

SENATE AMENDMENTS

2nd Printing

By: Cohen, Dukes, Delisi, Hartnett,
Van Arsdale, et al.

H.B. No. 1751

A BILL TO BE ENTITLED

AN ACT

relating to the imposition and use of a fee on certain sexually oriented businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 47.001 through 47.004, Business & Commerce Code, are designated as Subchapter A, Chapter 47, Business & Commerce Code, and a heading for Subchapter A is added to read as follows:

SUBCHAPTER A. RESTRICTION ON OWNERS, OPERATORS, MANAGERS, OR EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES

SECTION 2. Section 47.001, Business & Commerce Code, is amended to read as follows:

Sec. 47.001. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Sex offender" means a person who has been convicted of or placed on deferred adjudication for an offense for which a person is subject to registration under Chapter 62, Code of Criminal Procedure.

(2) "Sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

SECTION 3. Chapter 47, Business & Commerce Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. FEE ON ADMISSIONS TO CERTAIN SEXUALLY ORIENTED BUSINESSES

Sec. 47.051. DEFINITIONS. In this subchapter:

1 (1) "Nude" means:

2 (A) entirely unclothed; or

3 (B) clothed in a manner that leaves uncovered or
4 visible through less than fully opaque clothing any portion of the
5 breasts below the top of the areola of the breasts, if the person is
6 female, or any portion of the genitals or buttocks.

7 (2) "Sexually oriented business" has the meaning
8 assigned by Section 243.002, Local Government Code.

9 Sec. 47.052. ADMISSION FEE. A fee is imposed on a sexually
10 oriented business that provides live nude entertainment or
11 performances in an amount equal to \$5 for each entry by each
12 customer admitted to the business.

13 Sec. 47.053. REMISSION OF FEE TO COMPTROLLER; DEPOSIT. (a)
14 A sexually oriented business shall remit the fee imposed by Section
15 47.052 to the comptroller each quarter in the manner prescribed by
16 the comptroller for deposit to the credit of the sexual assault
17 program fund, except as provided by Subsection (b).

18 (b) The comptroller shall deposit any amount received from
19 the fee imposed under this subchapter that exceeds \$18 million in a
20 fiscal biennium to the credit of the general revenue fund.

21 Sec. 47.054. ADMINISTRATION, COLLECTION, AND ENFORCEMENT.
22 The provisions of Subtitle B, Title 2, Tax Code, apply to the
23 administration, payment, collection, and enforcement of the fee
24 imposed by this chapter.

25 SECTION 4. Sections 420.005(a) and (b), Government Code,
26 are amended to read as follows:

27 (a) The attorney general may award grants to programs

1 described by Section 420.008 [~~for maintaining or expanding existing~~
2 ~~services~~]. A grant may not result in the reduction of the financial
3 support a program receives from another source.

4 (b) The attorney general may by rule require that to [~~To~~] be
5 eligible for a grant, certain programs [~~a program~~] must provide at a
6 minimum:

- 7 (1) a 24-hour crisis hotline;
- 8 (2) crisis intervention;
- 9 (3) public education;
- 10 (4) advocacy and accompaniment to hospitals, law
11 enforcement offices, prosecutors' offices, and courts for
12 survivors and their family members; and
- 13 (5) crisis intervention volunteer training.

14 SECTION 5. Sections 420.008(b) and (c), Government Code,
15 are amended to read as follows:

16 (b) The fund consists of fees collected under:
17 (1) Section 19(e), Article 42.12, Code of Criminal
18 Procedure;
19 (2) [~~, and~~] Section 508.189, Government Code; and
20 (3) Subchapter B, Chapter 47, Business & Commerce
21 Code.

