

BILL ANALYSIS

Senate Research Center

S.B. 1505
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Finance
4/27/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1505 relates to the application of certain taxes imposed on certain tobacco products and to the allocation of certain revenue from those taxes to increase funding for certain health care education programs.

A "little cigar" is a type of tobacco product that is currently not captured or taxed under the Tax Code. Little cigars are essentially cigarettes that are wrapped in brown paper and label as little cigars. Their weight slightly differs from that of a traditional cigarette which is the reason they have not been classified as a cigarette.

However, the state is losing revenue through this loophole, as it is the only tobacco product not being taxed as a tobacco product. Cigarettes, cigars, and smokeless tobacco all are taxed at a certain rate generating revenue for the state, while the "little cigar" is simply excluded.

In December 2016 the Federal Drug Administration (FDA) released a statement that the FDA "has determined that, although labeled as little cigars, the products meet the definition of cigarettes in the Tobacco Control Act, because they are likely to be offered to, or purchased by, consumers as cigarettes based on their overall presentation, appearance, and packaging and labeling."

S.B. 1505 seeks to simply expand the definition of a "cigarette" to include "little cigars" and thus subjecting them to the same tax rate as a cigarette; thereby generating new revenue for the state. Revenue that the state should have been collecting all along.

All new revenue from the collection of taxes imposed on little cigars shall be deposited to General Revenue. Beginning September 1, 2017, the comptroller shall determine the increase in the amount of revenue that is attributable to the inclusion of little cigar in the definition of a cigarette. From that increased amount (less any amount required to be deposited to the Property Tax Relief Fund), revenue shall be deposited two-thirds to the Permanent Fund Supporting Graduate Medical Education (GME) and the remaining one-third to the Nursing Faculty Loan Repayment Assistance Program Account.

As proposed, S.B. 1505 amends current law relating to the application of and allocation of revenue from certain taxes imposed on certain tobacco products.

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 58A.002(b), Education Code, as follows:

(b) Provides that the permanent fund supporting graduate medical education is composed of:

(1) makes no changes to this subdivision;

(2) money deposited to the credit of the fund under Section 154.603 (Disposition of Revenue), Tax Code;

(3) creates this subdivision from existing text; and

(4) redesignates existing Subdivision (3) as Subdivision (4).

SECTION 2. Amends Section 61.5391(b), Education Code, as follows:

(b) Authorizes money in the Physician Education Loan Repayment Account to be appropriated for any purpose except to provide loan repayment assistance to eligible physicians, rather than loan repayment assistance to eligible physicians and to provide loan repayment assistance under Subchapter JJ (Nursing Faculty Loan Repayment Assistance Program) if reallocated under Section 61.9826 (Reallocation of Money). Makes nonsubstantive changes.

SECTION 3. Amends Section 61.9823(c), Education Code, to delete the provision including any money reallocated under Section 61.9826 (Reallocation of Money).

SECTION 4. Amends Subchapter JJ, Chapter 61, Education Code, by adding Section 61.9829, as follows:

Sec. 61.9829. NURSING FACULTY LOAN REPAYMENT ASSISTANCE PROGRAM ACCOUNT. (a) Provides that the nursing faculty loan repayment assistance program account (account) is an account in the general revenue (GR) fund. Sets forth the composition of the account.

(b) Prohibits money in the account from being appropriated for any purpose except to provide loan repayment assistance to eligible nursing faculty under this subchapter.

SECTION 5. Amends Section 154.001, Tax Code, by adding Subdivisions (1-a) and (11-a) and amending Subdivision (2) to define "cigar" and "little cigar" and to redefine "cigarette."

SECTION 6. Amends Section 154.603, Tax Code, as follows:

Sec. 154.603. DISPOSITION OF REVENUE. (a) Requires that all proceeds from the collection of taxes imposed by this chapter (Cigarette Tax) remaining after the deductions authorized by Section 154.602 (Funds for Enforcement), subject to Subsection (b), be deposited to the credit of the GR fund. Deletes existing text providing that, after the deductions for the purposes provided by Section 154.602 of this code, the revenue remaining of the first \$2 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the first \$4.10 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand is allocated 18.75 percent to the foundation school fund and 81.25 percent to the GR fund.

(b) Requires the Texas Comptroller of Public Accounts (comptroller), beginning September 1, 2017, to determine the increase in the amount of revenue derived from the tax imposed under Section 154.021 (Imposition and Rate of Tax) that is attributable to the inclusion of little cigar in the definition of cigarette. Requires the comptroller, each state fiscal year, to deposit an amount of money equal to that increase for the state fiscal year, less any amount required to be deposited to the property tax relief fund under Section 154.6035 (Allocation of Certain Revenue to Property Tax Relief Fund), as follows:

(1) two-thirds to the credit of the permanent fund supporting graduate medical education; and

(2) the remainder to the credit of the nursing faculty loan repayment assistance program. Deletes existing text providing that the revenue remaining after the deductions for the purposes provided by Section 154.602 of this code and allocation under Subsection (a) of this section is allocated to the GR fund.

SECTION 7. Amends Section 155.001, Tax Code, by amending Subdivision (2) and adding Subdivision (9-a) to redefine "cigar" and define "little cigar."

SECTION 8. Amends Section 155.2415, Tax Code, as follows:

Sec. 155.2415. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND AND CERTAIN OTHER FUNDS. (a) Requires that the proceeds from the collection of taxes imposed by Section 155.0211 (Tax Imposed on Tobacco Products Other Than Cigars) be allocated as follows:

(1) and (2) makes no changes to these subdivisions;

(3) out of, rather than 100 percent of, the remaining proceeds:

(A) requires that 98 percent be deposited to the credit of:

(i) redesignates existing Paragraph (A) as Subparagraph (i);

(ii) redesignates existing Paragraph (B) as Subparagraph (ii);
and

(B) requires that two percent be deposited to the credit of the nursing faculty loan repayment assistance program account established under Subchapter JJ (Nursing Faculty Loan Repayment Assistance Program), Chapter 61 (Texas Higher Education Coordinating Board), Education Code.

(b) Authorizes the proceeds deposited in accordance with Subsection (a)(3)(A)(ii), rather than Subsection (a)(3)(B), to be appropriated only for health care purposes.

SECTION 9. Repealer: Section 61.9823(b) (relating to prohibiting the amount of loan repayment assistance received by a nurse from exceeding a certain amount), Education Code.

Repealer: Section 61.9826 (Reallocation of Money), Education Code.

SECTION 10. Provides that in addition to the substantive changes made by this Act, this Act conforms Section 154.603, Tax Code, to the method of allocating cigarette tax revenue in effect before the effective date of this Act. Provides that Section 11.04, Chapter 4 (S.B. 3), Acts of the 72nd Legislature, 1st Called Session, 1991, enacted former Section 403.094(h), Government Code, which abolished certain state fund dedications and resulted in the abolition of the allocation to the foundation school fund effective August 31, 1995.

SECTION 11. 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 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 12. Provides that the changes in law made by this Act to Subchapters J and JJ, Chapter 61, Education Code, apply beginning with loan repayment assistance awarded for the 2017-2018 academic year. Provides that loan repayment assistance awarded for an academic year before the 2017-2018 academic year is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 13. Effective date: September 1, 2017.