

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 25, 2007

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: HB3314 by Keffer, Jim (Relating to administration, collection, and enforcement of state taxes; providing penalties.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3314, As Passed 2nd House: a negative impact of (\$5,932,000) through the biennium ending August 31, 2009, if the effective date of the bill is July 1, 2007; or a negative impact of (\$5,551,000) through the biennium ending August 31, 2009, if the effective date of the bill is October 1, 2007.

The following tables assumes an effective date of July 1, 2007.

All Funds, Six-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue Gain/(Loss) from <i>AVAILABLE SCHOOL FUND</i> 2	Probable Revenue Gain/(Loss) from <i>STATE HIGHWAY FUND</i> 6	Probable Revenue Gain/(Loss) from <i>Cities</i>
2007	(\$101,000)	\$0	\$0	\$0
2008	(\$386,000)	(\$2,363,000)	(\$7,088,000)	(\$74,000)
2009	(\$401,000)	(\$2,681,000)	(\$8,043,000)	(\$77,000)
2010	(\$417,000)	(\$2,774,000)	(\$8,320,000)	(\$80,000)
2011	(\$432,000)	(\$2,843,000)	(\$8,528,000)	(\$83,000)
2012	(\$448,000)	(\$2,966,000)	(\$8,900,000)	(\$86,000)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Counties</i>	Probable Revenue Gain/(Loss) from <i>Transit Authorities</i>
2007	\$0	\$0
2008	(\$10,000)	(\$25,000)
2009	(\$10,000)	(\$26,000)
2010	(\$10,000)	(\$27,000)
2011	(\$11,000)	(\$28,000)
2012	(\$11,000)	(\$30,000)

The following tables assumes an effective date of October 1, 2007.

Fiscal Year	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1	Probable Revenue Gain/(Loss) from AVAILABLE SCHOOL FUND 2	Probable Revenue Gain/(Loss) from STATE HIGHWAY FUND 6	Probable Revenue Gain/(Loss) from Cities
2008	(\$106,000)	(\$2,363,000)	(\$7,088,000)	\$0
2009	(\$401,000)	(\$2,681,000)	(\$8,043,000)	(\$77,000)
2010	(\$417,000)	(\$2,774,000)	(\$8,320,000)	(\$80,000)
2011	(\$432,000)	(\$2,843,000)	(\$8,528,000)	(\$83,000)
2012	(\$448,000)	(\$2,966,000)	(\$8,900,000)	(\$86,000)

Fiscal Year	Probable Revenue Gain/(Loss) from Counties	Probable Revenue Gain/(Loss) from Transit Authorities
2008	\$0	\$0
2009	(\$10,000)	(\$26,000)
2010	(\$10,000)	(\$27,000)
2011	(\$11,000)	(\$28,000)
2012	(\$11,000)	(\$30,000)

Fiscal Analysis

The bill would amend various provisions of the Tax Code relating to the administration, collection, and enforcement of state taxes. In addition, the bill would amend the Transportation Code relating to bonding authority.

The bill would add Section 111.0102 to specify Travis County district courts as the venue and jurisdiction for any tax suit in connection with collection actions taken by the Comptroller.

The bill would amend Section 111.016 to add a statutory presumption that a taxpayer has actually collected taxes when the taxpayer has filed a return showing tax due and would add situations in which the statute of limitations could be stayed for personal liability actions.

The bill would amend Section 111.017 to impose a criminal penalty (Class A misdemeanor) for interference, trespass, or theft against seized property.

The bill would amend Section 111.021 to impose a penalty in an amount equal to 50 percent of the amount sought to be frozen or levied.

The bill would add Section 111.0511 to prohibit restricted or conditional payments to the Comptroller.

The bill would add Section 111.0611 to make individual officers, managers, and directors of business entities personally liable for fraudulent tax evasion.

The bill would amend Section 113.106 by setting a deadline for bringing a suit to determine the validity of a state tax lien and to create a rebuttable presumption regarding the receipt of proper notice of tax liability.

