accounts in accordance with the rules adopted by the comptroller. Requires the comptroller's rules promulgated to implement this subchapter to include guidelines for contract monitoring, reporting, and termination of grant recipients.

(c) Requires the comptroller, in adopting rules under the program, to state the selection criteria for sponsoring organizations. Requires the comptroller to give priority to certain organizations.

Sec. 403.353. PARTICIPANT ELIGIBILITY. Requires the comptroller, by rule, to establish eligibility criteria for participants in the program. Sets forth requirements for the eligibility criteria established by the comptroller.

Sec. 403.354. CONTRIBUTIONS AND EXPENDITURES BY PARTICIPANT. (a) Authorizes a participant to contribute to the participant's individual development account.

(b) Requires a participant's contributions to the participant's individual development account to accrue interest.

(c) Authorizes a participant to withdraw money from the participant's account only to pay for the certain qualified expenditures.

Sec. 403.355. DUTIES OF SPONSORING ORGANIZATIONS. (a) Requires the comptroller to promulgate rules that establish the duties of sponsoring organizations that include certain requirements and standards.

(b) Requires each sponsoring organization to provide any information necessary to evaluate the sponsoring organization's performance in fulfilling the duties outlined in Subsection (a) to the comptroller.

Sec. 403.356. MATCHING FUNDS; LIMITATIONS ON AMOUNT AND AVAILABILITY. (a) Requires the participant to receive matching funds from the sponsoring organization, payable directly to the service provider, at the time a participant in the program makes a withdrawal for a qualified expenditure described by Section 403.354(c) from the participant's individual development account.

(b) Prohibits the amount of federal matching funds spent for each individual development account from exceeding the limits established by the federal Assets for Independence Act, if such matching funds are used. Authorizes the comptroller, by rule, to set a different limit on the amount of matching funds that may be spent for each account, if money other than federal Assets for Independence Act money is used as matching funds.

(c) Prohibits this subchapter from being construed to create an entitlement of a participant to receive matching funds. Provides that the number of participants who receive matching funds under the program in any year is limited by the amount of funds available for that purpose in that year.

Sec. 403.357. TERMINATION OF ACCOUNT FOR UNQUALIFIED WITHDRAWALS. (a) Requires the comptroller, by rule, to establish certain guidelines to ensure that a participant does not withdraw funds in the individual development account, except for a qualified expenditure described by Section 403.354(c).

(b) Requires the sponsoring organization to instruct the financial institution to terminate the participant's account if the participant does not comply with the guidelines established under Subsection (a).

(c) Entitles a participant whose individual development account is terminated under this section to withdraw the amount of money the participant contributed to the account and any interest that has accrued on that amount from the account.

Sec. 403.358. FUNDING. Authorizes the legislature to appropriate money for the purposes of this subchapter. Authorizes the comptroller to accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

Sec. 403.359. INTERAGENCY CONTRACTS. Authorizes the comptroller to enter into interagency contracts with other state agencies to facilitate the effective administration of this subchapter.

SECTION 16. Amends Section 404.024, Government Code, by amending Subsections (b) and (l) and Subsections (n) and (o), as follows:

(b) Requires state funds not deposited in state depositories to be invested by the comptroller in certain security agreements, obligations, contracts, bonds, mutual funds, and foreign currencies.

(l) Requires the procedures to be consistent with industry practice and to include a requirement to fully secure the loan with cash, obligations described by Subsections (b)(1)-(6), or a combination of cash and the described obligations. Authorizes cash to be reinvested in the items permitted under Subsection (b) or mutual funds secured by the items permitted under Subsection (b), notwithstanding any provision to the contrary. Deletes existing text defining "obligation."

(n) Authorizes the comptroller, in entering into a direct security repurchase agreement or a reverse security repurchase agreement, to agree to accept cash on an overnight basis in lieu of the securities, obligations, or participation certificates identified in Section 404.001(3). Provides that cash held by the state under this subsection is not a deposit of state or public funds for purposes of any statute, including this subchapter or Subchapter D, that requires a deposit of state or public funds to be collateralized by eligible securities.

(o) Notwithstanding any other law to the contrary, Authorizes any government investment pool created to function as a money market mutual fund and managed by the comptroller or the Texas Treasury Safekeeping Trust Company to invest the funds it receives in investments that are "eligible securities," as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Part 270.2a-7), if it maintains a dollar-weighted average portfolio maturity of 90 days or less, with the maturity of each portfolio security calculated in accordance with Rule 2a-7 (17 C.F.R. Part 270.2a-7), and meets the diversification requirements of Rule 2a-7.

SECTION 17. Amends Section 404.124(c), Government Code, to require the underwriter of any notes issued under this section to be selected by the method of sale that is most advantageous to the state under the circumstances, including a sale using an Internet auction site, if the committee determines that competitive bids are appropriate. Deletes existing text relating to the solicitation of sealed bids.

SECTION 18. (a) Amends Section 442.015, Government Code, by adding Subsection (h), as follows:

(h) Authorizes the comptroller to manage the assets of the Texas preservation trust fund account in the same manner as the comptroller may manage the assets of certain permanent funds under Section 403.1068 (Management of Certain Funds).

(b) Provides that this section takes effect January 1, 2006.

SECTION 19. Amends Subchapter A, Chapter 659, Government Code, by adding Section 659.007, as follows:

Sec. 659.007. EARNINGS STATEMENTS. (a) Defines "state agency."

(b) Authorizes a state agency to provide a written or electronic earnings statement to an officer or employee of the agency.

(c) Authorizes the comptroller to adopt rules and establish procedures concerning the earnings statements provided by state agencies that under Subchapter C (Uniform Statewide Accounting), Chapter 2101, are required to use the uniform statewide payroll system.

SECTION 20. Amends Section 659.255(a)(3), Government Code, to redefine "merit salary increase."

SECTION 21. Amends Sections 659.256(c) and (f), Government Code, as follows:

(c) Requires the employee, upon being promoted within certain salary schedules, to receive a salary rate that is at least 3.4 percent, rather than one step, higher than the employee's salary rate before promotion or the minimum rate of the new salary range,

whichever is higher, and authorizes the employee, at the discretion of the state agency administrator, receive an annual salary rate up to and including the maximum rate of the new salary range. Deletes existing text relating to promotion salary schedules.

(f) Makes conforming changes. Deletes existing text relating to salary schedules.

SECTION 22. Amends Section 659.257(c), Government Code, to provide that when an employee is demoted within certain salary schedules, the employee will receive a salary rate of at least 3.4 percent, rather than one step, below the rate the employee received before demotion. Deletes existing text relating to demotion salary schedules.

SECTION 23. Amends Section 660.024(a), Government Code, to authorize the advance written approval [for any travel related to official state business] to be communicated electronically. Deletes existing text requiring the written approval to be submitted with the travel voucher to the comptroller.

SECTION 24. Amends Sections 660.027(b), (d), and (e), Government Code, as follows:

(b) Sets forth circumstances for which a voucher submitted under Subsection (a) is valid.

(d) Requires a voucher to be supported by certain information.

(e) Authorizes the comptroller to require a state agency to provide the description, information, and documentation required under Subsection (d) in a specific manner.

SECTION 25. Amends Section 1431.001(2), Government Code, to redefine "eligible countywide district."

SECTION 26. Amends Section 2107.003, Government Code, as follows:

Sec. 2107.003. New heading: COLLECTION BY ATTORNEY GENERAL, COMPTROLLER, OR OUTSIDE AGENT. (a) Requires a state agency to report an uncollected or delinquent obligation to the attorney general for collection, except as provided by Section 2107.004 (Notice to Attorney General for Further Collection), rather than Subsection (c). Requires the state agency to report the obligation on or before the 120th day after the date the obligation becomes past due or delinquent. Deletes existing text authorizing the state agency to contract with a person to collect the obligation.

(b) Requires the attorney general to provide legal services for collection of the obligation and authorizes the attorney general to contract with one or more persons to collect the obligation, subject to approval by the attorney general.

(c) Makes no changes to this subsection.

(d) Entitles the agency contracting under Subsection (b) to recover from the obligor, in addition to the amount of the obligation, the costs incurred in undertaking the collection, including the costs of a contract under this section. Provides that the obligor is liable for costs of recovery under this section in an amount equal to 30 percent of the sum of the amount of the obligation and any penalty and interest due on the obligation.

(e) Requires a contract formed under Subsection (b) to provide for the compensation due to the contractor. Requires the amount of the compensation to be equal to 30 percent of the sum of the collected amount of the obligation, any penalty, and any interest.

(f) Authorizes a contract formed under Subsection (b) or (c) to permit or require the contractor to pursue a judicial action to collect the amount of the obligation in a proper court in or outside of this state.

(g) Provides that in a suit in a Texas state court brought by a contractor to collect an obligation under this section, the state is not liable for certain costs and fees.

(h) Requires an amount collected under a contract formed under Subsection (b), including the costs of recovery and court costs or other costs, to be deposited in the fund or account to which the obligation was required to be deposited. Requires the contracting agency to pay the compensation due under the contract to the contractor and to pay to the applicable court any court costs collected.

(i) Requires the contracting agency to require a person contracting under Subsection (b) to post a bond or other security in an amount the contracting agency determines is sufficient to cover all revenue or other property of the state that is expected to come into the possession or control of the contractor in the course of providing contract services.

(j) Provides that a person who contracts under Subsection (b) is an agent of this state for purposes of determining priority of a claim to be collected under the contract with respect to claims of other creditors. Provides that the contractor does not exercise any sovereign power of the state.

(k) Authorizes the contracting state agency to provide a person contracting under Subsection (b) any information, including confidential information, that the agency is not prohibited from sharing under an agreement with another state or with the United States and that is in the custody of the agency holding the claim and necessary to the collection of the obligation.

(l) Provides that a person acting under a contract formed under Subsection (b) or (c) and each employee or agent of that person is subject to all prohibitions against the disclosure of confidential information obtained from the contracting agency, the reporting state agency, or their employees. Provides that a contractor or the contractor's employee or agent who discloses confidential information in violation of the prohibition is subject to the same penalties for that disclosure as would apply to the contracting agency or its employees.

(m) Requires the contracting agency to require a person who contracts under Subsection (b) to obtain and maintain insurance adequate to provide reasonable coverage for damages negligently, recklessly, or intentionally caused by certain individuals in the course of collecting an obligation under the contract and to protect this state from liability for those damages. Provides that the state is not liable for and prohibits indemnifying a person acting under a contract under Subsection (b) for damages negligently, recklessly, or intentionally caused by the contractor or the contractor's employee or agent in the course of collecting an obligation under the contract.

(n) Authorizes the attorney general or the contracting agency, as applicable, in addition to grounds for termination provided by the contract terms, to terminate a contract formed under Subsection (b) if the contractor or the contractor's employee or agent performs certain actions.

SECTION 27. Amends Section 2254.102(c), Government Code, to provide that this subchapter does not apply to a contract with an agency to collect an obligation under Section 2107.003(b).

SECTION 28. Amends Section 2256.011, Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Provides that a fully collateralized repurchase agreement is an authorized investment under this subchapter, if the repurchase agreement is secured by obligations described by Section 2256.009(a)(1), except as provided by Subsection (e).

(e) Authorizes an entity, for purposes of this section, to agree to secure the agreement by accepting cash on an overnight basis in lieu of the obligations identified in Section

2256.009(a)(1). Provides that cash held by an entity under this subsection is not a deposit of public funds for purposes of any statute, including Chapter 2257 (Collateral for Public Funds), that requires a deposit of public funds to be collateralized by eligible securities.

SECTION 29. Amends Section 2256.016, Government Code, by amending Subsections (a) and (f) and adding Subsection (i), as follows:

(a) Authorizes an investment pool created to function as a money market mutual fund to invest the funds it receives from entities in investments that are "eligible securities," as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Part 270.2a-7), promulgated under the Investment Company Act of 1940. Requires any other investment pool to invest the funds it receives from entities in authorized investments permitted by this subchapter.

(f) Sets forth revised eligibility requirements for a public funds investment pool created to function as a money market mutual fund.

(i) Defines "stated maturity date."

SECTION 30. Amends Section 2303.401, Government Code, to define "certified job."

SECTION 31. Amends Section 2303.4072, Government Code, to require a person to make a claim to the comptroller for a state benefit as prescribed under this chapter and Chapters 151 (Limited Sales, Excise, and Use Tax) and 171 (Franchise Tax), Tax Code, not later than six, rather than 18 months, after the date on which the term of the enterprise project designation expires as provided by Section 2303.404 (Request for Application for Enterprise Project Designation).

SECTION 32. Amends Section 2303.504, Government Code, as amended by Section 2.02, Chapter 1134, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 2303.504. New heading: STATE TAX REFUNDS AND CREDITS; REPORT. (a) Defines "triple jumbo enterprise project."

(a-1) Creates this subsection from existing text of Subsection (a). Provides that an enterprise project is entitled to a franchise tax credit under certain conditions.

(b) Makes no changes to subsection.

(c) Requires the comptroller, not later than the 60th day after the last day of each fiscal year, to report the statewide total of actual jobs created, actual jobs retained, and the tax refunds and credits made under this section during that fiscal year, to the Texas Economic Development Bank (TEDB).

SECTION 33. Amends Subchapter G, Chapter 2303, Government Code, by adding Section 2303.5056, as follows:

Sec. 2303.5056. REFUND, REBATE, OR PAYMENT OF TAX PROCEEDS TO CONVENTION CENTER HOTEL PROJECT. (a) Defines "eligible taxable proceeds."

(b) Sets forth the hotel projects to which this section applies.

