

BILL ANALYSIS

C.S.H.B. 2341
By: Darby
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, interested parties note, nonprofit and religious organizations in Texas offer job training and placement services to Texans who face barriers to employment such as homelessness, disability, limited education, or a history of incarceration. Some of these organizations, the parties continue, raise funds through retail stores that sell donated goods and remit sales tax to the state. C.S.H.B. 2341 seeks to support vocational training and job placement services.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2341 amends the Tax Code to authorize an organization that qualifies as a workforce training community center to retain 50 percent of the sales taxes collected by the organization on sales during the period in which the qualifying organization holds a certification from the comptroller of public accounts. The bill exempts the qualifying organization from being required to remit that amount to the comptroller but requires the qualifying organization to show the amount on a required tax report. The bill defines "workforce training community center" as a retailer that is exempt from the payment of federal income taxes under the federal Internal Revenue Code of 1986 by being listed as a charitable organization under that code; that collects and remits to the comptroller sales taxes imposed on the sale of donated goods; that has significant experience in assisting persons with a disability or other barriers to employment with job training and placement services and uses a portion of its revenue to provide those services; that is affiliated with a national or statewide organization; and that has annual sales of at least \$1 million.

C.S.H.B. 2341 authorizes a retailer to apply to the comptroller for certification as a qualifying organization and requires the comptroller to certify the applicant as a qualifying organization if the comptroller determines that the applicant meets the requirements to be a workforce training community center. The bill requires a qualifying organization to continue to remit to the comptroller sales taxes imposed by a political subdivision of the state and collected on sales with respect to which the qualifying organization retains sales taxes as authorized by the bill. The bill excludes the reimbursement for tax collections and the discount for prepayment of a taxpayer's tax liability from the amount of sales taxes retained as authorized by the bill.

C.S.H.B. 2341 limits a qualifying organization's use of retained money, except as otherwise provided, to providing a variety of job training and placement services to persons with a disability or other barriers to employment; developing an individualized written training and employment plan for each person assisted to ensure appropriate and successful job placement; and monitoring job retention for each person placed for the first 90 days of employment and providing additional services as needed to support job retention or acquisition of a different job. The bill authorizes a qualifying organization in its first year of certification to use the retained money to improve its infrastructure and otherwise prepare to provide these services but specifies that this authorization does not apply to the period after a qualifying organization's certification is renewed. The bill requires a qualifying organization, after its first year of certification and for every \$10,000 in retained sales tax collections, to provide job training and placement services to at least three persons and to successfully place an average of at least 2.25 persons in jobs.

C.S.H.B. 2341 establishes that a retailer that is certified as a qualifying organization retains that certification until the third anniversary of the date of certification. The bill authorizes the comptroller, at any time after a qualifying organization's first year of certification, during the certification period, to require the qualifying organization to demonstrate, in a manner prescribed by the comptroller, that the qualification organization has not used any retained tax collections for a purpose other than those allowed after the first year of certification and that the qualifying organization is successfully meeting or has successfully met, as applicable, the requirements that the organization provide services to at least three persons and place an average of at least 2.25 persons in jobs. The bill makes this authorization a requirement at the conclusion of the certification period.

C.S.H.B. 2341 authorizes the comptroller, after written notice and a hearing, to revoke a certification issued to a retailer that fails to comply with the bill's provisions or a rule adopted therein. The bill entitles a retailer whose certification the comptroller proposes to revoke to 20 days' written notice of the time and place of the hearing on the revocation stating the reason the comptroller is seeking to revoke the retailer's certification. The bill requires the retailer to show cause at the hearing why the retailer's certification should not be revoked. The bill requires the comptroller to give written notice of a certification revocation to the retailer that was certified, which may be sent by mail to the retailer's address as shown in the comptroller's records. The bill requires the comptroller to require an organization whose certification was revoked to remit an amount of its retained tax collections in the comptroller's discretion, but not to exceed \$3,333 per person not successfully placed in a job.