22 (c) The legislature may appropriate money deposited to the
23 credit of the fund only to:

- 24 (1) the attorney general, for:
 - 25 (A) sexual violence prevention campaigns;
 - 26 (B) grants to faith-based groups, independent
27 school districts, and community action organizations for programs

1 for the prevention of sexual assault;

2 (C) grants for equipment for sexual assault nurse
3 examiner programs, to support the preceptorship of future sexual
4 assault nurse examiners, and for the continuing education of sexual
5 assault nurse examiners;

6 (D) grants to increase the level of sexual
7 assault services in this state;

8 (E) grants to support victim assistance
9 coordinators; and

10 (F) grants to support technology in rape crisis
11 centers;

12 (2) the Department of State Health Services, to
13 measure the prevalence of sexual assault in this state;

14 (3) the Institute on Domestic Violence and Sexual
15 Assault at The University of Texas at Austin, to conduct research on
16 all aspects of sexual assault and domestic violence;

17 (4) Texas State University, for training and technical
18 assistance to independent school districts for campus safety;

19 (5) the office of the governor, for grants to support
20 sexual assault prosecution projects;

21 (6) the Department of Public Safety, to support sexual
22 assault training for the Texas Rangers;

23 (7) the Texas Department of Criminal Justice:

24 (A) for increasing the capacity of the sex
25 offender civil commitment program;

26 (B) for pilot projects for monitoring sex
27 offenders on parole; and

1 (C) for increasing the number of adult
2 incarcerated sex offenders receiving treatment; and

3 (8) the Texas Youth Commission, for increasing the
4 number of incarcerated juvenile sex offenders receiving treatment
5 [to finance the grant program created by this chapter].

6 SECTION 6. The fee imposed by Section 47.052, Business &
7 Commerce Code, as added by this Act, applies only to a customer
8 admitted to a sexually oriented business on or after the effective
9 date of this Act.

10 SECTION 7. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

Lataj Shaw
Secretary of the Senate BY:

W~
(West)

FLOOR AMENDMENT NO. 1

1 Amend H.B. No. 1751 (House committee printing) by striking
2 all below the enacting clause and substituting the following:

3 SECTION 1. Sections 47.001 through 47.004, Business &
4 Commerce Code, are designated as Subchapter A, Chapter 47, Business
5 & Commerce Code, and a heading for Subchapter A is added to read as
6 follows:

7 SUBCHAPTER A. RESTRICTION ON OWNERS, OPERATORS, MANAGERS, OR
8 EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES

9 SECTION 2. Section 47.001, Business & Commerce Code, is
10 amended to read as follows:

11 Sec. 47.001. DEFINITIONS. In this subchapter [~~chapter~~]:

12 (1) "Sex offender" means a person who has been
13 convicted of or placed on deferred adjudication for an offense for
14 which a person is subject to registration under Chapter 62, Code of
15 Criminal Procedure.

16 (2) "Sexually oriented business" has the meaning
17 assigned by Section 243.002, Local Government Code.

18 SECTION 3. Chapter 47, Business & Commerce Code, is amended
19 by adding Subchapter B to read as follows:

20 SUBCHAPTER B. FEE IMPOSED ON CERTAIN SEXUALLY ORIENTED BUSINESSES

21 Sec. 47.051. DEFINITIONS. In this subchapter:

22 (1) "Nude" means:

23 (A) entirely unclothed; or

24 (B) clothed in a manner that leaves uncovered or
25 visible through less than fully opaque clothing any portion of the
26 breasts below the top of the areola of the breasts, if the person is
27 female, or any portion of the genitals or buttocks.

28 (2) "Sexually oriented business" means a nightclub,
29 bar, restaurant, or similar commercial enterprise that:

1 (A) provides for an audience of two or more
2 individuals live nude entertainment or live nude performances; and

3 (B) authorizes on-premises consumption of
4 alcoholic beverages, regardless of whether the consumption of
5 alcoholic beverages is under a license or permit issued under the
6 Alcoholic Beverage Code.

7 Sec. 47.052. FEE BASED ON ADMISSIONS; RECORDS. (a) A fee
8 is imposed on a sexually oriented business in an amount equal to \$5
9 for each entry by each customer admitted to the business.

10 (b) A sexually oriented business shall record daily in the
11 manner required by the comptroller the number of customers admitted
12 to the business. The business shall maintain the records for the
13 period required by the comptroller and make the records available
14 for inspection and audit on request by the comptroller.

15 (c) This section does not require a sexually oriented
16 business to impose a fee on a customer of the business. A business
17 has discretion to determine the manner in which the business
18 derives the money required to pay the fee imposed under this
19 section.