(c) Authorizes a governmental body, including a municipality, county, or political subdivision, for a period that may not exceed 10 years, to agree to rebate, refund, or pay eligible taxable proceeds of the governmental body to the owner of a hotel described by Subsection (b) at which the eligible taxable proceeds were generated.

(d) Authorizes a municipality in which a hotel described by Subsection (b) is located to agree to guarantee the bonds or other obligations of a municipally sponsored local government corporation created under Chapter 431 (Texas

Transportation Corporation Act), Transportation Code, that were issued or incurred to pay the cost of construction, remodeling, or rehabilitation of a convention center hotel project from paying hotel occupancy taxes.

(e) Requires an agreement under this section to be in writing, contain an expiration date, and require the beneficiary to provide documentation necessary to support a claim.

(f) Requires a governmental body that makes an agreement under this section to make the rebate, refund, or payment directly to the beneficiary.

SECTION 34. Amends Sections 2303.516(b) and (d), Government Code, as follows:

(b) Authorizes the comptroller, rather than TEDB, to determine that the business or project is not entitled to a refund or credit of state taxes under Section 2303.504(a-1), upon making certain findings. Makes conforming changes.

(d) Authorizes a qualified business to obtain a state benefit, earned through a specific enterprise project designations, on completion of certain certifications and verifications.

SECTION 35. Amends Section 2303.517, Government Code, to make a conforming change.

SECTION 36. Amends Section 161.081, Health and Safety Code, by adding Subdivision (7), to define "attempt."

SECTION 37. Amends Subchapter H, Chapter 161, Health and Safety Code, by adding Section 161.0821, as follows:

Sec. 161.0821. PURCHASE OF CIGARETTES OR TOBACCO PRODUCTS BY PERSONS YOUNGER THAN 18 YEARS OF AGE PROHIBITED. (a) Provides that a person who is younger than 18 years of age commits an offense if the person purchases or attempts to purchase cigarettes or tobacco products.

(b) Provides that it is an exception to the application of this section that the person younger than 18 years of age is participating in an investigation or compliance inspection in accordance with Section 161.088 (Enforcement; Unannounced Inspections) on behalf of the comptroller or a local law enforcement agency.

(c) Authorizes the actor to be prosecuted under either this section or the other section or provision, if conduct constituting an offense under this section also constitutes an offense under another section of this code or another provision of law.

(d) Provides that an offense under this section is a Class C misdemeanor.

SECTION 38. (a) Amends Section 161.084, Health and Safety Code, by amending Subsection (b) and adding Subsection (f), as follows:

(b) Amends the requirements for the statement printed on the sign [notifying the public of the age requirement for the purchase of cigarettes] to include information targeted at pregnant women.

(f) Authorizes the comptroller to accept gifts and grants from any public or private source to perform the duties under this section.

(b) Requires the comptroller to adopt rules as necessary to implement Section 161.084, Health and Safety Code, as amended by this section, not later than the 90th day after the effective date of this section.

SECTION 39. (a) Amends Section 285.063, Health and Safety Code, by adding Section (b-1) to require the hospital district to submit a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter to the comptroller.

(b) Effective date, this section: January 1, 2006.

SECTION 40. (a) Amends Section 775.0753, Health and Safety Code, by adding Subsection (d), to require the emergency services district to submit a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter to the comptroller.

(b) Effective date, this section: January 1, 2006.

SECTION 41. (a) Amends Section 776.0753, Health and Safety Code, by adding Subsection (d), to require the emergency services district [in certain counties] to submit a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter to the comptroller.

(b) Effective date, this section: January 1, 2006.

SECTION 42. (a) Amends Article 1.16(b), Insurance Code, to make conforming changes.

(b) Effective date, this section: January 1, 2006.

SECTION 43. (a) Amends Section 222.002(b), Insurance Code, to require the insurer or health maintenance organization, except as otherwise provided by this section, in determining an insurer's taxable gross premiums or a health maintenance organization's taxable gross revenues, to include to total gross amounts of specific items received by the insurer or health maintenance organization in a calendar year from any kind of health maintenance organization certificate or contract or insurance policy or contract covering risks on individuals or groups, rather than a person, located in this state and arising from the business of a health maintenance organization or the business of certain types of insurance.

(b) Effective date, this section: January 1, 2006.

SECTION 44. (a) Amends Section 223.003(a), Insurance Code, to provide that an annual tax is imposed on all premiums, rather than each title insurance company, from the business of title insurance. Makes conforming and nonsubstantive changes.

(b) Effective date, this section: January 1, 2006.

SECTION 45. (a) Section 252.003, Insurance Code, to require an insurer to pay maintenance taxes under this chapter on the correctly reported gross premiums from writing insurance in this state against certain losses or damages, including an event covered under a home warranty insurance policy or an event covered under an inland marine insurance policy.

(b) Effective date, this section: January 1, 2006.

SECTION 46. (a) Amends Section 271.002(a), Insurance Code, to provide that a maintenance fee is imposed on all premiums, rather than each insurer with gross premiums, subject to assessment under Section 271.006.

(b) Effective date, this section: January 1, 2006.

SECTION 47. (a) Amends Section 1502.053, Insurance Code, as amended by H.B. 2018, Acts of the 79th Legislature, Regular Session, 2005, as effective September 1, 2005, as follows:

Sec. 1502.053. EXEMPTION FROM CERTAIN TAXES. (a) Creates this subsection from existing text.

(b) Provides that the issuer of a children's health benefit plan is not subject to the retaliatory tax imposed under Chapter 281 with respect to money received for coverage provided under that plan.

(b) Effective date, this section: January 1, 2006.

SECTION 48. Amends Section 302.001, Local Government Code, by amending Subdivision (1) to redefine "energy savings performance contract," and adding Subdivision (3), to define "usage measure."

SECTION 49. Amends Section 302.002(b), Local Government Code, to require each energy or water conservation measure or usage measure to comply with current local, state, and federal construction, plumbing, and environmental codes and regulations.

SECTION 50. Amends Section 302.003, Local Government Code, to make a conforming change.

SECTION 51. Amends Section 302.004, Local Government Code, to make conforming changes.

SECTION 52. Amends Section 302.005(b), Local Government Code, to make a conforming change.

SECTION 53. Amends Subchapter D, Chapter 373A, Local Government Code, as added by H.B. 525, Acts of the 79th Legislature, Regular Session, 2005, as effective September 1, 2005, by adding Section 373A.159, as follows:

Sec. 373A.159. TAX ABATEMENT AGREEMENTS. (a) Authorizes a taxing unit to enter into a tax abatement agreement with an owner of real or personal property in a homestead preservation reinvestment zone, regardless of whether the taxing unit deposits or agrees to deposit any portion of its tax increment into the tax increment fund for the zone.

(b) Requires an agreement to abate ad valorem taxes on real property in a homestead preservation reinvestment zone under this section to be approved by certain governing bodies in order to be effective.

