

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 26, 2007**

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Tom Craddick, Speaker of the House, House of Representatives

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

**IN RE: HB3319** by Keffer, Jim (Relating to the sales and use tax. ), **Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3319, Conference Committee Report: a positive impact of \$232,000 through the biennium ending August 31, 2009, if the effective date of the bill is immediate; or a positive impact of \$613,000 through the biennium ending August 31, 2009, if the effective date of the bill is September 1, 2007.

The table below illustrates the fiscal implications assuming an immediate effective date for the sales tax holiday provision.

**All Funds, Six-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue Gain/(Loss) from <i>Cities</i>	Probable Revenue Gain/(Loss) from <i>Counties</i>	Probable Revenue Gain/(Loss) from <i>Transit Authorities</i>
2007	(\$101,000)	\$0	\$0	\$0
2008	\$70,000	\$80,000	\$0	\$27,000
2009	\$263,000	\$51,000	\$7,000	\$18,000
2010	\$435,000	\$85,000	\$10,000	\$30,000
2011	\$638,000	\$122,000	\$15,000	\$42,000
2012	\$833,000	\$16,000	\$21,000	\$54,000

The table below illustrates the fiscal implications assuming an effective date of September 1, 2007.

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue Gain/(Loss) from <i>Cities</i>	Probable Revenue Gain/(Loss) from <i>Counties</i>	Probable Revenue Gain/(Loss) from <i>Transit Authorities</i>
2008	\$350,000	\$80,000	\$10,000	\$27,000
2009	\$263,000	\$51,000	\$7,000	\$18,000
2010	\$435,000	\$85,000	\$10,000	\$30,000
2011	\$638,000	\$122,000	\$15,000	\$42,000
2012	\$833,000	\$160,000	\$21,000	\$54,000

**Fiscal Analysis**

The bill would amend the Tax Code, relating to sales and use taxes and the motor vehicle sales and use tax.

The bill would amend Chapter 151 to exclude services performed by a landman from the definition of "real property service" under the sales tax if the service is necessary to negotiate or secure land or mineral rights for acquisition or trade.

The bill would amend Chapter 151 to specify that the definition of "sale for resale" under the sales tax applies to the transfer of a wireless voice communication device as an integral part of a taxable service, regardless of whether there is a separate charge for the device or whether the purchaser is the provider of the taxable service, if payment for the service is a condition for receiving the device.

The bill would require ready mix concrete contractors to separately state each yard of concrete produced and consumed on a customer invoice and to collect and remit sales tax on this concrete.

The bill would amend Chapter 151 to remove limitations from the sales tax exemption for pharmaceutical biotechnology cleanrooms, relating to value and time period of construction.

The bill would move the start of the sales tax holiday on clothing and footwear from the first Friday in August to the third Friday in August and would add backpacks with a sales price of less than \$100 to the holiday.

The bill would amend Chapter 151 to make technical changes and clarifications to provisions relating to sales tax exemptions for drugs or medicines, seedlings for trees grown for commercial timber, and aircraft.

The bill would amend Chapter 152 to exempt from the motor vehicle sales and use tax a hydrogen power-capable vehicle with a fuel economy rating of at least 45 miles per gallon, or a fully hydrogen-powered vehicle. A qualifying hydrogen-powered motor vehicle would be a vehicle that met the Phase II standards established by the California Air Resources Board as of September 1, 2007, for an ultra low-emission vehicle II or stricter Phase II emission standards established by the board.

The bill would amend Chapters 321 and 323 to standardize the sourcing provisions for all taxable items as they relate to the collection of local sales and use taxes. Currently, local sales taxes on tangible personal property are imposed using origin-based sourcing rules; and local sales taxes on taxable services are imposed using destination-based sourcing rules.

The bill would specify that, for the purpose of imposing local sales and use taxes, the sale of nonresidential real property repair and remodeling services is consummated at the location of the job site.

The bill would specify that a sales and use tax imposed for county development districts under Chapter 383 of the Local Government Code would take effect on the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the Comptroller receives notice the tax has been approved.

Tax Code Section 151.0232, relating to the Comptroller's CPA Audit Program, Sections 151.103(d) and 151.202(c), relating to a seller's responsibility for the collection of local use taxes under destination-based sourcing rules, and Sections 321.203(1) and 323.203(1), relating to destination-based sourcing rules for taxable services, would be repealed.

The provisions of the bill relating to the sales tax holiday would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, the bill would take effect September 1, 2007.

## **Methodology**

The fiscal note is based upon analyses provided by the Comptroller of Public Accounts.

The bill would clarify certain issues regarding the administration of sales tax exemptions. Additionally, as part of an effort to comply with the Streamlined Sales Tax Project (SSTP), HB 2425, 78th Regular Legislative Session (2003) changed the local sales tax sourcing provisions for taxable services from origin-based rules to destination-based rules. The bill would restore statutes in effect before the passage of HB 2425.

The bill would create sales tax exemptions for "real property services" performed by a landman and for property installed in and associated with pharmaceutical biotechnology cleanrooms. The bill would also allow certain wireless voice communication devices to be sold for resale. Additionally, the bill would require ready mix concrete contractors to collect and remit sales tax on concrete produced and consumed for the improvement of real property. The Comptroller estimated the fiscal impact of these provisions based on data gathered from various industry sources, including the Comptroller tax files and the U.S. Census Bureau. The Comptroller adjusted the estimates for the effective date and extrapolated them through 2012, and estimated the fiscal impacts on units of local government proportionally.

The bill would add backpacks with a sales price of less than \$100 to the moved sales tax holiday. For the purpose of this estimate, the Comptroller gathered data from the U.S. Census Bureau on the sale of backpacks in Texas. The Comptroller adjusted the sales data for the appropriate price range and duration of the holiday period. The estimates were multiplied by the state sales tax rate and extrapolated through fiscal 2012. The Comptroller proportionally estimated the fiscal impacts on units of local government.

According to the Comptroller, hydrogen-powered vehicles are still in development and not commercially available. In addition, there are only two hydrogen fueling stations within the order of 1,000 miles of Austin, Texas: Phoenix, Arizona and Orlando, Florida. There are, however, several transportation authorities in California conducting demonstration programs using hydrogen fuel cell transit buses. Because there are no commercially available motor vehicles that qualify for the proposed exemptions, and because the cost of any qualifying vehicle cannot be determined, the Comptroller reports that the fiscal impact of the provisions relating to the motor vehicle sales and use tax cannot be estimated. It appears unlikely that the bill would have any significant impact on motor vehicle sales and use tax collections through fiscal 2012.

## **Local Government Impact**

The fiscal impact to local government is illustrated in the above tables. According to the Comptroller of Public Accounts, there would be no impact on local governments in fiscal 2007 as remitted August sales tax collections would not be allocated to the local jurisdictions until fiscal 2008.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, SD, CT, EB