

BILL ANALYSIS

Senate Research Center
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S.B. 242
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the comptroller of public accounts (comptroller) is granted rulemaking authority relating to contested cases involving the collection, administration, and enforcement of a tax imposed under Title 2 (State Taxation), Tax Code, and any other tax or fee that the comptroller is required to collect. This situation allows for the possibility of a conflict of interest on the part of the comptroller.

As proposed, S.B. 242 gives the State Office of Administrative Hearings (SOAH) the authority to hear contested tax cases on behalf of the comptroller. This bill moves the administrative law judges that hear such cases from the comptroller's office to a tax division within SOAH, and requires SOAH to charge the comptroller's office a fixed annual fee, to be negotiated biennially to coincide with the comptroller's legislative appropriations request, for services rendered by the tax division.

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 Subchapter A, Chapter 111, Tax Code, by adding Section 111.00455, as follows:

Sec. 111.00455. CONTESTED CASES PERFORMED BY TAX DIVISION OF STATE OFFICE OF ADMINISTRATIVE HEARINGS. Requires the tax division (division) of the State Office of Administrative Hearings (SOAH) to perform any contested case hearing relating to the collection, administration, and enforcement of certain state taxes and any other taxes required to be collected by the comptroller of public accounts (comptroller). Sets forth a list of hearings that are not contested cases under this section and Section 2003.0491, Tax Code. Provides that references in law to the comptroller relating to the performance of certain contested case hearings means the division.

SECTION 2. Amends Subchapter C, Chapter 2003, Government Code, by adding Section 2003.0491, as follows:

Sec. 2003.0491. TAX DIVISION. (a) Requires SOAH to establish a division to conduct hearings regarding contested cases as prescribed by Section 11.00455, Tax Code.

(b) Authorizes only administrative law judges (judges) in the division to conduct hearings on behalf of the comptroller. Authorizes judges in the tax division to conduct hearings for other state agencies as time allows.

(c) Sets forth the list of eligibility requirements for a person to serve as a judge in the division.

(d) Authorizes SOAH to transfer a senior or master judge to the division for employment. Requires these judges to have a working knowledge of state tax laws obtained through certain means.

(e) Requires the comptroller to provide the judge a list of issues or areas to be addressed at the point the office receives jurisdiction of a proceeding. Authorizes the comptroller to identify and provide additional issues required to be addressed.

(f) Authorizes a judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, to impose appropriate sanctions as provided by Subsection (g) against a party or its representative for filing a motion or pleading that is groundless and brought in bad faith for certain purposes for abuse of the discovery process, or for failure to obey an order of the administrative law judge or the comptroller.

(g) Authorizes a sanction imposed under Subsection (f) to include, as appropriate and justified, issuance of an order requiring certain actions or imposing certain conditions.

(h) Requires SOAH to charge the comptroller a fixed annual fee, rather than an hourly rate, for services rendered by the division. Requires the amount of the fee to be based on certain applicable costs. Requires SOAH and the comptroller to negotiate the amount of the fixed fee biennially to coincide with the comptroller's legislative appropriations request.

SECTION 3. Makes application of this Act toward any previously established interagency contracts between the comptroller and SOAH prospective.

SECTION 4. Makes application of this Act toward the procedures governing hearings before the division prospective.

SECTION 5. Effective date: September 1, 2007.