20 Sec. 47.053. REMISSION OF FEE; SUBMISSION OF REPORTS. Each
21 quarter, a sexually oriented business shall:

22 (1) remit the fee imposed by Section 47.052 to the
23 comptroller in the manner prescribed by the comptroller; and

24 (2) file a report with the comptroller in the manner
25 and containing the information required by the comptroller.

26 Sec. 47.054. ALLOCATION OF CERTAIN REVENUE FOR SEXUAL
27 ASSAULT PROGRAMS. The comptroller shall deposit the first \$25
28 million received from the fee imposed under this subchapter in a
29 state fiscal biennium to the credit of the sexual assault program
30 fund.

31 Sec. 47.055. ALLOCATION OF ADDITIONAL REVENUE. (a) The

1 comptroller shall deposit all amounts received from the fee imposed
2 under this subchapter after the first \$25 million in a state fiscal
3 biennium in the Texas health opportunity pool established under
4 Subchapter N, Chapter 531, Government Code. Money deposited in the
5 pool under this section may be used only to provide health benefits
6 coverage premium payment assistance to low-income persons through a
7 premium payment assistance program developed under that
8 subchapter.

9 (b) This section takes effect only if Senate Bill No. 10,
10 Acts of the 80th Legislature, Regular Session, 2007, becomes law
11 and the Texas health opportunity pool is established under that
12 Act. If that Act does not become law, or that Act becomes law but
13 the pool is not established, this section has no effect, and the
14 revenue is deposited as provided by Section 47.0551.

15 Sec. 47.0551. ALLOCATION OF ADDITIONAL REVENUE. (a) The
16 comptroller shall deposit all amounts received from the fee imposed
17 under this subchapter after the first \$25 million in a state fiscal
18 biennium to the credit of the premium payment assistance account.
19 The premium payment assistance account is an account in the general
20 revenue fund that may be appropriated to the Health and Human
21 Services Commission only to provide health benefits coverage
22 premium payment assistance to low-income persons through a program
23 developed by the commission.

24 (b) This section takes effect only if Senate Bill No. 10,
25 Acts of the 80th Legislature, Regular Session, 2007, does not
26 become law, or that Act becomes law, but the Texas health
27 opportunity pool is not established under that Act. If that Act
28 becomes law and the pool is established, this section has no effect,
29 and the revenue is deposited as provided by Section 47.055.

30 Sec. 47.056. ADMINISTRATION, COLLECTION, AND ENFORCEMENT.
31 The provisions of Subtitle B, Title 2, Tax Code, apply to the

1 administration, payment, collection, and enforcement of the fee
2 imposed by this chapter.

3 SECTION 4. Sections 420.005(a) and (b), Government Code,
4 are amended to read as follows:

5 (a) The attorney general may award grants to programs
6 described by Section 420.008 [~~for maintaining or expanding existing~~
7 ~~services~~]. A grant may not result in the reduction of the financial
8 support a program receives from another source.

9 (b) The attorney general may by rule require that to [~~To~~] be
10 eligible for a grant, certain programs [~~a program~~] must provide at a
11 minimum:

- 12 (1) a 24-hour crisis hotline;
13 (2) crisis intervention;
14 (3) public education;
15 (4) advocacy and accompaniment to hospitals, law
16 enforcement offices, prosecutors' offices, and courts for
17 survivors and their family members; and
18 (5) crisis intervention volunteer training.

19 SECTION 5. Sections 420.008(b) and (c), Government Code,
20 are amended to read as follows:

21 (b) The fund consists of fees collected under:

- 22 (1) Section 19(e), Article 42.12, Code of Criminal
23 Procedure;
24 (2) [~~and~~] Section 508.189, Government Code; and
25 (3) Subchapter B, Chapter 47, Business & Commerce
26 Code, and deposited under Section 47.054.

