

## **BILL ANALYSIS**

Senate Research Center  
83R20869 ADM-D

H.B. 1724  
By: Bohac (Seliger)  
Economic Development  
5/9/2013  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There is currently a four-year statute of limitations on the state's authority to assess state taxes and to bring suit to collect delinquent state taxes, including state hotel occupancy taxes. This includes the interest accrued on delinquent state hotel occupancy taxes. However, state law does not impose any such limitation period or interest on municipal or county hotel occupancy taxes.

There are concerns that hotel operators have no way to predict how long to maintain records because there is no statute of limitations on the assessment of such taxes. These concerns have also caused some hotel operators to contend that the interest rate on delinquent local hotel occupancy taxes should be comparable to the rate on state-imposed taxes.

H.B. 1724 amends current law relating to the statute of limitations on municipal and county hotel occupancy taxes and interest on delinquent payments of municipal hotel occupancy taxes.

### **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 Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Provides that, in addition to the amount of any tax owed under this chapter, the person who is required to collect the tax imposed by this chapter is liable to the municipality for:

(1)-(3) Makes no change to these subdivisions; and

(4) interest under Section 351.0042.

(b) Requires a municipality, except as provided by Subsection (b-1), to bring suit under this section not later than the fourth anniversary of the date the tax becomes due. Deletes existing text providing that Section 16.061 (Rights Not Barred), Civil Practice and Remedies Code, applies to the collection of a tax under this chapter. Deletes existing text providing that a limitation period provided by Title 2 (State Taxation) relating to the time allowed to assess taxes and bring a suit to collect taxes does not apply to a tax imposed under this chapter or to a suit brought under this section.

(b-1) Provides that the limitation provided by Subsection (b) does not apply and a municipality is authorized to bring suit under this section at any time if, with intent to evade the tax, the person files a false or fraudulent report with the municipality or the person has not filed a report for the tax with the municipality.

SECTION 2. Amends Subchapter A, Chapter 351, Tax Code, by adding Section 351.0042, as follows:

Sec. 351.0042. INTEREST ON DELINQUENT TAX. (a) Provides that a person who fails to pay a tax due under this chapter is liable to the municipality for interest on the unpaid amount at the greater of the rate provided by Section 111.060(b) (relating to providing that the rate of interest to be charged to the taxpayer is the prime rate plus one percent, on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday) or the rate imposed by the municipality on January 1, 2013.

(b) Provides that interest under this section accrues from the first day after the date due until the tax is paid.

SECTION 3. Amends Section 352.004, Tax Code, by adding Subsections (d-1) and (d-2), as follows:

(d-1) Requires a county, except as provided by Subsection (d-2), to bring suit under this section not later than the fourth anniversary of the date the tax becomes due.

(d-2) Provides that the limitation provided by Subsection (d-1) does not apply and a county is authorized to bring suit under this section at any time if, with intent to evade the tax, the person files a false or fraudulent report with the county or the person has not filed a report for the tax with the county.

SECTION 4. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 5. Effective date: September 1, 2013.