(c) Authorizes the governing body to covenant that it will not approve an ad valorem tax abatement agreement that applies to real property in that zone, in any contract entered into by the governing body of the municipality that administers a homestead preservation reinvestment zone in connection with bonds or other obligations.

(d) Provides that if a taxing unit enters into an ad valorem tax abatement agreement authorized by this section, ad valorem taxes that are abated under that agreement are not considered taxes to be imposed or produced by that taxing unit in calculating certain amounts.

SECTION 54. Amends Sections 373A.157(c) and (e), Local Government Code, as added by H.B. 525, Acts of the 79th Legislature, Regular Session, 2005, as follows:

(c) Requires at least 45, rather than 50, percent of the revenue from the tax increment fund expended annually to benefit families that have a yearly income at or below 50 percent of the area median family income, adjusted for family size.

(e) Requires the municipality to spend at least 70, rather than 80, percent of the revenue expended annually from the tax increment fund for the purchase of real property and the construction or rehabilitation of affordable housing in the zone. Provides that not more than 10 percent of the revenue expended annually from the tax increment fund may be

spend for infrastructure improvements necessary to support the construction or rehabilitation of affordable housing in the zone.

SECTION 55. (a) Amends Section 383.101, Local Government Code, by adding Subsection (d), to require the county development district to submit a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter to the comptroller.

(b) Effective date, this section: January 1, 2006.

SECTION 56. (a) Amends Section 387.012, Local Government Code, as follows:

Sec. 387.012. EFFECTIVE DATE OF TAX. (a) Creates this subsection from existing text.

(b) Requires the county assistance district to submit a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter to the comptroller.

(b) Effective date, this section: January 1, 2006.

SECTION 57. Amends Section 430.003, Local Government Code, as follows:

Sec. 430.003. New heading: EXEMPTIONS OF CERTAIN PROPERTY FROM INFRASTRUCTURE FEES. (a) Provides that no county, municipality, or utility district may collect from a state agency, public, or private institution of higher education, including a public junior college as defined by Section 61.003 (Definitions), Education Code, any fee charged for the development or maintenance of programs of facilities for the control of excess water or storm water.

(b) Provides that this section as it relates to institutes of higher education does not apply to a municipality with a population of less than 25,000.

SECTION 58. Amends Section 433(a), Probate Code, to require any heir, devisee, legatee, or their assigns of an estate whose funds were paid to the state treasurer under this chapter before September 1, 1991, to initiate suit under this section not later than September 1, 2009.

SECTION 59. (a) Amends Section 52.006, Property Code, as follows:

(a) Provides that except as provided by Subsection (b), a judgment lien continues for 10 years following the date of recording and indexing the abstract, except that if the judgment becomes dormant during that period the lien ceases to exist.

(b) Provides that notwithstanding Section 34.001 (No Execution on Dormant Judgment), Civil Practice and Remedies Code, a judgment in favor of the state or a state agency, as that term is defined by Section 403.055 (Payments to Debtors or Delinquents Prohibited), Government Code, does not become dormant. Provides that a properly filed abstract of the judgment continues to constitute a lien under Section 52.001 (Establishment of Lien) until the earlier of the 20th anniversary of the date the abstract is recorded and indexed or the date the judgment is satisfied or the lien is released. Authorizes the judgment lien to be renewed for one additional 20-year period by filing, before the expiration of the initial 20-year period, a renewed abstract of judgment in the same manner as the original abstract of judgment is filed. Provides that the renewed judgment lien relates back to the date the original abstract of judgment was filed.

(b) Makes application of Section 52.006, Property Code, prospective.

SECTION 60. Amends Section 74.101(a), Property Code, to authorize the comptroller to require the report to be in a particular format, including an electronic format that can be read by a computer if the holder is reporting 10 or more items of property.

SECTION 61. Amends Section 74.401, Property Code, by adding Subsection (f), as follows:

(f) Authorizes the comptroller to sell as a gift, novelty, or collectible item, but not as an investment, a stock, bond, certificate, or similar instrument that is nonredeemable and nontransferable because it has been canceled or issued by a company that has been dissolved or terminated and the existence of which has not been revived or reinstated. Authorizes the comptroller to sell an instrument under this subsection at a public sale or in another manner determined to be appropriate by the comptroller, including an online sale. Requires the comptroller to stamp the face of the instrument with a prominent mark indicating that the instrument has been canceled, before selling an instrument under this subsection. Requires the comptroller to provide written notice to the purchaser as required by this subsection at the time of the sale and of the delivery of the instrument to the purchaser. Sets forth requirements for the notice.

SECTION 62. Amends Section 74.507(b), Property Code, to prohibit a person who informs a potential claimant and by contract or other written agreement is to receive a percentage of the value of the property from filing or receiving a claim form on behalf of a claimant.

SECTION 63. Amends Section 74.601, Property Code, by adding Subsection (g), as follows:

(g) Authorizes the comptroller to deposit the unclaimed funds to the credit of the general revenue fund, if an owner does not assert a claim for unclaimed funds reported to the comptroller and the owner is reported to be the state or a state agency. Authorizes the comptroller to establish procedures and adopt rules as necessary to implement this section.

SECTION 64. (a) Amends Section 6.03, Tax Code, by adding Subsection (a-1), as follows:

(a-1) Sets forth requirements and procedures for filing a vacancy on, or recalling or appointing a member of, the governing body of the municipality.

(b) Makes application of this section prospective to January 1, 2006.

(c) Requires one of the directors, if the directors of an appraisal district described by Section 6.03(a-1), Tax Code, as added by this Act, serve staggered terms, to be appointed by the governing body of the most populous municipality that participates in the district at certain elections.

(d) Requires the chief appraiser to make certain indications on the ballot prepared under Section 6.03(j), Tax Code, for the October 30, 2006, deadline, if this section takes effect October 21, 2005, in an appraisal district in which one member of the board of directors will be appointed under Section 6.03(a-1), Tax Code, as added by this Act, for a term beginning January 1, 2006,. Requires the chief appraiser to omit the nominations made by the municipality entitled to make the appointment under Section 6.03(a-1) from the ballot.

(e) Effective date, this section: upon passage or October 21, 2005.

SECTION 65. (a) Amends Section 11.18(d), Tax Code, to require a charitable organization to be organized exclusively to perform certain functions and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more specific charitable functions, including operating a radio station that broadcasts educational, cultural, or other public interest programming, including classical music, and that is funded entirely through donations made by listeners or other donors.

(b) Makes application of this section prospective to January 1, 2006.

SECTION 66. (a) Amends Section 21.02, Tax Code, by amending Subsection (a), and adding Subsection (e), as follows:

(a) Provides that except as provided by Subsections (b) and (e) and by Sections 21.021, 21.04, and 21.05, tangible personal property is taxable by a taxing unit, if the owner resides or maintains the owner's principal place of business in this state.