The bill would amend Section 151.326 of the Tax Code relating to the sales tax holiday and would exempt from the sales tax during the sales tax holiday school backpacks with a price of less than \$100. This backpack exemption effects the General Revenue and the local government sales tax revenue losses shown in the below tables.

The bill would add Section 152.0472, relating to seller-financed motor vehicles, to state that a seller is not considered to have factored, assigned, or transferred a loan when the loan is pledged as collateral for the sale of bonds and nonpayment risk remains with the seller.

The bill would amend Chapter 162 to allow a credit or refund of diesel fuel tax paid on diesel fuel used for auxiliary power units or power take-off equipment on any motor vehicle and provide an exemption from the state motor fuels tax for certain metropolitan rapid transit authorities (MRTA) providing specified public school transportation services to a school district. This amendment regarding power take-off equipment would cost the Available School Fund \$2,352,000 in fiscal year 2008, increasing to \$2,952,000 in fiscal year 2012. Also the amendment would cost the State Highway Fund in fiscal year 2008 \$7,055,000, increasing to \$8,857,000 in fiscal year 2012. The amendment exempting MTRA's from the motor fuel tax would cost the Available School Fund approximately \$13,000 per year and the State Highway Fund approximately \$40,000 per year.

The bill would add Section 183.024 to make an individual, officer, manager, or director of a mixed beverage permittee personally liable for fraudulent tax evasion.

The bill would amend Section 183.053(b) to raise the maximum amount of a mixed beverage tax bond to mirror the current sales tax bonding procedures. Under current law, sales tax bonds are assessed at four times the amount of the monthly tax liability.

The bill would amend Section 222.003 of the Transportation Code to increase the aggregate principal amount of bonds and other public securities that could be issued to \$6 billion, with a limit of \$1.5 billion to be issued in any single year.

The bill would amend Section 222.004 of the Transportation Code relating to the issuance of general obligation bonds in an amount not to exceed \$5 billion.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

Methodology

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

With the exceptions of the provisions discussed below, the provisions of this bill would enhance the collection and enforcement of state taxes, clarify current law, or conform to current practice. They would have no significant fiscal impact.

With respect to the amendments to Tax Code Chapter 162, specified entities could apply for a refund or take a credit for diesel fuel tax paid on diesel fuel used by auxiliary power units or power take-off equipment on any motor vehicle. This bill would reinstate the auxiliary power unit, power take-off deduction by allowing a license holder to take a credit—or a nonlicense holder to file a refund claim—for the amount of diesel fuel tax paid on diesel fuel used by an auxiliary power unit or power take-off equipment on any motor vehicle.

Under current law, motor fuel used by metropolitan rapid transit authorities to provide public school transportation service is taxed at the rate of \$0.20 per gallon for diesel fuel and gasoline, and at the rate of \$0.15 per gallon for liquefied gas.

The Texas Education Agency provided a listing of school districts that use metropolitan rapid transit authorities to provide public school transportation services under Section 34.008. These school districts were queried regarding the amount of metropolitan rapid transit authority vehicle mileage driven to provide the specified transportation service. Based on these data, the average amount of fuel used by metropolitan rapid transit authorities to provide these specified transportation services was calculated; and the appropriate tax rate was applied to estimate the potential annual revenue loss. Texas public school average daily attendance growth projections, from the Legislative Budget Board, were used to trend the revenue loss forward over the five-year projection period.

With respect to the amendment to Section 222.003 of the Transportation Code, the fiscal impact cannot be determined. However, simply as an illustrative example, and assuming that \$1.5 billion of bonds were issued at a 6 percent interest rate for 20 years with semi-annual debt service payments, the

annual debt service would be approximately \$129,787,000 per year.

The impact on the amendment to Section 222.004 of the Transportation Code cannot be determined. As an illustrative example, however, and assuming that \$5 billion of bonds were issued at a 6 percent interest rate for 30 years with semi-annual debt service payments, the annual debt service would be approximately \$361,330,000.

The impact on the amendment to Section 151.326 of the Tax Code relating to changing the sales tax holiday from the first Friday in August to the third Friday in August assumes two different effective dates.

Local Government Impact

Local government effects are shown in the above tables.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, EB, SD