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SENATOR FLORENCE SHAPIRO
DISTRICT 8

JUL 25 2003

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The Senate of The State of Texas

July 17, 2003

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OPINION COMMITTEE

Office of Attorney General
209 West 14th Street
P.O. Box 12548
Austin, TX 78711-2548

RQ-0085-GA

FILE # ML-43198-03

I.D. # 43198

Attention: Nancy Fuller, Opinion Committee

Re.: HB 3534, 78th Legislative Session

Please accept the following as my written formal request for the Opinion Committee to consider the following issue.

Background

Currently, state law permits the point-of-collection for sales tax to be at a billing office which may be different from the point-of-sale, or merchandise delivery, shipping, etc. Recently, it was brought to my attention that some cities have been promoting the establishment of what can be termed as a "sales tax billing office". Under this arrangement, companies contract with the billing office and send billing instructions to "re-invoice" items. The billing office, then, becomes the "new" point-of-sale. By simply brokering a shift in the point-of-sales tax accounting from the city who voted and earned it, the city who established the "sales tax billing office" can amass extreme sales on paper with virtually no investment, infrastructure, or employment. I sponsored HB 3534 which halts the practice of allowing an outlet, office, facility, or location that might be different from the point-of-sale, merchandise delivery and/or shipping to be the point-of-collection in order to avoid a higher municipal sales tax than at the actual point-of-sale. No new contracts could be promulgated past May 27, 2003, date of passage of this bill.

Problem

While reading the newspaper, I noticed an article (enclosed) pertaining to this issue. In the article, a city council voted to take "quick action in order to participate in this loophole before Governor Perry signed HB 3534 into law" (after May 27, 2003).

In Section 3, Lines 17-20 of the bill, I specifically made a point not to harm a city's budget who may be receiving current income from these accounting methods as long as



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the contract was in existence prior to May 27, 2003. If this is the case, the new law would not go into effect immediately, but allow them to gradually reduce their participation over a two-year period (September 1, 2005).

Questions

First, may *Mansfield* or *any city* that has a company with a current presence in said city enact a contract over the next two years?

Can *new* contracts be established between cities and corporations after May 27, 2003, or before being signed into law by the Governor and if so, what are the parameters for such an agreement?

Lastly, if a longer than two-year contract between a city and corporation was established before May 27th, will the contract become void on September 1, 2005, or be allowed to continue until the expiration date?

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Florence Shapiro".

Senator Florence Shapiro

Enclosure