27 (c) The legislature may appropriate money deposited to the
28 credit of the fund only to:

- 29 (1) the attorney general, for:
30 (A) sexual violence awareness and prevention
31 campaigns;

1 (B) grants to faith-based groups, independent
2 school districts, and community action organizations for programs
3 for the prevention of sexual assault;

4 (C) grants for equipment for sexual assault nurse
5 examiner programs, to support the preceptorship of future sexual
6 assault nurse examiners, and for the continuing education of sexual
7 assault nurse examiners;

8 (D) grants to increase the level of sexual
9 assault services in this state;

10 (E) grants to support victim assistance
11 coordinators;

12 (F) grants to support technology in rape crisis
13 centers;

14 (G) grants to and contracts with a statewide
15 nonprofit organization exempt from federal income taxation under
16 Section 501(c)(3), Internal Revenue Code of 1986, having as a
17 primary purpose ending sexual violence in this state, for programs
18 for the prevention of sexual violence, outreach programs, and
19 technical assistance to and support of youth and rape crisis
20 centers working to prevent sexual violence; and

21 (H) grants to regional nonprofit providers of
22 civil legal services to provide legal assistance for sexual assault
23 victims;

24 (2) the Department of State Health Services, to
25 measure the prevalence of sexual assault in this state;

26 (3) the Institute on Domestic Violence and Sexual
27 Assault at The University of Texas at Austin, to conduct research on
28 all aspects of sexual assault and domestic violence;

29 (4) Texas State University, for training and technical
30 assistance to independent school districts for campus safety;

31 (5) the office of the governor, for grants to support

1 sexual assault prosecution projects;

2 (6) the Department of Public Safety, to support sexual
3 assault training for commissioned officers;

4 (7) the comptroller's judiciary section, for
5 increasing the capacity of the sex offender civil commitment
6 program;

7 (8) the Texas Department of Criminal Justice:

8 (A) for pilot projects for monitoring sex
9 offenders on parole; and

10 (B) for increasing the number of adult
11 incarcerated sex offenders receiving treatment;

12 (9) the Texas Youth Commission, for increasing the
13 number of incarcerated juvenile sex offenders receiving treatment;

14 (10) the comptroller, for the administration of the
15 fee imposed on sexually oriented businesses under Section 47.052,
16 Business & Commerce Code; and

17 (11) the supreme court, to be transferred to the Texas
18 Equal Access to Justice Foundation, or a similar entity, to provide
19 victim-related legal services to sexual assault victims, including
20 legal assistance with protective orders, relocation-related
21 matters, victim compensation, and actions to secure privacy
22 protections available to victims under law [~~to finance the grant~~
23 ~~program created by this chapter~~].

24 SECTION 6. Subchapter A, Chapter 420, Government Code, is
25 amended by adding Section 420.015 to read as follows:

26 Sec. 420.015. ASSESSMENT OF SEXUALLY ORIENTED BUSINESS
27 REGULATIONS. The legislature may appropriate funds for a
28 third-party assessment of the sexually oriented business industry
29 in this state and provide recommendations to the legislature on how
30 to further regulate the growth of the sexually oriented business
31 industry in this state.

1 SECTION 7. (a) The Sexual Assault Advisory Council is
2 established to:

3 (1) serve as an information clearinghouse and informal
4 coordinator of existing and future sexual assault programming
5 efforts at state and local levels;

6 (2) report to the governor and the 81st Legislature
7 the results of actions taken by the 80th Legislature on any gaps
8 with respect to research, prevention, response and other victims'
9 services, adjudication, and incarceration at state and local
10 levels;

11 (3) develop recommendations for appropriate
12 performance measures that enable the governor and the legislature
13 to biennially assess and respond to the status of sexual assault in
14 this state; and

15 (4) report to the 81st Legislature on the
16 effectiveness of appropriations made in this Act and other sexual
17 assault legislation passed by the 80th Legislature.

18 (b) The Sexual Assault Advisory Council is composed of
19 representatives designated by the attorney general from state
20 agencies that receive sexual assault-related appropriations in the
21 General Appropriations Act.

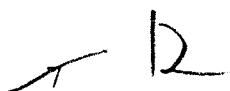
22 (c) The legislature intends that agencies receiving sexual
23 assault-related appropriations coordinate with the Sexual Assault
24 Advisory Council to provide answers for:

25 (1) how prevalent is sexual assault in Texas, and why;

26 (2) how to reduce the recidivism of known sex
27 offenders;

28 (3) how to increase the reporting of sexual assault to
29 law enforcement;

30 (4) how to increase conviction and prosecution rates
31 of sexual assault;



1 (5) how to identify the geographic areas in this state
2 with higher rates of sexual assault and how to coordinate
3 delivering resources to these areas; and

4 (6) how to convey that assistance is available for all
5 victims of sexual assault and how to ensure that residents of this
6 state know how to obtain assistance if they have been sexually
7 assaulted.

