

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 1, 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 negative impact of (\$2,246,950,000) through the biennium ending August 31, 2007.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$1,116,153,000)
2007	(\$1,130,797,000)
2008	(\$1,864,357,000)
2009	\$564,726,000
2010	\$286,283,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/ (Cost) from <i>FOUNDATION SCHOOL FUND 193</i>	Probable Revenue Gain/(Loss) from <i>GR Account 345 - Telecommunication Infrastructure</i>	Probable Revenue Gain/(Loss) from <i>School Districts</i>
2006	(\$1,116,153,000)	\$0	\$37,523,000	\$0
2007	(\$1,130,797,000)	\$0	\$0	\$0
2008	(\$1,345,514,000)	(\$518,843,000)	\$0	(\$5,702,000,000)
2009	(\$1,394,314,000)	\$1,959,040,000	\$0	(\$5,815,200,000)
2010	(\$1,579,823,000)	\$1,866,106,000	\$0	(\$5,921,400,000)

Fiscal Year	Probable Savings/ (Cost) from <i>School Districts</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>
2006	\$0	\$6,836,000	\$2,352,000	\$851,000
2007	\$0	\$8,564,000	\$2,946,000	\$1,066,000
2008	\$518,843,000	\$8,950,000	\$3,079,000	\$1,114,000
2009	\$590,905,000	\$9,349,000	\$3,216,000	\$1,163,000
2010	\$676,832,000	\$9,776,000	\$3,363,000	\$1,216,000

Fiscal Analysis

The bill would amend, add to, and repeal various statutes relating to local property appraisal, school district property tax rates, and state taxes.

Section 1 would change the delivery date for rendition statements from not later than April 15 to not later than April 1. Section 2 would require the county clerk, at the request of the chief appraiser, to provide any information in the deed records that the chief appraiser considered useful in determining the market value of real property in the county. Section 3 would require the chief appraiser to consider, in addition to the cost, income and market methods of appraisal, any other method of appraisal the appraiser determined to be accurate in determining market value of a property. Section 4 would delete language allowing the chief appraiser to complete the appraisal roll by May 15 "or as soon thereafter as practicable." Section 5 would add an additional 1 percent maximum penalty for delinquent property taxes (to 13 percent from 12 percent). The provisions of Sections 1 through 5 would take effect January 1, 2006.

Section 6 would reduce the school district property tax maintenance and operations tax rate cap from \$1.50 per hundred dollars of valuation to \$1.00 per hundred dollars of valuation. Further, any school district election held before September 1, 2005, authorizing a rate cap of at least \$1.00, would be sufficient authorization for a rate of \$1.00 or less. Districts that were permitted, as of January 1, 2005, to have maintenance and operations tax rates higher than \$1.50 would be allowed to impose a rate \$0.50 less than the previously authorized rate. This section would take effect January 1, 2007.

Section 7 would repeal the sales tax exemptions for newspapers, property used in newspapers, and magazines. This section would take effect September 1, 2005.

Section 8 would raise the tax rate on cigarettes 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). This section would take effect September 1, 2005.

Section 9 would repeal Chapter 171 of the Tax Code, relating to the imposition and collection of the franchise tax. Provisions relating to audits, deficiencies, redeterminations, and refunds would continue to apply until barred by limitations. The repeal would not affect the ability of the Comptroller, the Secretary of State, or the Attorney General to take action against a corporation for bad acts that took place before the repeal. The rights of a corporation to contest a forfeiture, revocation, lawsuit, or appointment of a receiver would not be affected by the repeal. The repeal would take effect January 1, 2006.

Section 11 would amend certain provisions relating to forfeiture of the right to transact business in this state. The powers the Comptroller has under the existing Chapter 171, Tax Code, regarding forfeiture of corporate privileges and the right to transact business in Texas, would be preserved. The same procedures would be extended to other entities that would be subject to the subchapter under a tax imposed by Title 2 of the Tax Code. This section would take effect January 1, 2006.