(e) Provides that this subsection does not apply to a drilling rig designed for offshore drilling or exploration operations. Provides that a mobile portable drilling rig, and equipment associated with the drilling rig, is taxable by the taxing unit in which the rig is located on January 1 if the rig was located in the unit for the preceding 365 consecutive days. Provides that if the rig and associated equipment was not located at its January 1 location for the preceding 365 days, it is taxable by the taxing unit in which the owner's principal place of business in this state is located on January 1.

(b) Makes application of Section 21.02, Tax Code, as amended by Subsection (a) of this section, prospective.

(c) Effective date, this section: January 1, 2006.

SECTION 67. (a) Amends Section 21.05(e), Tax Code, to require a commercial aircraft, for purposes of this subchapter, to mean a specific type of instrumentality of air commerce.

(b) Effective date, this section: January 1, 2006.

SECTION 68. Amends Subchapter C, Chapter 41, Tax Code, by adding Section 41.445, as follows:

Sec. 41.445. NOTICE OF FILING NOTICE OF PROTEST. (a) Requires the secretary of the appraisal review board, on request of a taxing unit that participates in the appraisal district, to identify each property on which a notice of protest is pending before the board to the presiding officer of the governing body of the taxing unit.

(b) Sets forth the means by which the notice requirement of Subsection (a) is authorized to be satisfied.

(c) Requires the notice to be provided at least 15 days before the date of each meeting of the board.

SECTION 69. Amends Section 41.47, Tax Code, by amending Subsection (d) and adding Subsection (d-1), as follows:

(d) Requires the appraisal review board, on the issuance of the order, to report the order's issuance to each presiding officer of the governing body of a taxing unit that has requested notice under Section 41.445. Sets forth the authorized methods for delivering the report to a presiding officer.

(d-1) Requires the appraisal review board, not later than the 30th day after the date a protest is received or as soon after that date as practicable, to determine the time, date, and place of the hearing on the protest and issue the notice required by Section 41.46 (Notice of Protest Hearing).

SECTION 70. (a) Amends Subchapter B, Chapter 111, Tax Code, by adding Section 111.0515, as follows:

Sec. 111.0515. RESTRICTED OR CONDITIONAL PAYMENTS OF TAXES, PENALTIES, AND INTEREST PROHIBITED. Provides that unless the restriction or condition is authorized by this title, a restriction or condition placed on a check in payment of taxes by the maker of the check that purports to limit the amount of taxes owed to an amount less than that stated in the comptroller's

records, or a restriction or condition placed on a check in payment of penalties and interest on delinquent taxes by the maker that purports to limit the amount of the penalties and interest to an amount less than the amount of penalties and interest accrued on the delinquent taxes, is void.

(b) Effective date, this section: January 1, 2006.

SECTION 71. (a) Amends Subchapter B, Chapter 111, Tax Code, by adding Section 111.065, as follows:

Sec. 111.065. EXPEDITIOUS ASSISTANCE FOR TAXPAYERS. Sets forth requirements for the comptroller for issuing a refund or credit or correcting an erroneous assessment. Requires the comptroller to amend any audit or the records of any audit period as expeditiously as possible if necessary to comply with this section.

(b) Effective date, this section: January 1, 2006.

SECTION 72. (a) Amends Section 111.107, Tax Code, as follows:

Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. (a) Authorizes a person to request a refund or a credit or authorizes the comptroller to a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter, unless the refund or credit is requested under Chapter 162, rather than 153, except Section 162.126(f), 162.128(d), 162.228(f), or 162.230(d), rather than 153.1195(e), 153.121(d), 153.2225(e), or 153.224(d), except as otherwise expressly provided.

(b) Prohibits a person from refiling a refund claim for the same transaction or item, tax type, period, and ground or reason that was previously denied by the comptroller in a refund hearing.

(b) Effective date, this section: January 1, 2006.

SECTION 73. (a) Amends Sections 151.011(a) and (c), Tax Code, as follows:

(a) Redefines "use."

(c) Provides that "use" also does not include the sale outside this state of raw materials that are processed, fabricated, or manufactured into printed materials outside this state if the printed materials are subsequently brought or delivered into this state.

(b) Effective date, this section: January 1, 2006.

SECTION 74. (a) Amends Section 151.304(b), Tax Code, to redefine "occasional sale."

(b) Makes application of this section prospective.

(c) Effective date, this section: August 1, 2005, or November 1, 2005.

SECTION 75. (a) Amends Section 151.3111(b), Tax Code, to provide that Subsection (a) does not apply to the performance of a service on tangible property that is exempted solely because of the application of Section 151.3162 (Timber Items), through December 31, 2007. Makes nonsubstantive changes.

(b) Effective date, this section: January 1, 2006.

SECTION 76. (a) Amends Sections 151.3152(d) and (e), Tax Code, as follows:

(d) Entitles a person to an exemption, rather than a credit or refund, of a portion of the taxes paid under this chapter on an item that after January 1, 2008, will be exempted from the taxes imposed by this chapter under Subsection (b), until that date. Makes conforming changes.

(e) Authorizes a taxpayer entitled to a credit or refund under Subsection (d), as that subsection existed on September 30, 2005, to elect to receive either a credit or a refund.

(b) Effective date, this section: January 1, 2006.

SECTION 77. (a) Amends Sections 151.429(a), (b), (c), (e), and (g), Tax Code, as follows:

(a) Provides that an enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of taxable items. Deletes existing text listing specific items.

(b) Provides that a capital investment at the qualified business site of a certain dollar amount results in a refund of up to \$2,500 per job with certain maximum refunds, dependent on the creation or retention of an increasing number of jobs, rather than merely of jobs. Makes conforming changes.

(c) Makes a conforming change.

(e) Defines "certified job."

(g) Provides that the refund provided by this section is conditioned on the enterprise project maintaining for a three-year period at least the same number, rather than level, of certified jobs as existed on the date the comptroller initially certified the hiring commitments for the project under Section 2303.516(d), Government Code. Makes conforming changes.

(b) Makes application of Section 151.429, Tax Code, as amended by this section, prospective.

SECTION 78. (a) Amends Section 151.4291(a), Tax Code, to provide that a defense readjustment project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of taxable items. Deletes existing text listing specific items.

(b) Makes application of Section 151.4291, Tax Code, as amended by this section, prospective.

SECTION 79. (a) Amends Subchapter L, Chapter 151, Tax Code, by adding Section 151.715, as follows:

Sec. 151.715. COLLECTION OF AMOUNTS IN EXCESS OF TAX IMPOSED; CIVIL PENALTY. (a) Prohibits a person from collecting certain amounts as a tax imposed by this chapter.

(b) Requires the comptroller to send a written notice to a person who violates Subsection (a) that directs the person to cease collecting amounts described by that subsection. Requires the person to pay a penalty of \$1,000 for each sale on which the person collects an amount described by that subsection, if, after the person receives two written notices from the comptroller, the person continues collecting an amount described by that subsection.