C.S.H.B. 2341 authorizes a retailer that is certified as a qualifying organization to apply to renew the certification and authorizes the comptroller to renew a retailer's certification only if the retailer has complied with all requirements during the applicant's certification period and with any other requirements for renewal as prescribed by rules adopted by the comptroller.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2341 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter I, Chapter 151, Tax Code, is amended by adding Section

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter I, Chapter 151, Tax Code, is amended by adding Section

151.433 to read as follows:

Sec. 151.433. USE OF SALES TAX COLLECTIONS FOR JOB TRAINING AND PLACEMENT. (a) In this section:

(1) "Qualifying organization" means a retailer certified by the comptroller under Subsection (b).

(2) "Workforce training community center" means a retailer that:

(A) is exempt from the payment of federal income taxes under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code;

(B) collects and remits to the comptroller sales taxes imposed on the sale of donated goods;

(C) has a core mission of assisting persons with disabilities or other barriers to employment with job training and placement services and uses a majority of its revenue to provide those services;

(D) is affiliated with a national or statewide organization; and

(E) has annual sales of at least \$1 million.

(b) A retailer may apply to the comptroller for certification as a qualifying organization under this section. If the comptroller determines that the applicant meets the requirements to be a workforce training community center, the comptroller shall certify the applicant as a qualifying organization.

(c) Notwithstanding any other law, a qualifying organization is not required to remit to the comptroller and may retain 50 percent of the sales taxes imposed under this chapter and collected by the organization on sales during the period in which the qualifying organization holds a certification under Subsection (b). The qualifying organization must show the amount retained on a tax report required by this chapter in addition to the information required by Section 151.406.

(d) A qualifying organization shall continue to remit to the comptroller sales taxes imposed by a political subdivision of this state and collected on sales with respect to which the qualifying organization retains sales taxes as authorized by Subsection (c).

(e) The reimbursement authorized by Section 151.423 and the deduction authorized by Section 151.424 do not apply with respect to the amount of sales taxes

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(A) is exempt from the payment of federal income taxes under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code;

(B) collects and remits to the comptroller sales taxes imposed on the sale of donated goods;

(C) has significant experience in assisting persons with a disability or other barriers to employment with job training and placement services and uses a portion of its revenue to provide those services;

(D) is affiliated with a national or statewide organization; and

(E) has annual sales of at least \$1 million.

(b) A retailer may apply to the comptroller for certification as a qualifying organization under this section. If the comptroller determines that the applicant meets the requirements to be a workforce training community center, the comptroller shall certify the applicant as a qualifying organization.

(c) Notwithstanding any other law, a qualifying organization is not required to remit to the comptroller and may retain 50 percent of the sales taxes imposed under this chapter and collected by the organization on sales during the period in which the qualifying organization holds a certification under Subsection (b). The qualifying organization must show the amount retained on a tax report required by this chapter in addition to the information required by Section 151.406.

(d) A qualifying organization shall continue to remit to the comptroller sales taxes imposed by a political subdivision of this state and collected on sales with respect to which the qualifying organization retains sales taxes as authorized by Subsection (c).

(e) The reimbursement authorized by Section 151.423 and the deduction authorized by Section 151.424 do not apply with respect to the amount of sales taxes

retained as authorized by Subsection (c).

(f) Except as provided by Subsection (g), a qualifying organization shall use money retained as authorized by Subsection (c) only to:

(1) provide a variety of job training and placement services to persons with two or more disabilities or other barriers to employment, including low educational attainment, a criminal record, homelessness, and veteran status;

(2) develop an individualized written training and employment plan for each person assisted to ensure appropriate and successful job placement; and

(3) monitor job retention for each person placed for the first 90 days of employment and provide additional services as needed to support job retention or acquisition of a different job.

(g) In its first year of certification, a qualifying organization may use money retained as authorized by Subsection (c) to improve its infrastructure and otherwise prepare to provide services described by Subsection (f). This subsection does not apply to the period after a qualifying organization's certification is renewed under Subsection (m).

