

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATURE 3rd CALLED SESSION - 2006

April 27, 2006

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: HB4 by Swinford (Relating to motor vehicle sales and use taxes.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4, As Engrossed: a positive impact of \$30,614,000 through the biennium ending August 31, 2007.

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 |
|--------------------|---|
| 2007 | \$30,614,000 |
| 2008 | \$42,281,000 |
| 2009 | \$42,844,000 |
| 2010 | \$43,032,000 |
| 2011 | \$43,141,000 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1 |
|--------------------|---|
| 2007 | \$30,614,000 |
| 2008 | \$42,281,000 |
| 2009 | \$42,844,000 |
| 2010 | \$43,032,000 |
| 2011 | \$43,141,000 |

Fiscal Analysis

The bill would amend Chapter 152 of the Tax Code to establish a presumptive value for determining the proper amount of motor vehicle sales tax due on certain motor vehicle sales transactions.

The bill would establish a presumptive value for all motor vehicles as the private-party transaction 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 an appropriate regional guidebook of a nationally recognized motor vehicle value guide service, or based on another motor vehicle guide publication that TxDOT determined was appropriate.

If the amount paid for a motor vehicle in a sales transaction was greater than or equal to 80 percent of 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 was

less than 80 percent of the presumptive value, the tax assessor-collector would compute and collect the motor vehicle sales tax due on the full presumptive value, unless the purchaser could establish a retail value.

The bill would allow a purchaser to establish a retail value by obtaining documentation, including a receipt or invoice, provided by a seller who is also a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or 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.

Presumptive value would not apply to transactions involving a gift of a motor vehicle; even exchanges of motor vehicles; motor vehicles disposed of under a mechanics lien; certain abandoned vehicle disposals; or a motor vehicle eligible for a classic motor vehicle specialty license plate.

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 each calendar quarter and publish, electronically or otherwise, the updated information. TxDOT could charge a person a reasonable fee for access to the publication.

The bill would amend Chapters 5 and 1952 of the Insurance Code to require insurers, in situations when a vehicle is considered "totaled," to assign a value to the vehicle equal to or greater than the standard presumptive value, as defined in this bill.

The portion of the bill that would require TxDOT to establish standard presumptive values for motor vehicles, modify its registration and title system, make the information available to county tax assessor-collectors, and publish that information and make it available to an insurer or other requesting party would take effect July 1, 2006 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 a July 1, 2006 effective date, it would take effect on the first day of the first month that begins on or after the 91st day after the last day of the legislative session.

The part of the bill imposing standard presumptive value and its use by tax assessor-collectors to compute the motor vehicle sales tax due would take effect October 1, 2006.

Even exchange, gifts of motor vehicles, and motor vehicles registered as classic vehicles would not be taxed upon the basis of standard presumptive value.

Methodology

This estimate is based upon information provided by the Comptroller's Office and TxDOT.

The bill 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. According to TxDOT, there were approximately 3.3 million used vehicle title transactions in calendar 2004, of which about 1.2 million would have been subject to the presumptive value adjustment.

The estimated fiscal impact was projected based on sampling and comparison of "average retail value" and "private party transaction price" data from Kelly Blue Book and Edmund's and then multiplied by 80 percent, pursuant to the language in the bill.

The estimated revenues for fiscal 2007 were adjusted to allow for implementation lags. The fiscal 2007 estimate was reduced to account for potential undervaluations in certified appraisals and to account for changes in reporting behavior over time as taxpayer awareness of the reduced presumptive

value threshold grew.

TxDOT estimates that initial implementation of the bill will cost them approximately \$900,000 in computer programming and public information expenses. Once implemented, continued operating expenses to TxDOT would be incidental. Since the bill allows TxDOT to impose fees to provide the substantive presumptive value data, some or all of these implementation and operational costs could be reimbursed.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

The increase in motor vehicle sales tax revenue would generate additional commission revenue for the sum of all Texas counties. Beginning in 2007, additional county commissions would be about \$1.2 million and increase to about \$1.8 million in 2011.

Source Agencies: 304 Comptroller of Public Accounts, 601 Department of Transportation

LBB Staff: JOB, SD, CT