(c) Provides that the penalty provided by this section is assessed without regard to whether the person against whom the penalty is assessed remits to the comptroller the excess amounts collected.

(d) Authorizes any person required to collect and remit sales tax, for the purpose of the notices required under this section, to designate a contact address to which the notice is required to be sent before the penalty provided for in this section may be assessed.

(e) Requires the comptroller of public accounts to adopt rules relating to the administration of this section to include a safe harbor from the penalties imposed by this section where the person acted in good faith and the over-collection of the tax was not the result of a wilful disregard of the comptroller's rules.

(f) Prohibits over-collections subject to the penalties provided in this section from constituting grounds for any cause of action by any person or group of similarly situated persons where the person making the over-collection remitted the tax to the comptroller and assigns the right to refund to the consumer who paid the tax.

(g) Provides that businesses which may be regarded as retailers under Section 151.024 who pre-collect sales tax prior to the final retail sale are not responsible for civil penalties under this section.

(b) Makes application of Section 151.715, Tax Code, as amended by this section, prospective.

SECTION 80. Amends Section 162.001, Tax Code, by amending Subdivisions (9), (19), (20), (42), (43), and (55) to redefine "blending," "diesel fuel," "distributor," "motor fuel," "motor fuel transporter," "shipping document," and adding Subdivision (22-a) to define "dyed diesel fuel dealer."

SECTION 81. Amends Section 162.004, Tax Code, by amending Subsections (a) and (b) and adding Subsections (a-1) and (h), as follows:

(a) Redesignates a portion of existing Subsection 9a) as Subsection (a-1).

(a-1) Creates this subsection from existing text.

(b) Requires a shipping document to contain specific information required by the comptroller.

(h) Provides that this section does not apply to motor fuel that is delivered into the fuel supply tank of a motor vehicle.

SECTION 82. Amends Sections 162.016(a), (b), (d), and (e), Tax Code, as follows:

(a) Deletes existing text requiring a shipping document for fuel to be created by the terminal or bulk plant at which the fuel was received and other specific information required to be included on the shipping document.

(b) Requires the shipping documents to be provided to the importer or exporter.

(d) Sets forth requirements for a seller, transporter, or receiver of motor fuel regarding the shipping documents.

(e) Deletes existing text requiring a shipping document for fuel to be created by the terminal or bulk plant.

SECTION 83. Amends Sections 162.101(b) and (c), Tax Code, as follows:

(b) Requires the supplier to collect the tax imposed by this subchapter from the person who imports the gasoline into this state. Makes a conforming change.

(c) Provides that a tax is imposed on the removal, rather than the sale or transfer, of gasoline from the bulk transfer/terminal system in this state. Makes a conforming change.

SECTION 84. Amends Section 162.103(d), Tax Code, to require a person who sells gasoline in this state, other than by a bulk transfer, on which tax has not been paid for any purpose other than a purpose exempt under Section 162.104, at the time of sale, to collect the tax from the purchaser or recipient of gasoline in addition to the selling price and provides that the seller is liable to this state for the tax imposed in the manner provided by this chapter.

SECTION 85. Amends Section 162.113(d), Tax Code, to require a supplier or permissive supplier, after notifying the comptroller of the licensed distributor's or licensed importer's failure to remit taxes under this section, to terminate the ability of the licensed distributor or licensed importer to defer the payment of gasoline tax.

SECTION 86. Amends Section 162.115, Tax Code, by adding Subsection (m-1), to require a license holder to keep any other record required by the comptroller, in addition to the records specifically required by this section.

SECTION 87. Amends Sections 162.116(a) and (d), Tax Code, as follows:

- (a) Deletes certain requirements for the monthly return and supplements of each supplier and permissive supplier.
- (d) Prohibits the comptroller from requiring a supplier or permissive supplier to remit any tax for which the supplier or permissive supplier was allowed to take a credit from a payment or credit in reduction of a customer's account.

SECTION 88. Amends Section 162.118, Tax Code, to delete certain items from the requirements for the monthly return and supplements of each distributor.

SECTION 89. Amends Section 162.127, Tax Code, by adding Subsection (g), as follows:

- (g) Requires the comptroller to issue a refund warrant to a distributor not later than the 60th day after the date a valid refund claim is filed with the comptroller. Provides that if the comptroller does not issue the refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.064 beginning on the 61st day after the date the valid refund claim is filed and ending on a date not more than 10 days before the date of the refund warrant.

SECTION 90. Amends Section 162.128(d), Tax Code, to authorize a distributor, importer, exporter, or blender that determines taxes were erroneously reported and remitted or that paid more taxes than were due this state because of a mistake of fact or law to take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller.

SECTION 91. Amends Sections 162.201(b) and (c), Tax Code, as follows:

- (b) Requires a supplier to collect the tax imposed by this subchapter from the person who imports the diesel fuel into this state. Makes a conforming change.
- (c) Makes conforming changes.

SECTION 92. Amends Section 162.203(d), Tax Code, to make conforming changes.

SECTION 93. Amends Section 162.204(a), Tax Code, to make conforming changes.

SECTION 94. Amends Section 162.205(a), Tax Code, to make conforming changes.

SECTION 95. Amends Section 162.206, Tax Code, by amending Subsection (c) and adding Subsections (c-1), (g-1), and (k), as follows:

(c) Prohibits a person from making a tax-free purchase and prohibits a licensed supplier or distributor from making a tax-free sale to a purchaser of any dyed diesel fuel under this section using a signed statement for the first sale or purchase and for any subsequent sale or purchase. Deletes existing text regarding required information to be included in a signed statement.

(c-1) Provides that the monthly limitations prescribed by Subsection (c) apply regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month.

(g-1) Provides that for purposes of this section, the purchaser is considered to have furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end user number issued by the comptroller. Requires the licensed supplier or distributor to use the comptroller's Internet website or other materials provided or produced by the comptroller to verify this information.

(k) Provides that properly completed signed statements should be in the possession of the licensed supplier or distributor at the time the sale of dyed diesel fuel occurs. Requires exempt sales claimed by the licensed supplier or distributor that require delivery of the signed statements to be disallowed, if the licensed supplier or distributor is not in possession of the signed statements within 60 days after the date written notice requiring possession of them is given to the licensed supplier or distributor by the comptroller. Authorizes the comptroller to verify the reason or basis for the signed statements before allowing the exempt sales, if the licensed supplier or distributor delivers the signed statements to the comptroller within the 60-day period. Prohibits an exempt sale from being granted on the basis of signed statements delivered to the comptroller after the 60-day period.

SECTION 96. Amends Section 162.211(b), Tax Code, to make a conforming change.

SECTION 97. Amends Section 162.213, Tax Code, to make conforming changes.

SECTION 98. Amends Section 162.214(d), Tax Code, to require the supplier or permissive supplier, after notifying the comptroller of the licensed distributor's or licensed importer's failure to remit taxes under this section, to terminate the ability of the licensed distributor or licensed importer to defer the payment of diesel fuel tax.

SECTION 99. Amends Section 162.215(d), Tax Code, to make a conforming change.

SECTION 100. Amends Section 162.216, Tax Code, by adding Subsections (l-1) and (m-1), as follows:

(l-1) Sets forth requirements for a dyed diesel fuel dealer regarding maintaining records of specific information.

(m-1) Requires a license holder to keep any other record required by the comptroller, in addition to the records specifically required by this section.

SECTION 101. Amends Sections 162.217(a) and (d), Tax Code, as follows:

(a) Deletes existing text requiring each supplier and permissive supplier to include certain information in the monthly return and supplements.

(d) Prohibits the comptroller from requiring a supplier or permissive supplier to remit any tax for which the supplier or permissive supplier was allowed to take a credit from a payment or credit in reduction of a customer's account.

SECTION 102. Amends Section 162.219, Tax Code, to include certain additional requirements and deleting others regarding certain information included in a distributor's monthly return and supplements.

SECTION 103. Amends Section 162.227, Tax Code, by adding Subsection (c-1), as follows:

(c-1) Authorizes a license holder to take a credit on a return for the period in which the purchase occurred, and authorizes a person who does not hold a license to file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state for certain purposes.

SECTION 104. Amends Section 162.229, Tax Code, by adding Subsection (g), as follows:

(g) Requires the comptroller to issue a refund warrant to a distributor not later than the 60th day after the date a valid refund claim is filed with the comptroller. Provides that if the comptroller does not issue the refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.064 beginning on the 61st day after the date the valid refund claim is filed and ending on a date not more than 10 days before the date of the refund warrant.

SECTION 105. Amends Section 162.230(d), Tax Code, to make a conforming change.

SECTION 106. Amends Section 162.402(d), Tax Code, to delete existing text relating to a person operating a bulk plant or terminal.

SECTION 107. Amends Section 162.404(c) and (d), Tax Code, to make conforming changes.

SECTION 108. Amends the heading to Section 162.409, Tax Code, to read as follows:

Sec. 162.409. ISSUANCE OF A BAD CHECK TO LICENSED DISTRIBUTOR, LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

SECTION 109. Amends Sections 162.409(a) and (d), Tax Code, to make conforming changes.

SECTION 110. Amends Subchapter E, Chapter 162, Tax Code, by adding Section 162.410, as follows:

Sec. 162.410. ELECTION OF OFFENSES. Authorizes the state to elect the offense for which it will prosecute the person, if a violation of a provision of this chapter by a person constitutes a criminal offense under another law of this state.

SECTION 111. (a) Amends Section 171.110, Tax Code, by adding Subsection (m), to provide that except as otherwise provided by this section, in computing taxable earned surplus, a corporation is considered to have made an election to use the same methods used in filing its federal income tax return.

(b) Effective date, this section: January 1, 2006.

SECTION 112. (a) Amends Section 171.1121(b), Tax Code, to require a corporation to use the same accounting methods to apportion taxable earned surplus as the corporation used to compute taxable earned surplus, except as otherwise provided by this section.

(b) Effective date, this section: January 1, 2006.

SECTION 113. Amends Section 171.721(2), Tax Code, to redefine "strategic investment area."

SECTION 114. Amends Section 171.751, Tax Code, by adding Subdivision (5-a) to define "enterprise project" and amending Subdivisions (8) and (9) to redefine "qualified business" and "qualifying job."

SECTION 115. Amends Subchapter P, Chapter 171, Tax Code, by adding Section 171.7542, as follows:

Sec. 171.7542. LENGTH OF CREDIT. (a) Sets forth the corporations to which this section applies.

(b) Authorizes a corporation to which this section applies, notwithstanding Section 171.753, to establish a one-time credit equal to a specific amount. Authorizes wages and salaries for each qualifying job to only be counted once in calculating the credit.

(c) Authorizes the corporation to make certain claims, subject to Sections 171.755 and 171.756.

(d) Requires a corporation that establishes the credit authorized by Subsection (b) to provide an estimate of the total wages and salaries on which the corporation establishes the credit to the comptroller. Requires the corporation to provide the estimate on the first report originally due on or after January 1, 2006.

(e) Provides that the credit provided by this section is conditioned on the corporation attaining the total level of wages and salaries for qualifying jobs estimated in Subsection (b). Requires the comptroller to certify whether that level was attained, after December 31, 2008. Requires the comptroller to assess that portion of the credit attributable to any such deficiency, including penalty and interest from the date the credit was taken, on certifying that such level has not been attained.

(f) Provides that this section expires January 1, 2009.

SECTION 116. Amends Section 171.801, Tax Code, by amending Subdivision (2) to redefine "qualified capital investment" and adding Subdivision (4) to define "defense readjustment project" and "enterprise project."

SECTION 117. Amends Section 171.8015, Tax Code, as follows:

Sec. 171.8015. New heading: TANGIBLE PERSONAL PROPERTY FIRST PLACED IN SERVICE BY AN ENTERPRISE PROJECT. Redefines "qualified capital investment" and "tangible personal property first placed in service by an enterprise project."

SECTION 118. Amends Section 171.802, Tax Code, by amending Subsection (c) and adding Subsection (d-1), as follows:

(c) Makes conforming changes.

(d-1) Authorizes a corporation to qualify for the credit provided by this subchapter, regardless of whether the corporation meets the qualifications prescribed by Subsection (b), if that corporation meets certain qualifications.

SECTION 119. Amends Section 171.804, Tax Code, as follows:

Sec. 171.804. LENGTH OF CREDIT. (a) Requires the credit established to be claimed in five equal installments of one-fifth the credit amount over the five consecutive reports beginning with the report based upon the period during which the qualified capital investment was made, except as provided by Subsection (b).

(b) Authorizes an enterprise project or a defense readjustment project to perform certain actions, subject to Section 171.805 and notwithstanding Section 171.803.

(c) Provides that this section expires January 1, 2009.

SECTION 120. (a) Amends Section 183.053(b), Tax Code, to prohibit the comptroller from setting the amount of security at less than \$1,000 or more than the greater of \$100,000 or four times the amount of the permittee's average monthly tax liability, rather than \$50,000.

(b) Effective date, this section: January 1, 2006.

SECTION 121. Amends Section 311.0125, Tax Code, by adding Subsection (f), to prohibit the municipality from entering into a tax abatement agreement authorized by any other law of this state in connection with the same property of that owner, if under this section a municipality has entered into a tax abatement agreement with an owner of real or personal property in a reinvestment zone designated under this chapter.

SECTION 122. (a) Amends Sections 313.021(1) and (2), Tax Code, to redefine "qualified tax investment" and "qualified property."

(b) Effective date, this section: January 1, 2006.

SECTION 123. (a) Amends Section 321.203, Tax Code, by amending Subsections (b)-(e) and adding Subsections (n), as follows:

(b)-(e) Makes conforming changes.