8 SECTION 8. The fee imposed by Section 47.052, Business &
9 Commerce Code, as added by this Act, applies only to a sexually
10 oriented business with respect to the admission by the business of
11 customers on or after the effective date of this Act.

12 SECTION 9. This Act takes effect January 1, 2008.

ADOPTED

MAY 24 2007

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 4

amending F.A.#1

BY: *[Signature]*

1 Amend H.B. No. 1751 (senate committee printing) as follows and
2 adjust accordingly:

3 On page 2, line 22, after "assault" insert "and programs
4 for victims of human trafficking"

5 On page 2, line 33, after "state" and before ";" insert
6 "and for grants to support programs assisting victims of human
7 trafficking;"

8 On page 2, line 41, after "assault" insert "and human
9 trafficking"

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION
Revision 1

May 15, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

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

IN RE: **HB1751** by Cohen (Relating to the imposition and use of a fee on certain sexually oriented businesses.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1751, As Engrossed: a positive impact of \$69,277,000 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	\$16,260,000
2009	\$53,017,000
2010	\$41,930,000
2011	\$60,944,000
2012	\$43,987,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain/ (Loss) from <i>SEXUAL ASSAULT PROG ACCT 5010</i>	Probable Revenue Gain/ (Loss) from <i>Cities and Counties</i>
2008	\$16,260,000	\$18,000,000	(\$660,000)
2009	\$53,017,000	\$0	(\$825,000)
2010	\$41,930,000	\$18,000,000	(\$933,000)
2011	\$60,944,000	\$0	(\$948,000)
2012	\$43,987,000	\$18,000,000	(\$965,000)

Fiscal Analysis

The bill would amend Chapter 47 of the Business and Commerce Code to establish an admission fee of \$5 on customers of sexually oriented businesses that provide live nude entertainment or performances. The bill would require the Comptroller of Public Accounts to develop rules for the administration, payment, collection, and enforcement of these fees.

The bill requires the Comptroller to deposit up to \$18 million of the fee revenue to the credit of the Sexual Assault Program Fund in a fiscal biennium. Any excess revenue is to be deposited to the credit of the General Revenue Fund.

The bill would take effect September 1, 2007.

Methodology

The Comptroller of Public Accounts estimated the fiscal impact based on establishment data, relating to those entities that would qualify under the provision of the bill, provided by the Texas Alcoholic Beverage Commission (TABC). The estimate includes an adjustment to the establishment count to account for such entities not licensed by TABC. The estimate assumes that the \$5 admissions charge required under the provisions of the bill, would have a negative effect on the sale of alcoholic beverages in those establishments licensed by TABC, which would result in a loss of revenue from the mixed beverage tax to the state and local units of government. The estimate for the fiscal 2008 includes an adjustment for the effective date, the quarterly reporting requirement, and employer collection and compliance considerations.

Local Government Impact

The fiscal impact to local government is illustrated in the above tables.

Source Agencies: 304 Comptroller of Public Accounts

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 16, 2007

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

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

IN RE: HB1751 by Cohen (Relating to the imposition and use of a fee on certain sexually oriented businesses.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1751, Committee Report 1st House, Substituted: a positive impact of \$51,277,000 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	\$16,260,000
2009	\$35,017,000
2010	\$41,930,000
2011	\$42,944,000
2012	\$43,987,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain/ (Loss) from <i>SEXUAL ASSAULT PROG ACCT 5010</i>	Probable Revenue Gain/ (Loss) from <i>Cities and Counties</i>
2008	\$16,260,000	\$18,000,000	(\$660,000)
2009	\$35,017,000	\$18,000,000	(\$825,000)
2010	\$41,930,000	\$18,000,000	(\$933,000)
2011	\$42,944,000	\$18,000,000	(\$948,000)
2012	\$43,987,000	\$18,000,000	(\$965,000)

Fiscal Analysis

The bill would amend Chapter 47 of the Business and Commerce Code to establish an admission fee of \$5 on customers of sexually oriented businesses that provide live nude entertainment or performances. The bill would require the Comptroller of Public Accounts to develop rules for the administration, payment, collection, and enforcement of these fees, which would be deposited to the General Revenue Fund.

