

SUBJECT: Limited immunity from civil liability for tax assessor-collectors

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 6 ayes — Gray, Hilbert, Alvarado, Bosse, Roman, Zbranek
0 nays
3 absent — Dutton, Goodman, Nixon

WITNESSES: For — Sue Glover, Texas Association of Counties; Mary Horn; Donald Lee, Conference of Urban Counties; Helen Walker, Victoria County Judge; Ray Cornett, Tax Assessors and Collectors Association; Jim Allison, County Judges and Commissioners Association of Texas; Luanne Caraway
Against — None

DIGEST: CSHB 2864 would stipulate that county tax assessor-collectors are not liable in any civil cause of action commenced after their term of office ends for conduct administering funds during their term of office, unless the comptroller has conducted an audit of the office during that assessor collector's term.

The comptroller would have to provide notice of an audit no later than a year after the assessor-collector leaves office and conduct the audit no later than the second anniversary of the date the term of office ended. A civil action would have to commence no later than 90 days after the audit was completed or the date imposed by any applicable statute of limitations.

If tax assessor-collectors did not complete their term, their term of office would be defined as the date the term expired under law.

CSHB 2864 would apply only to tax assessor-collectors serving on or after September 1, 1997.

SUPPORTERS
SAY:

CSHB 2864 would protect tax assessor-collectors from being held personally liable for tax shortages that turn up during an audit conducted years after the assessor-collector has left office. When a new tax-assessor collector takes office, a number of state agencies audit the office. However, assessor-collectors are rarely audited during their term of office. A tax assessor-collector who has been in office twenty years may never be audited by the comptroller or another state agency. However, three years after a new tax assessor-collector takes office, an audit may turn up shortfalls that occurred 15 years ago, during the previous assessor collector's term. Under current law, the previous tax-assessor collector would be held personally liable for these funds.

CSHB 2864 would place time limits and controls on the personal liability of tax-assessor collectors so that they would not have to fear being held liable for shortfalls during their term years after they have left office. Assessor collectors would not be exempt from criminal liability if the funds were missing as the result of criminal activity. The bill would make it clear that state agencies should either order frequent audits or release assessor collectors from liability.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The committee substitute eliminated a provision exempting tax-assessor collectors from criminal liability if an audit were conducted.