(n) Provides that a sale of a service described by Section 151.0047 to remodel, repair, or restore nonresidential real property is consummated at the location of the job site. Provides that if the job site includes areas in multiple municipalities, the sale is consummated at certain locations.

(b) Effective date, this section: January 1, 2006.

SECTION 124. (a) Amends Section 321.302, Tax Code, by adding Subsection (c-1), to define "full amount of the tax due."

(b) Effective date, this section: January 1, 2006.

SECTION 125. (a) Amends Section 321.503, Tax Code, to delete existing text referring to premium payments under Section 321.501(c).

(b) Effective date, this section: January 1, 2006.

SECTION 126. (a) Amends Section 323.102(c), Tax Code, to provide that a tax imposed under Chapter 383 (County Development Districts), Local Government Code, takes effect on a specific date.

(b) Effective date, this section: January 1, 2006.

SECTION 127. (a) Amends Section 323.203, Tax Code, by amending Subsections (b)-(e) and adding Subsection (m), as follows:

(b)-(e) Makes conforming changes.

(m) Provides that a sale of a service described by Section 151.0047 to remodel, repair, or restore nonresidential real property is consummated at the location of the job site. Provides that if the job site includes areas in multiple municipalities, the sale is consummated at certain locations.

(b) Effective date, this section: January 1, 2006.

SECTION 128. (a) Amends Section 323.503, Tax Code, to delete existing text referring to premium payments under Section 321.501(c).

(b) Effective date, this section: January 1, 2006.

SECTION 129. Amends Section 351.001(2), Tax Code, to redefine "convention center facilities" or "convention center complex."

SECTION 130. Amends Section 351.102(a), Tax Code, to authorize a municipality to pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued under Section 1504.002(a), Government Code, to one or more of the purposes provided by Section 351.101 or, in the case of a municipality that has a population of more than 500,000 and that borders the United Mexican States, for the payment of certain bonds.

SECTION 131. Amends Section 351.102, Tax Code, by adding Subsection (d), to require the comptroller, as soon as practicable after each state fiscal year, to report to the legislature for that fiscal year the amount of state funds paid under Subsection (c).

SECTION 132. Makes application of Section 41.445, Tax Code, as added by this Act, and Section 41.47, Tax Code, as amended by this Act, prospective to January 1, 2006.

SECTION 133. Amends Section 623.052(b), Transportation Code, to delete existing text requiring the comptroller to approve an adequate surety bond.

SECTION 134. (a) Amends the heading to Subchapter A, Chapter 16, Utilities Code, to read as follows:

SUBCHAPTER A. ASSESSMENT ON UTILITY GROSS RECEIPTS

(b) Effective date, this section: January 1, 2006.

SECTION 135. (a) Amends the heading to Section 16.001, Utilities Code, to read as follows:

Sec. 16.001. ASSESSMENT ON UTILITY GROSS RECEIPTS.

(b) Effective date, this section: January 1, 2006.

SECTION 136. (a) Amends Sections 16.001(a) and (b), Utilities Code, to make conforming changes.

(b) Effective date, this section: January 1, 2006.

SECTION 137. (a) Amends Section 16.002(b), Utilities Code, to make conforming changes.

(b) Effective date, this section: January 1, 2006.

SECTION 138. Authorizes the Health and Human Services Commission and other health and human services agencies, notwithstanding any other law, to utilize digital signatures for administrative functions and to require the use of digital signatures for business transactions, upon determining that their use is cost-effective.

SECTION 139. (a) Repealer: Subchapters A (General Provisions) and C (Savings Incentive Program for State Agency), Chapter 2108, Government Code.

(b) Repealer: heading to Subchapter B (State Employee Incentive Program), Chapter 2108, Government Code.

(c) Repealer: Sections 2108.0235 (Recognition Award), 2108.025 (Employee Status; Former Employees), 2108.026 (Eligible Suggestion), 2108.027 (Multiple and Joint Suggestions), 2108.028 (Agency Coordinator), 2108.029 (Eligibility Determination by Agency Coordinator), 2108.030 (Procedure), 2108.031 (Commission as Arbiter; Appeal), 2108.032 (Reevaluation of Suggestion), 2108.033 (Suggestion Adopted Before Submission to Agency Coordinator), 2108.034 (Suggestion Requiring Legislative Action), 2108.035 (Confidentiality), 2108.36 (Claims Assigned to State), and 2108.039 (Change to Incentive Program), Government Code.

(d) Provides that the Texas Incentive and Productivity Commission established under Subchapter A, Chapter 2108, Government Code, as that subchapter existed prior to repeal by this Act, is abolished on the effective date of this Act.

SECTION 140. (a) Repealer: (1) Section 2303.516(c) (relating to the monitoring of a qualified business to determine accuracy of application), Government Code.

(2) Section 981.056 (Failure to Pay Premium Taxes), Insurance Code.

(b) Repealer, effective January 1, 2006: (1) Section 151.103(d) (relating to requiring a retailer to collect local use tax);

(2) Section 151.202(c) (requiring a person desiring to be a seller to collect a local use tax);

(3) Section 321.203(1) (relating to the sale of a taxable service), as added by Chapter 1310, Acts of the 78th Legislature, Regular Session, 2003; and

(4) Section 323.203(l) (relating to the sale of a taxable service), Tax Code.

(c) Repealer, effective November 1, 2005: Sections 162.016(c) (relating to documenting split loads) and (h) (relating to obtaining an import verification number), Tax Code.

SECTION 141. (a) Makes application of Sections 80-110 of this Act prospective.

(b) Provides that this section and Sections 80-110 of this Act take effect November 1, 2005.

SECTION 142. (a) Effective date: upon passage. Provides that if this Act does not receive the vote necessary for immediate effect:

(1) the changes, reenactments, and additions in law made by this Act to the statutes that are not specifically listed in this section take effect on the 91st day after the last day of the legislative session, except as otherwise provided by this Act; and

(2) the changes in law made by this Act to the following statutes take effect November 1, 2005:

(A) Section 103.0031, Code of Criminal Procedure;

(B) Sections 25.0015, 25.00211, 26.007, 74.061, 403.071, 404.024, 660.024, 660.027, 2256.011, and 2256.016, Government Code;

(C) Section 433, Probate Code;

(D) Sections 74.101, 74.401, 74.507, and 74.601, Property Code; and

(E) Section 623.052, Transportation Code.

(b) Provides that the changes in law made by this Act by amending the following statutes or adding the following statutes take effect November 1, 2005:

(1) Section 43.002, Education Code;

(2) Sections 659.255, 659.256, 659.257, 2303.401, 2303.4072, 2303.504, 2303.516, and 2303.517, Government Code; and

(3) Sections 151.429, 151.4291, 151.715, 171.721, 171.751, 171.7542, 171.801, 171.8015, 171.802, and 171.804, Tax Code.