(h) After the period described by Subsection (g), for every \$10,000 in sales tax collections retained under this section a qualifying organization:

(1) shall provide job training and placement services to at least three persons, including services related to job-seeking skills and vocational skills training, job placement, job coaching, and post-employment support; and

(2) must successfully place an average of at least 2.25 persons in jobs.

(i) Subject to Subsection (j), a retailer that is certified as a qualifying organization retains that certification until the third anniversary of the date of certification. At any time after the period described by Subsection (g) during the certification period, the comptroller may, and at the conclusion of the certification period the comptroller shall, require the qualifying organization to demonstrate, in a manner prescribed by the comptroller, that the qualifying organization:

(1) has not used any tax collections retained under this section for a purpose other than a

retained as authorized by Subsection (c).

(f) Except as provided by Subsection (g), a qualifying organization shall use money retained as authorized by Subsection (c) only to:

(1) provide a variety of job training and placement services to persons with a disability or other barriers to employment, including low educational attainment, a criminal record, homelessness, and veteran status;

(2) develop an individualized written training and employment plan for each person assisted to ensure appropriate and successful job placement; and

(3) monitor job retention for each person placed for the first 90 days of employment and provide additional services as needed to support job retention or acquisition of a different job.

(g) In its first year of certification, a qualifying organization may use money retained as authorized by Subsection (c) to improve its infrastructure and otherwise prepare to provide services described by Subsection (f). This subsection does not apply to the period after a qualifying organization's certification is renewed under Subsection (m).

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(i) Subject to Subsection (j), a retailer that is certified as a qualifying organization retains that certification until the third anniversary of the date of certification. At any time after the period described by Subsection (g) during the certification period, the comptroller may, and at the conclusion of the certification period the comptroller shall, require the qualifying organization to demonstrate, in a manner prescribed by the comptroller, that the qualifying organization:

(1) has not used any tax collections retained under this section for a purpose other than a

purpose described by Subsection (f) after the first year of certification; and (2) is successfully meeting or has successfully met, as applicable, the requirements described by Subsection (h).

(j) The comptroller, after written notice and a hearing, may revoke a certification issued to a retailer that fails to comply with this chapter or a rule adopted under this chapter. A retailer whose certification the comptroller proposes to revoke under this section is entitled to 20 days' written notice of the time and place of the hearing on the revocation. The notice must state the reason the comptroller is seeking to revoke the retailer's certification. At the hearing the retailer must show cause why the retailer's certification should not be revoked.

(k) The comptroller shall give written notice of the revocation of a certification under Subsection (j) to the retailer that was certified under this section. The notice may be sent by mail to the retailer's address as shown in the comptroller's records.

(l) The comptroller shall require an organization whose certification was revoked under Subsection (j) to remit an amount of tax collections retained under this section in the comptroller's discretion, but not to exceed \$3,333 per person not successfully placed in a job in accordance with Subsection (h)(2).

(m) A retailer that is certified as a qualifying organization may apply to renew the certification. The comptroller may renew a retailer's certification only if the retailer has complied with all requirements during the applicant's certification period and with any other requirements for renewal as prescribed by rules adopted by the comptroller.

SECTION 2. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. 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 3. This Act takes effect September 1, 2015.

purpose described by Subsection (f) after the first year of certification; and (2) is successfully meeting or has successfully met, as applicable, the requirements described by Subsection (h).

(j) The comptroller, after written notice and a hearing, may revoke a certification issued to a retailer that fails to comply with this chapter or a rule adopted under this chapter. A retailer whose certification the comptroller proposes to revoke under this section is entitled to 20 days' written notice of the time and place of the hearing on the revocation. The notice must state the reason the comptroller is seeking to revoke the retailer's certification. At the hearing the retailer must show cause why the retailer's certification should not be revoked.

(k) The comptroller shall give written notice of the revocation of a certification under Subsection (j) to the retailer that was certified under this section. The notice may be sent by mail to the retailer's address as shown in the comptroller's records.

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SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.