

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 7, 2003**

**TO:** Honorable Ron Wilson, Chair, House Committee on Ways & Means

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB109** by Chavez (Relating to customs brokers.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB109, Committee Report 1st House, Substituted: a negative impact of (\$27,782,000) through the biennium ending August 31, 2005.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	(\$9,924,000)
2005	(\$17,858,000)
2006	(\$18,702,000)
2007	(\$19,559,000)
2008	(\$20,428,000)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain/(Loss) from <i>Cities</i>	Probable Revenue Gain/(Loss) from <i>Transit Authorities</i>	Probable Revenue Gain/(Loss) from <i>Counties/Special Districts</i>
2004	(\$9,924,000)	(\$1,817,000)	(\$655,000)	(\$227,000)
2005	(\$17,858,000)	(\$3,790,000)	(\$1,366,000)	(\$474,000)
2006	(\$18,702,000)	(\$3,946,000)	(\$1,422,000)	(\$493,000)
2007	(\$19,559,000)	(\$4,103,000)	(\$1,479,000)	(\$513,000)
2008	(\$20,428,000)	(\$4,263,000)	(\$1,536,000)	(\$533,000)

**Fiscal Analysis**

The bill would amend Chapter 151 of the Tax Code to require the Comptroller to maintain a website that customs brokers would use to prepare documentation to show the sales tax exemption for tangible personal property exported outside the United States.

Customs brokers would have to pay to the Comptroller an annual license fee of \$300 for each location from which the broker intended to issue exemption certificates. In the event of a license being issued, the required bond or security would be \$5,000, plus an additional \$1,000 for each place of business. Brokers would have to report quarterly to the Comptroller the total value of tangible personal property and the total amount of corresponding tax for which the broker issued exemption certificates and the total amount of tax refunded in accordance with exemption certificates.

The Comptroller could suspend or revoke a license issued to a customs broker if the broker did not

comply with the requirements relating to issuing documentation showing exportation of property, or if the broker knowingly or intentionally issued documentation that was false to obtain a refund of taxes paid on tangible personal property not exported or to assist another person in obtaining a refund.

The Comptroller could require a customs broker to pay the amount of any tax refunded if the broker did not comply with the documentation requirements. In addition to the amount of the refunded tax, the Comptroller could require the customs broker to pay a penalty in an amount equal to the amount of the refunded tax, but not less than \$500 nor more than \$5,000.

The bill would amend Chapter 151 of the Tax Code to establish under what conditions a customs broker could issue documentation certifying that delivery of tangible personal property was made to a point outside the territorial limits of the United States. Documentation could be issued if: the broker watched the property cross the border of the United States, watched the property being placed on a common carrier for delivery outside the United States, or verified that the purchaser was transporting the property to a destination outside the United States.

To use the third method for issuing documentation, a customs broker would have to examine picture identification of the purchaser, require the purchaser to produce the original receipt for the property, require the purchaser to state the foreign country destination of the property, require the purchaser to state the date and time when the property would be expected to arrive in the foreign country, require the purchaser to sign a form stating the required information and documentation was provided and notifying the purchaser of the liabilities if the property was not properly exported or if a refund was improperly obtained, and require the purchaser to produce proper travel documentation.

The Comptroller would charge \$1 for each export stamp used by customs brokers to certify that property had been exported outside the United States. Revenue from the sale of export stamps could only be used to cover costs related to the administration of the customs broker program. Any unspent money would be deposited to the credit of the General Revenue Fund 0001.

The bill would amend Section 151.307(b) of the Tax Code to require a person claiming the sales tax exemption for tangible personal property exported beyond the territorial limits of the United States to sign documentation certifying that delivery of the property was made outside the United States. The documentation would include language regarding penalties for providing false information to customs brokers.

The Comptroller would be required to revoke the license of a broker who violated the statutes governing the program. A person whose license was revoked could not apply for a new license before the first anniversary of the date on which the license was revoked.

The bill would take effect January 1, 2004.

## **Methodology**

Under current law, proof of export may be shown in several ways. One acceptable method is documentation provided by a U.S. Customs Broker. The bill would allow a person obtaining customs broker documentation to certify that their tangible personal property was exported outside the United States. The bill would shift the responsibility relating to the certification of export from the custom broker to the consumer.

For the purposes of this analysis, it was assumed that, to the degree that consumer certification of exports would be used, losses would occur due to the more lenient nature of such a certification process. Data on taxable retail sales in the counties along Texas' border with Mexico were obtained from Comptroller tax files. It was assumed that five percent of these sales would become non-taxable as the more lenient verification processes yielded non-legitimate refund claims. This product was then multiplied by the state sales tax rate and adjusted for the effective date. The fiscal implications on units of local government were estimated proportionally.

There are approximately 800 customs broker locations currently in operation in Texas. These locations use approximately 2.5 million export stamps each year. The number of locations was multiplied by the

\$300 annual license fee, and the number of stamps was multiplied by the \$1 fee per stamp. These amounts were added to the sales tax implications to determine the final cost to the General Revenue Fund 0001.

### **Local Government Impact**

Local units of government would have a corresponding fiscal impact from sales tax revenues, as indicated in the above table.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JK, JO, SD, WP, SM