Section 12 would continue GR Account 0345—Telecommunications Infrastructure (the TIF) until September 1, 2007. The bill would raise the revenue limit for the TIF assessment to \$1.76 billion from \$1.75 billion. Certificated telecommunications utilities could recover the assessment from the utilities' customers once the deposits credited to the fund, excluding interest and loan repayments, exceeded \$1.5 billion from assessment deposits. The Comptroller would have to publish in the Texas Register the date when assessment deposits totaled \$1.5 billion. Utilities would have to file, with the Public Utility Commission by February 15 of each year, affidavits attesting the amount of assessment paid and the amount of assessment recovered from customers. The affidavits would be confidential information. This section would take effect September 1, 2005.

Sections 13 to 15 would allow the self-service sale of on-line lottery tickets at motor fuel pumps. The bill would amend Section 466.305 to allow credit cards to be used to purchase lottery tickets while pumping fuel. Instant (scratch-off) lottery tickets would not be sold at the pump, but all on-line games would be allowed. The location of the sale pump would have to be visible to a sales agent, and the sales agent would have the ability to terminate a lottery purchase if the purchaser appeared to be under 18 years of age. This section would take effect September 1, 2005.

Methodology

The following sections of the bill are estimated to have a measurable fiscal impact:

Section 6. This analysis presumes that the rate reduction is required (language in the bill indicates that the rate reduction would not be mandatory). For each school district with an M&O tax rate above \$1.50, the M&O tax rate was reduced by \$0.50. For each school district with an M&O rate above \$1.00, but at or below \$1.50, the M&O rate was reduced to \$1.00. No change was made to the tax rates of school districts with M&O rates less than \$1.00. 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.

Without a change in the school funding formulas, the reduction of the school district maintenance and operations tax rate cap would reduce recapture payments from Chapter 41 districts and reduce state costs in Tier 2 of the Foundation School Program. The state cost from lower recapture payments is estimated to be \$518.8 million in fiscal 2008, growing to \$676.8 million by fiscal 2010. This cost would be offset by Foundation School Program cost savings estimated to be approximately \$2.5 billion in both fiscal 2009 and 2010.

Section 7. Data on the value of the exemptions for newspapers, newspaper inserts, and magazines were gathered from the Comptroller's January 2005, Tax Exemptions and Tax Incidence report. The exemption values were totaled and adjusted for the effective date of September 1, 2005. The fiscal impact on units of local government was estimated proportionally.

Section 8. The proposed increase in the cigarette tax rate would have a negative effect on the taxable consumption of cigarettes in Texas. Potential revenue collections were adjusted for consumption and tax avoidance effects and for collection lags. The new cigarette tax revenue from this bill would, as with the current cigarette tax revenue stream, go to the General Revenue Fund.

Sections 9 and 11. The estimate assumes that no franchise tax reports or payments would be required for reports that would have been due on or after January 1, 2006. This would include the 2006 regular report and final reports that would have been due after the effective date of the bill. Franchise payments and refunds made after the effective date would be based on tax liability incurred on a report originally due before the effective date of the bill. The provisions relating to forfeiture of the right to transact business in Texas would have no fiscal impact.

Section 12. The estimates for this section were based on data from assessment returns paid by telecommunication utilities.

Not reflected in the tables above is an estimate for the revenue gain to Foundation School Account 193 from the legalizing the sales of lottery tickets at motor fuel pumps, allowing for the use of credit cards for these purchases. Data from various sources indicate that as much as \$70 million per year would be generated from this program when fully implemented. It is estimated that full implementation would occur three years after the effective date.

The Secretary of State's office indicates that additional staffing is required to implement the provisions of Sections 9 and 11 of the bill, \$203,575 in fiscal 2006 and \$122,806 each year thereafter. These amounts are also not reflected in the above tables.

Local Government Impact

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

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 362 Texas Lottery Commission, 450 Savings and Loan Department, 451 Department of Banking, 473 Public Utility Commission of Texas, 701 Central Education Agency

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