

**SUBJECT:** Repealing tax prepayments and funds transfers for fiscal 2014

**COMMITTEE:** Appropriations — favorable, without amendment

**VOTE:** 24 ayes — Pitts, Sylvester Turner, Ashby, Bell, G. Bonnen, Carter, Crownover, Darby, Giddings, Gonzales, Howard, Hughes, S. King, Longoria, Márquez, Muñoz, Orr, Otto, Patrick, Perry, Price, Raney, Ratliff, Zerwas

0 nays

3 absent — S. Davis, Dukes, McClendon

**SENATE VOTE:** On final passage, March 5 — 30-0

**WITNESSES:** *(On House companion bill, HB 1062)*  
For — *(Registered, but did not testify:* Doug DuBois, Jr., Texas Food and Fuel Association)  
  
Against — None  
  
On — *(Registered, but did not testify:* Bryant Lomax, Texas Comptroller of Public Accounts)

**BACKGROUND:** The 82<sup>nd</sup> Legislature, in its first-called session in 2011, enacted SB 1 by Duncan, requiring a business that collected sales tax to make a prepayment of taxes due in September 2013, and authorizing other certain funds transfers. The prepayment was set at 25 percent of the amount of taxes due in August 2013, which would be counted as a credit on sales taxes due in September 2013.

**DIGEST:** **Tax prepayments.** SB 559 would repeal statutory provisions added in 2011 that required a prepayment of limited sales, use, and excise taxes, and taxes collected for motor fuels and various alcoholic beverages.

**Fund transfers.** The bill would repeal Tax Code sec. 162.503(b) and sec. 162.504(b), enacted in 2011, which required the comptroller to delay to September 2013 allocating gasoline and diesel tax revenue to the

Available School Fund and the State Highway Fund (Fund 6) for July and August of that year.

In addition, the bill would repeal Government Code, sec. 466.355(c), which requires the comptroller each August to estimate the amount to be transferred to the Foundation School Fund on or before September 15, and transfer the estimated amount to the Fund before August 25.

**Effective date.** This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, only the section repealing Government Code, sec. 466.355(c), would take effect on September 1, 2013.

SUPPORTERS  
SAY:

SB 559 would undo now unnecessary accounting measures that the 82<sup>nd</sup> Legislature in 2011 enacted to balance the state budget in light of a severe estimated shortfall. Reversing the measures would improve transparency and reduce administrative costs.

The accounting measures, which the Legislature has turned to in the past, were successful in allowing the state to budget more funds for schools and health care for fiscal 2012-13. However, the comptroller in January, 2013, released a Biennial Revenue Estimate with an \$8.8 billion estimated positive ending balance for fiscal 2013. The substantial ending balance meant that, even after appropriating supplemental funds for emergency needs in fiscal 2012-13, there is sufficient revenue without the prepayments and fund transfers.

**Tax prepayments.** To make more revenue available for the 2012-13 biennium, the Legislature enacted various tax prepayments, or speed-ups, designed to shift to fiscal 2013 revenue that otherwise would be collected in 2014. The speed-ups required a 25 percent prepayment of September 2013 sales tax, motor fuels taxes and alcoholic beverages taxes no later than August 31, 2013, where the payments would be credited to fiscal 2013 and therefore the preceding biennium.

SB 559 provides the statutory authorization necessary to prevent the prepayment requirement from taking effect. Enacting legislation that precluded the early payments in a timely fashion would relieve the comptroller from having to begin taking the necessary steps to ensure that taxpayers were adequately notified of the prepayment requirement.

**Funds transfers.** SB 559 would repeal a requirement that the comptroller delay allocating gas and diesel taxes destined for the Available School Fund and Fund 6 until September 2013. Since these funds are first collected in the general revenue account, holding off on the transfer to other accounts gives the appearance of more general revenue being available for fiscal 2013. The bill would eliminate the unnecessary and misleading delay in transfer.

SB 559 also would repeal a lottery payment transfer speed-up provision that the 77th Legislature enacted in 2001. The measure required the comptroller to estimate funds going to the Foundation School Fund from the state lottery account and make the transfer early, on August 25. The provision resulted in a \$65 million increase in revenue available for certification for fiscal 2002; reversing it would have a negative fiscal impact of \$96.4 million for fiscal 2013. While it would have a negative fiscal impact for fiscal 2013, eliminating the lottery speed-up would enhance honesty and transparency in budgeting — priorities that have taken a front seat in the 83rd legislative session.

**OPPONENTS  
SAY:**

While the majority of SB 559 would just shift revenue from fiscal 2014 to the year prior, the repeal of the 2001 lottery transfer speed-up would have a cost of \$96.4 million to the Foundation School Fund for fiscal 2013. The added cost ultimately would mean that less general revenue would be available for pressing state priorities.

**NOTES:**

The Legislative Budget Board estimates SB 559 would result in a negative fiscal impact of \$864.3 million in general revenue funds for fiscal 2012-13 and a positive fiscal impact of \$767.9 million in general revenue funds for the fiscal 2014-15 biennium. The LBB estimates the measure also would result in a one-time loss to the Foundation School Fund of \$96.4 million for fiscal 2013.

The House companion bill, HB 1062 by Pitts, was left pending in the House Appropriations Committee on February 25.