

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

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

**April 7, 2003**

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

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

**IN RE: HB2458** by Krusee (Relating to the collection of motor fuel taxes; providing penalties.), As Introduced

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2458, As Introduced: a negative impact of (\$8,471,805) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

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

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2003	(\$982,386)
2004	(\$4,221,122)
2005	(\$3,268,297)
2006	(\$3,363,297)
2007	(\$3,492,297)

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

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE</i> FUND 1	Probable Savings/ (Cost) from <i>GENERAL REVENUE</i> FUND 1	Probable Revenue Gain/(Loss) from <i>AVAILABLE SCHOOL</i> FUND 2	Probable Revenue Gain/(Loss) from <i>STATE HIGHWAY</i> FUND 6
2003	\$0	(\$982,386)	\$0	\$0
2004	(\$13,000)	(\$4,026,122)	(\$182,000)	(\$546,000)
2005	(\$19,000)	(\$3,006,297)	(\$243,000)	(\$728,000)
2006	(\$25,000)	(\$3,006,297)	(\$332,000)	(\$997,000)
2007	(\$33,000)	(\$3,006,297)	(\$453,000)	(\$1,358,000)

Fiscal Year	Change in Number of State Employees from FY 2003
2003	16.3
2004	70.0
2005	67.0
2006	67.0
2007	67.0

**Fiscal Analysis**

The bill would do the following:

- (1) Amend Chapter 153 of the Tax Code by moving the imposition and collection of the motor fuel tax on gasoline and diesel fuel to the point where fuel is removed from the terminal rack. Under current law, the tax is imposed at the distributor level;
- (2) Limit the purchase of tax-free diesel fuel to only dyed diesel. Under current law, certain permitted agricultural end users can purchase clear diesel tax free for off-road use;
- (3) Allow the purchase and sale of aviation gasoline and jet fuel without a permit. Under current law a permit is required for these transactions;
- (4) Require a license for motor fuel retail dealers, kerosene dealers, and terminal operators. Under current law, these entities are not required to be permitted or licensed;
- (5) Allow third-party contractors for the federal government to purchase motor fuel tax-free for work they perform as a federal government contractor;
- (6) Institute a new filing allowance schedule for the remittance of motor fuel taxes on gasoline and diesel fuel. The new collection allowances would be 0.5 percent of the tax remitted for distributors and 0.25 percent of the tax remitted for licensed suppliers. Under current law, a permitted distributor is allowed a two percent filing allowance;
- (7) Allow some "exempt users" of motor fuel, as defined, to purchase motor fuel tax-free. Under current law, most of these users must purchase motor fuel tax paid and then apply for a refund of the tax paid; and,
- (8) Repeal certain sections of the Tax Code dealing with general provisions of motor fuel taxation.

The bill would take effect September 1, 2003.

### **Methodology**

This note is based on analyses provided by the Comptroller's Office.

Comptroller staff estimated the implications of the bill provisions changing the allowed filing fees, and for allowing third party contractors for the federal government to purchase specified motor fuel tax-free. Allowances were also made for allowing "exempt users" to purchase specified motor fuel tax free. An allowance was also made in fiscal 2004 for the statutory lag in motor fuel tax remittances

The Comptroller administrative cost estimate reflects the funds that would be required to amend rules, create and generate new forms, notify taxpayers, and create and revise publications. Software would have to be rewritten to handle the change in where the tax was collected. Additional personnel would need to be hired for the revenue divisions to handle the increased payment processing and the numerous refunds for overpayment of taxed fuel sold to exempt organizations. The workload for the audit and enforcement divisions also would increase.

The Comptroller presumes that the bill would not reduce fuel tax fraud and thereby effect revenue gains.

The estimated revenue losses arise primarily from the provision that third-party contractors would be able to purchase fuel tax-free for work they perform for the federal government.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

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

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