

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 8, 2003

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

FROM: John Keel, Director, Legislative Budget Board

IN RE: HJR47 by Merritt (Proposing a constitutional amendment to prohibit an inheritance tax unless approved by a majority of registered voters in a statewide referendum.), **As Introduced**

No fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$85,275.

The resolution would propose a constitutional amendment to Article VIII of the Texas Constitution, relating to the imposition of an inheritance tax. Under the proposed amendment, on or after January 1, 2006, no law enacted by the Legislature to impose an inheritance tax, to increase the inheritance tax rate, or to change the inheritance tax in such a way as to likely result in increased revenue from the tax could take effect until voters had approved of the legislation in a statewide referendum. Voter approval would not be necessary if a law that had been approved by the voters were repealed and re-enacted before the first anniversary of the effective date of the repeal.

The proposed amendment would make void and unenforceable any law enacted before January 1, 2006 that imposed an inheritance tax, except for the liability for and collection of taxes imposed on the transfer of property as a result of a death before that date. The proposed constitutional amendment would be submitted to voters at an election to be held November 4, 2003.

Under current law, the state inheritance tax is tied directly to the federal estate tax. Federal law establishes the amount of the estate subject to the tax, tax rates, and due dates. Federal law allows the tax to be shared between the state and the federal government and it establishes the state share of the tax, called the state death tax credit. If the state does not collect the state death tax credit, the taxpayer will be liable to the federal government for the amount of the credit. The tax is due nine months after the date of death.

Beginning with deaths occurring in calendar 2002, federal law mandates the reduction in the state share by 25 percent each year until the state share is eliminated. The federal estate tax is also being phased-out under federal law, but at a slower rate. Beginning in 2011 the federal tax will be reinstated, unless subsequent legislation makes the repeal permanent. Under current state law, if the federal law is reinstated, the state tax would return as well.

Except for the costs of publication, the proposed amendment would have no fiscal impact to the state, unless the federal tax resumes. If the federal tax resumes, the state would be prohibited from collecting the state share unless a law were enacted and subsequently approved by the voters.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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