
Local Government Committee

HB 1158

Brief Description: Modifying county treasurer administrative provisions.

Sponsors: Representatives Takko and Alexander.

Brief Summary of Bill

- Allows the official submission of documents to governmental entities through private delivery services;
- Revises deposit requirements for county departments receiving funds from the county treasurer;
- Changes regulations regarding the treatment of abandoned intangible property;
- Modifies the reporting requirements for governmental agencies regarding unclaimed property;
- Revises interest rate calculation rules with respect to refunds owed to developers for certain unexpended land development fees;
- Shifts responsibility from the county treasurer to the Department of Revenue for the processing of the taxation of certain water rights transfers;
- Links the recordation of boundary line adjustments with the presentation of proof that the requisite taxes have been paid;
- Clarifies regulations regarding the deadline for the payment of unpaid real property tax liens;
- Eliminates refunds from the county treasurer for erroneous tax payments made by third parties without a legal interest in the property.

Hearing Date: 1/27/05

Staff: Thamas Osborn (786-7129).

Background:

The county treasurer (treasurer) operates under the authority of various state statutes relating to the receipt, processing, and disbursement of funds. The treasurer is the custodian of the county's money and the administrator of the county's financial transactions. In addition to his or her duties relating to county functions, the treasurer provides financial services to special purpose districts and other units of local government, which include responsibility for the receipt, disbursement, investment, and accounting of the funds of each of these entities. The treasurer is also responsible for the collection of various taxes, including legal proceedings to collect past due amounts. Furthermore, the treasurer has other miscellaneous duties such as conducting bond sales and sales of surplus county property.

Note: The numbered background sections, set forth below, directly correspond to the numbered bill summary sections which follow.

1) Requirements for the filing of documents with governmental entities.

Documents transmitted to state governmental entities through the United States mail are deemed to have been filed or received by such governmental entity on the date shown by the post office cancellation mark stamped upon the envelope or other wrapper. Where a document was either mailed and not received, or the required cancellation mark is illegible or missing, the document is deemed to have been timely received by the governmental entity provided competent evidence is provided by the sender showing that the document was sent on or before the required date for filing.

2) Collection services provided by county treasurer.

The treasurer may provide services to other county departments with respect to the collection of various funds. Upon the receipt of such funds from the county treasurer, a county department must deposit the funds within 24 hours unless a special waiver is granted by the treasurer.

3) Regulations regarding the retention and/or disposition of abandoned intangible property.

With the exception of property required to be forwarded to the Department of Revenue pursuant to state statute, a local government holding abandoned intangible property need not maintain current records of such property for more than five years after the property was abandoned. After this five year period has run, a local government may archive its records and transfer the property to its general fund. However, the local government is required to reimburse the original property owner if the owner can subsequently establish his ownership. "Intangible property" includes, but is not limited to: money, checks, deposits, interest, dividends, credit balances, stocks, trust funds, pension rights, various types of financial accounts, and other forms of intangible wealth.

4) Reporting requirements for governmental entities regarding unclaimed property.

Pending a claim and proof of ownership being established, governmental entities, including counties, are allowed to retain various categories of unclaimed funds they are holding pursuant to the Uniform Unclaimed Property Act. Such funds include certain cancelled warrants, uncashed checks, excess proceeds from property tax foreclosures, and property tax overpayments. Governmental entities are required to file reports to the Department of Revenue regarding the retention of such property that include the identification of the property and the owner.

5) Changes to regulations regarding the calculation of certain interest rates owed to developers as the result of payment refunds.

As a general rule, the state preempts local governmental entities with respect to the collection of most types of excise taxes. Except for the collection of specified impact fees as expressly

allowed by statute, local governments are precluded from imposing taxes, fees, or charges related to the development of buildings or land. However, a local government may enter into a voluntary agreement with a developer in which the developer is allowed to pay a fee in lieu of a dedication of land or to mitigate an impact resulting from a proposed development. Such agreements are subject to several requirements, including the requirement that under certain conditions the developer must be refunded such payments, with interest, if the payments are not timely expended by the local government. In this event, the interest must be calculated at the same rate as applied to interest on judgements owed to property owners, which is a fixed rate of 12 percent.

6) Regulations regarding the collection of excise taxes on certain transfers of water rights.

Subject to certain exceptions, the processing of excise taxes for the sale of real property and certain water rights is the responsibility of the county treasurer.

7) Regulations regarding the payment of taxes and the recording of boundary line adjustments.

State law does not require the presentation of proof to the county auditor that the requisite tax payments have been made as a condition precedent to the boundary line adjustment being recorded by the county.

8) Clarification of regulations regarding the deadline for the payment of unpaid real property tax liens. Persons having claims to real property subject to unpaid real property tax liens may satisfy the lien at any time before the *execution of the deed of trust* to the property.

9) Changes to regulations on payments to third parties regarding refunds for property tax errors.

County treasurers are subject to regulations regarding the payment of refunds on certain erroneously paid property taxes. The types of errors entitling a payee to a refund include, but are not limited to:

- taxes paid more than once;
- paid as the result of clerical or other record keeping errors by government entities;
- paid under levies or statutes later found to be illegal;
- paid by a person legally exempted from paying real property taxes; or
- certain payments made on the basis of an improperly calculated property value assessment.

Under certain circumstances, erroneous payments made by third parties having no legal interest in the property are also subject to refunds.

Summary of Bill:

1) Requirements for the filing of documents with governmental entities.

Documents transmitted to governmental entities through private third-party delivery services are subject to the same proof of delivery standards applied to documents sent through the United States mail. A record of the shipping date or delivery date authenticated by the private third-party delivery service will be deemed competent evidence of such shipping or delivery date.

2) Collection services provided by county treasurer.

Specifies that money received by a county department from the treasurer must be deposited within 24 hours in an account designated by the treasurer unless a waiver is granted by the treasurer.

3) Regulations regarding the retention and/or disposition of abandoned intangible property.

Revises the regulations regarding the retention of governmental records regarding abandoned intangible property so as to limit the maintenance of such records to a period of three years with respect to intangible property obtained pursuant to tax lien foreclosure proceedings. In addition,

with respect to intangible property obtained pursuant to tax lien foreclosure proceedings, a local government is no longer liable per se for reimbursement to the original owner of the property if the owner is subsequently identified.

4) Reporting requirements for governmental entities regarding unclaimed property.

Counties are exempted from the reporting requirements imposed on other governmental entities under the Uniform Unclaimed Property Act (Act) regarding the retention of certain categories of unclaimed funds. Under the Act, all other governmental entities are required to file reports to the Department of Revenue regarding the retention of such property that include the identification of the property and the owner

5) Changes to regulations regarding the calculation of certain interest rates owed to developers as the result of payment refunds.

The calculation of interest rates owed to developers on refunds from local governments for certain unexpended land development payments are revised. The revision requires that the interest be calculated at a variable rate calculated consistent with the regulations concerning certain tax refunds, rather than the current fixed rate of 12 percent.

6) Regulations regarding the collection of excise taxes on certain transfers of water rights.

Responsibility for processing the taxation of certain transfers of water rights is shifted from the county treasurer to the Department of Revenue (Department). The county treasurer must report such water rights transfers to the Department within five days of the transfer and in accordance with the regulations of the Department.

7) Regulations regarding the payment of taxes and the recording of boundary line adjustments.

A person must present the requisite proof to the county auditor that taxes have been paid before a boundary line adjustment may be recorded by the county.

8) Clarification of regulations regarding the deadline for the payment of unpaid real property tax liens. Revises the deadline for the payment of unpaid liens by allowing persons having claims to real property subject to unpaid tax liens to satisfy such liens at any time before the *filing of a certificate of delinquency or judgment* as provided under the pertinent lien foreclosure statutes.

9) Changes to regulations regarding payments to third parties regarding refunds for property tax errors. Third parties who erroneously pay taxes on property in which they have no legal interest are no longer entitled to refunds from the county treasurer.

Appropriation: None.

Fiscal Note: Requested on January 24, 2005.

Effective Date: The bill takes effect on August 1, 2005.