

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 27, 2007

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

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

IN RE: SB1639 by Williams (Relating to the collection, administration, and enforcement of state taxes and fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1639, As Introduced: a negative impact of (\$648,771,000) 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	(\$320,468,000)
2009	(\$328,303,000)
2010	(\$343,414,000)
2011	(\$359,566,000)
2012	(\$373,489,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain/(Loss) from <i>FOUNDATION SCHOOL FUND 193</i>	Probable Revenue Gain/(Loss) from <i>Property Tax Relief Fund 304</i>
2008	(\$277,500,000)	(\$40,468,000)	(\$2,500,000)	(\$177,000,000)
2009	(\$287,500,000)	(\$38,303,000)	(\$2,500,000)	(\$180,000,000)
2010	(\$302,500,000)	(\$38,414,000)	(\$2,500,000)	(\$180,000,000)
2011	(\$317,500,000)	(\$39,566,000)	(\$2,500,000)	(\$180,000,000)
2012	(\$332,500,000)	(\$38,489,000)	(\$2,500,000)	(\$180,000,000)

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Dedicated Accounts</i>	Probable Revenue Gain/(Loss) from <i>ECONOMIC STABILIZATION FUND 599</i>	Probable Savings/ (Cost) from <i>Other Funds</i>
2008	(\$121,000)	(\$7,500,000)	(\$3,925,000)
2009	(\$115,000)	(\$7,500,000)	(\$3,715,000)
2010	(\$115,000)	(\$7,500,000)	(\$3,726,000)
2011	(\$119,000)	(\$7,500,000)	(\$3,838,000)
2012	(\$115,000)	(\$7,500,000)	(\$3,733,000)

Fiscal Analysis

This bill would amend various provisions in the Tax Code relating to the collection, administration,

and enforcement of state taxes and fees.

The bill would amend Chapters 101 and 102 to add the "Fairness and Equal Treatment in Taxation" statute and to include a "Taxpayer Bill of Rights." Chapter 102 would govern in all respects the enforcement of the tax laws of this state.

The bill would amend Section 111.009 (b) to change the amount of time a taxpayer has to request a redetermination from 30 days to a minimum of 90 days after service of a determination notice.

The bill would amend Section 111.064 for refunds claimed after September 1, 2005 and before June 1, 2007, and would accrue credit interest at the lesser of the state treasury rate during December of the previous calendar or the liability rate set in Section 111.060.

The bill would amend Section 111.104 to require the prompt refund of overpayments, to remove the detail required when requesting a refund, to allow refund claims filed within the later of expiration of statute of limitations or two years after the date of the jeopardy or deficiency determination or audit results were issued, and to allow eight years from the tax due date to file a refund claim. The amendment would remove "a refund claim for an amount of tax that has been found due in a jeopardy or deficiency determination is limited to the amount of tax, penalty, and interest and to the tax payment period for which the determination was issued" from the statute.

The bill would amend Section 111.1042 (b) to make an informal review of a refund claim classified as an "administrative proceeding."

The bill would amend Section 111.105 (e) to change the notice of demand for evidence in a refund hearing from 180 days after the refund was claimed to 180 days after the notice of demand was issued.

The bill would amend Section 111.107 (a) to change the period of time a that taxpayer could request a refund after a hearings decision became final from six months to two years, or eight years from the date the tax was due.

The bill would amend Section 111.206 to limit the Comptroller's assessment or suit for collection to the items and periods for which the final determination was issued, but it would allow the taxpayer to file for a refund for other items and periods beyond which the final determination was issued.

The bill would amend Section 111.207 to change the tolling of limitation period for a tax imposed to exclude the period during which an administrative redetermination or refund proceeding was pending before the Comptroller, expand the statute of limitations to all issues instead of only the issues in contention, and expand the statute of limitations period to eight years.

The bill would amend Chapter 112 by adding Subchapter B-1 to allow any taxpayer to file lawsuits for any tax or fee collected by the Comptroller without making a payment under protest. The amendment would require the taxpayer to file a request for tax abatement before filing a lawsuit, and it would not allow the Comptroller to refuse the request. The lawsuit would have to be filed by the taxpayer within 90 days of filing the tax abatement request. The amendment would allow for class action lawsuits by as few as two taxpayers, and auditors, other tax officials, as well as the Comptroller could be sued by taxpayers.

The bill would amend Subchapter C, Chapter 112, by adding Section 112.10101 to describe the requirements for a taxpayer to file an injunction. A taxpayer would not have to pay a disputed tax or fee under protest or post a bond to guarantee the payment of any disputed tax or fee as a prerequisite to filing an action.

The bill would amend Section 112.1011(a) to allow a taxpayer to file a restraining order that prevented all collection actions on any taxes due as long as the taxpayer had filed a notice of abatement.

The bill would amend Section 112.108, relating to declaratory judgment or other actions required when filing a restraining order or injunction.

The bill would amend Section 151.508 to require the Comptroller to offset an overpayment against liabilities to the state, provided the taxpayer elected not to accept the offset.

The bill would amend Section 151.511(c) to expand the length of a continuance from 30 days to 90 days to permit the petitioner to obtain and present evidence applicable to the items on which the additional claim was based.

The bill would repeal the following: Section 111.1042(d), relating to a refund claim that limits the amount and period stated on a determination; Section 111.107(b), relating to the statute of limitations for a refund claim; Subchapter B, Chapter 112, relating to protest payments; Section 112.101, relating to requirements for injunction against the Comptroller; and Section 112.104, relating to the payment or bond required when a taxpayer seeks an injunction.

The bill would apply to refund claims and lawsuits filed after the effective date of the bill, regardless of the periods included in the claim or lawsuit.

The bill would take effect September 1, 2007.

Methodology

Changes made in SECTIONS 1-3 and 11-16, relating to the "Taxpayer Bill of Rights" and postponement of tax payments until challenges were resolved, would create a negative fiscal impact. The revenue loss to General Revenue is estimated to be \$225 million in fiscal 2008 growing to \$240 million by fiscal 2012. The revenue loss to the Property Tax Relief Fund is estimated to be \$177 million in fiscal 2008 and \$180 million each year thereafter.

Changes made in SECTION 4, relating to refunds, would reverse changes made in SB 1863, 79th Legislature, Regular Session (2005), allowing interest on refunds at prime plus 1 percent. The cost to General Revenue is estimated to be \$40.5 million in fiscal 2008 declining to \$38.5 million by fiscal 2012. The cost to GR-Dedicated accounts and other funds is reflected in the above table.

Changes made in SECTIONS 5-10 and 17, relating to tax refund claims, would reverse changes made in HB 2425, 78th Legislature, Regular Session (2003). The revenue loss to General Revenue is estimated to be \$52.5 million in fiscal 2008 growing to \$92.5 million by fiscal 2012. The revenue loss to the Foundation School Account - 193 and the Economic Stabilization Fund is reflected in the above table.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD