LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005

June 22, 2005

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **HB3** by Keffer, Jim (Relating to property tax relief and protection of taxpayers, taxes and fees, and other matters relating to the financing of public schools; providing civil and criminal penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3, As Introduced: a positive impact of $8,515,780,000 through the biennium ending August 31, 2007, if the bill receives two-thirds vote; or a positive impact of $7,739,703,000 through the biennium ending August 31, 2007, if the bill does not receive two-thirds vote.

The following tables presume passage by two-thirds majority vote.

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6	Probable Revenue Gain/(Loss) from *School Districts*	Probable Revenue Gain/(Loss) from *Cities*
2006	$3,833,703,000	$3,686,000	($3,864,491,000)	$52,853,000
2007	$4,682,077,000	$4,638,000	($4,540,232,000)	$72,994,000
2008	$4,843,872,000	$4,869,000	($4,728,740,000)	$83,122,000
2009	$5,088,907,000	$5,114,000	($4,917,617,000)	$88,287,000
2010	$5,237,531,000	$5,367,000	($5,121,249,000)	$93,793,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Counties/Special Districts*	Probable Revenue Gain/(Loss) from *Transit Authorities*
2006	$6,577,000	$18,181,000
2007	$9,083,000	$25,110,000
2008	$10,343,000	$28,594,000
2009	$10,987,000	$30,370,000
2010	$11,672,000	$32,264,000

The following tables presume passage by less than a two-thirds majority vote.

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6	Probable Revenue Gain/(Loss) from *School Districts*	Probable Revenue Gain/(Loss) from *Cities*
2006	$3,057,626,000	$2,580,000	$0	$42,282,000
2007	$4,682,077,000	$4,638,000	($4,540,232,000)	$72,994,000
2008	$4,843,872,000	$4,869,000	($4,728,740,000)	$83,122,000
2009	$5,088,937,000	$5,114,000	($4,917,617,000)	$88,287,000
2010	$5,237,531,000	$5,367,000	($5,121,249,000)	$93,793,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Counties/Special Districts*	Probable Revenue Gain/(Loss) from *Transit Authorities*
2006	$5,262,000	$14,546,000
2007	$9,083,000	$25,110,000
2008	$10,343,000	$28,594,000
2009	$10,987,000	$30,370,000
2010	$11,672,000	$32,264,000

Fiscal Analysis

The bill relates to property taxes, the implementation of new taxes, the increase in rates for existing taxes, and the expansion of tax bases.

Article 1 would reduce the ad valorem maintenance and operations (M&O) tax rate cap from $1.50 per hundred dollars of valuation to $1.15 per $100 valuation for the 2005 tax year, should the bill receive two-thirds majority vote, and $1.10 each year thereafter. A new subsection would allow any school district election held before September 1, 2005 authorizing a rate cap of at least $1.15 to be sufficient authorization for a rate of $1.15 or less, and a school district election held before January 1, 2006 authorizing a rate cap of at least $1.10 to be sufficient authorization for a rate of $1.10 or less.

Part B of Article 1 would establish the distribution of increases in available state revenue for school district property tax reduction. The Comptroller, before each regular session, would determine the increase, if any, in available state revenue, comparing certain preceding and current state revenue estimates required by Section 49a(a) of the Texas Constitution. The Comptroller would certify to the Legislature the amount of any increase and the school district M&O taxes levied for the second year of the current fiscal biennium. The Comptroller would distribute to school districts 15 percent of any increase in available state revenue for the reduction of school district tax rates. Further, the bill would establish the School Property Tax Relief Fund as an account in the General Revenue Fund. For each of five fiscal years beginning September 1, 2006, the Comptroller would be required to deposit to the credit of the account the amount, if any, by which actual revenue collections from the provisions of this Act exceed the estimated amount of revenue of this Act as estimated on or before the effective date of the Act. The revenue would be distributed in equal amounts in each fiscal year of the biennium based on the taxable value in each school district, as determined by the Comptroller's property value study. The bill would provide additional state aid to school districts as compensation for losses in state funding caused by the proposed tax rate reductions. The bill would require school districts receiving additional state aid for property tax relief to reduce their rollback tax rates commensurate with the additional aid.

Article 2 would amend the current franchise tax and create a tax system under which taxpayers would be able to choose to pay either of two separate taxes. An alternate tax would be based on wages paid to an employee by an employer during a calendar quarter, to which a tax of 1.15 percent would be applied. With some exceptions, a business subject to the tax could elect to pay the alternate tax or the existing tax, providing they paid a minimum of 50 percent of the liability calculated under the other tax. The election could not be changed for three years.

The bill would amend the existing franchise tax by including changing the description of a taxpayer from "corporation" to "taxable entity." The bill defines taxable entity and provides definitions of businesses that would not meet the definition of taxable entity.

The bill would provide that a corporation would add back payments made to related entities for certain types of expenses to the extent they exceed an arm's length rate.

Certain health care providers would receive credits against the tax. The Comptroller would be directed to adopt rules to avoid double taxation with the taxes imposed under the alternate taxes. This article would be effective November 1, 2005 and apply to reports due on or after that date.

Article 3 would amend sales and use taxes. The state sales and use tax rate would increase from 6.25 percent to 7.25 percent. Further, certain computer goods and services, motor vehicle repair services, and bottled water would be taxable under the sales tax. The timely filer discount for sales tax payers would be repealed. These provisions would take effect October 1, 2005, assuming that the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, they would take effect January 1, 2006.

The motor vehicle sales tax rate, the motor vehicle rental tax rate on rentals of more than 30 days and the boat and boat motor sales and use tax rate would increase from 6.25 percent to 7.35 percent. These provisions would take effect October 1, 2005 if the bill received a vote of two-thirds of the members elected to each house. If the bill did not receive the necessary votes for immediate effect, these provisions would take effect January 1, 2006.

The bill would establish a presumptive value for determining the proper amount of motor vehicle sales tax due on certain motor vehicle sales transactions. The presumptive value would be the average retail value of a motor vehicle for motor vehicle sales tax computation purposes. The Texas Department of Transportation (TxDOT) would determine the presumptive value of a motor vehicle based on a nationally recognized motor vehicle industry reporting service. If the amount paid for a motor vehicle in a sales transaction were greater than or equal to the presumptive value, a tax assessor-collector would compute and collect the motor vehicle sales tax due on the amount paid. If, however, the amount paid for a motor vehicle in a sales transaction were less than the presumptive value, the tax assessor-collector would compute and collect the motor vehicle sales tax due on the presumptive value, unless the purchaser could establish a retail value. The bill would allow a purchaser to establish a retail value by obtaining an appraisal certified by an adjuster licensed under Chapter 4101 of the Insurance Code or by a motor vehicle dealer operating under Subchapter B, Chapter 503 of the Transportation Code. Appraisals would have to be on a form prescribed by the Comptroller, and they would have to be obtained no later than the 20th day after purchase. Dealers could charge a fee, set by the Comptroller, for providing the certified appraisal; and the tax assessor-collector would retain a copy of each certified appraisal for a period prescribed by the Comptroller. TxDOT would maintain information on the standard presumptive values of motor vehicles as part of its registration and title system; TxDOT would update the information at least quarterly each calendar year. Standard presumptive value would not apply to even exchange transactions or gift transactions. The provisions relating to standard presumptive value and its use by tax assessor-collectors would take effect November 1, 2005.

Article 4 would raise the tax rates for cigarettes, cigars, and other tobacco products. The bill would raise the cigarette tax rate by $50.00 per 1,000 cigarettes weighing three pounds or less per thousand ($1.00 per pack of 20 cigarettes), to a new rate of $70.50 per 1,000 cigarettes ($1.41 per pack). Cigarette tax revenue generated by the rate increase would be allocated to the General Revenue Fund. The bill would raise the tax rates for all of the tobacco products included in Chapter 155 of the Tax Code. The tax on small cigars (weighing three pounds or less per thousand) would increase from $0.01 per 10 cigars to $.0125 per 10 cigars; the tax on each of the three categories of large cigars ($7.50, $11.00, and $15.00 per thousand) would increase by 25 percent (to $9.375, $13.75, and $18.75 per thousand, respectively); and the tax on tobacco products other than cigarettes and cigars (i.e., snuff; chewing and pipe tobacco) would increase from 35.213 percent to 44.02 percent of the manufacturer's list price. Cigar and tobacco products tax revenue generated by the rate increases would be allocated to the General Revenue Fund. These provisions would take effect September 1, 2005 if the bill received a vote of two-thirds of the members elected to each house. If the bill did not receive the necessary votes for immediate effect, these provisions would take effect November 1, 2005.

Unless otherwise noted, this bill would take effect September 1, 2005, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect November 1, 2005.

Methodology

The estimates in the tables above reflect only revenue changes to the state and affected local governments. The fiscal impact to state public education funding from the decrease in property taxes and the administrative requirements of this bill are not reflected in the tables. Further, the estimates in the tables do not reflect dynamic tax impacts as identified by the Comptroller.

Article 1. Regarding property tax rate reduction, for each school district with an M&O rate above $1.10 ($1.15 for tax year 2005), but at or below $1.50, the M&O rate was reduced to $1.10. No change was made to the tax rates of school districts with M&O rates less than $1.10. A statewide school district M&O levy was calculated at the new rates, trended over the projection period, and subtracted from the statewide M&O levy as calculated and trended under current law. The difference would be the loss to school districts under the bill. Cities, counties and special districts would be unaffected. No estimate is provided for Part B of Article 1.

Article 2. The estimate is based on Comptroller's tax files and on employment and wage information from the Texas Workforce Commission.

Article 3. The fiscal implications of raising the sales tax rate to 7.25 percent and repealing the timely filer discount were estimated using current state sales and use tax revenue projections. The fiscal impact was adjusted for the two potential effective dates. The revenue gains for the State Highway Fund 6 reflect the increased sales tax revenue attributable to motor lubricants. To estimate the implications of taxing bottled water, certain computer services and motor vehicle repair services, data on sales were gathered from industry sources, the U.S. Census Bureau, and Comptroller tax files. Sales were adjusted for Texas, multiplied by the increased state sales tax rate, adjusted for the two potential effective, and extrapolated through fiscal 2010.

The fiscal implications of raising the motor vehicle sales tax and motor vehicle rental tax rates to 7.35 percent were estimated using current motor vehicle sales and motor vehicle rental tax revenue projections. Long-term rental taxes represent approximately five percent of all rental tax revenue collected. The new rates were applied to estimates of adjusted gross rental tax and adjusted for behavioral effects and effective dates. The presumptive value provisions would apply primarily to sales of motor vehicles between individuals, often referred to as "casual" or "private" sales. The estimate assumes an average value of a used vehicle in Texas to be approximately $7,300. The fiscal implications of raising the boat tax rate were estimated using current boat tax revenue projections. The fiscal impact was adjusted for the two effective dates.

Article 4. The proposed cigarette, cigar and other tobacco tax rate increases were estimated using current revenue projections for these taxes, adjusted for declines in taxable consumption in Texas, as well as tax avoidance effects and collection lags.

Local Government Impact

The impacts to local governments are shown in the above tables.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, SD, WP