

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

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

**May 15, 2007**

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

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

**IN RE: HB3319** by Keffer, Jim (Relating to the sales and use tax.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3319, As Engrossed: a negative impact of (\$17,473,000) through the biennium ending August 31, 2009.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$8,177,000)
2009	(\$9,296,000)
2010	(\$9,660,000)
2011	(\$10,047,000)
2012	(\$10,478,000)

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

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND 1</i>	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	(\$8,177,000)	(\$1,427,000)	(\$184,000)	(\$490,000)
2009	(\$9,296,000)	(\$1,785,000)	(\$230,000)	(\$612,000)
2010	(\$9,660,000)	(\$1,854,000)	(\$240,000)	(\$636,000)
2011	(\$10,047,000)	(\$1,930,000)	(\$249,000)	(\$662,000)
2012	(\$10,478,000)	(\$2,012,000)	(\$259,000)	(\$691,000)

**Fiscal Analysis**

The bill would amend Chapters 151, 321, and 323 of the Tax Code, relating to sales and use taxes.

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 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.

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 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 bill would take effect September 1, 2007.

### **Methodology**

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

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.

The fiscal impact of these provisions was estimated based on data gathered from various industry sources, Comptroller tax files, and the U.S. Census Bureau. The fiscal implications were adjusted for the effective date and extrapolated through 2012.

The fiscal impacts on units of local government were estimated proportionally.

### **Local Government Impact**

The revenue impact upon the respective units of local government are shown in the above tables.

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

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