The bill would take effect September 1, 2007.

Methodology

The Comptroller of Public Accounts estimated the fiscal impact based on establishment data, relating to those entities that would qualify under the provision of the bill, provided by the Texas Alcoholic

Beverage Commission (TABC). The estimate includes an adjustment to the establishment count to account for such entities not licensed by TABC. The estimate assumes that the \$5 admissions charge required under the provisions of the bill, would have a negative effect on the sale of alcoholic beverages in those establishments licensed by TABC, which would result in a loss of revenue from the mixed beverage tax to the state and local units of government. The estimate for the fiscal 2008 includes an adjustment for the effective date, the quarterly reporting requirement, and employer collection and compliance considerations.

Local Government Impact

The fiscal impact to local government is illustrated in the above tables.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, EB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 13, 2007

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

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

IN RE: HB1751 by Cohen (Relating to imposing a fee on admissions to certain sexually oriented businesses.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1751, As Introduced: a positive impact of \$87,277,000 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	\$34,260,000
2009	\$53,017,000
2010	\$59,930,000
2011	\$60,944,000
2012	\$61,987,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1	Probable Revenue Gain/(Loss) from Cities and Counties
2008	\$34,260,000	(\$660,000)
2009	\$53,017,000	(\$825,000)
2010	\$59,930,000	(\$933,000)
2011	\$60,944,000	(\$948,000)
2012	\$61,987,000	(\$965,000)

Fiscal Analysis

The bill would amend Chapter 47 of the Business and Commerce Code to establish an admission fee of \$5 on customers of sexually oriented businesses that provide live nude entertainment or performances. The bill would require the Comptroller of Public Accounts to develop rules for the administration, payment, collection, and enforcement of these fees, which would be deposited to the General Revenue Fund.

The bill would take effect September 1, 2007.

Methodology

The Comptroller of Public Accounts estimated the fiscal impact based on establishment data, relating to those entities that would qualify under the provision of the bill, provided by the Texas Alcoholic Beverage Commission (TABC). The estimate includes an adjustment to the establishment count to

account for such entities not licensed by TABC. The estimate assumes that the \$5 admissions charge required under the provisions of the bill, would have a negative effect on the sale of alcoholic beverages in those establishments licensed by TABC, which would result in a loss of revenue from the mixed beverage tax to the state and local units of government. The estimate for the fiscal 2008 includes an adjustment for the effective date, the quarterly reporting requirement, and employer collection and compliance considerations.

Local Government Impact

The fiscal impact to local government is illustrated in the above tables.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, EB

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

80TH LEGISLATIVE REGULAR SESSION

April 16, 2007

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

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

IN RE: HB1751 by Cohen (Relating to the imposition and use of a fee on certain sexually oriented businesses.), **Committee Report 1st House, Substituted**

Table 1
Summary of Elements: House Bill 1751, As Substituted

This analysis is for taxes effective in fiscal 2009.

Revenue Changes

- Admissions fee to sexually oriented businesses
- Mixed beverage tax loss due to decrease in clientele

Dollar Value of Revenue Changes in Fiscal 2009

- \$53.0 million other state and local taxes increase
- \$53.0 million net tax increase

Initial Impact in Fiscal 2009

- A net increase to business of \$0.0 million
- A net increase to households of \$53.0 million

Final Incidence of Changes Effective in Fiscal 2009

- Lowest income level (income range from \$0 to \$24,899):
An increase of \$4.9 million, or 0.12 percent.
- Middle income level (income range from \$45,271 to \$69,614):
An increase of \$8.1 million, or 0.09 percent.
- Highest income level (income range from \$109,182 and above):
An increase of \$21.2 million, or 0.10 percent.

7

Initial Tax Impact by Industry

House Bill 1751, As Substituted was analyzed using the LBB's multi-tax model to determine the initial impact of the proposed changes relative to current state and local tax law. The results of the analysis are shown in Table 2 below.

Table 2

**Comparison of Initial Tax Impact under
Current Law vs. House Bill 1751, As Substituted
Fiscal Year 2009**

Comparisons Include Property Tax, Sales and Excise Taxes and Taxes on Business

	Gross State Product: Shares	Current Law Liability	Percent of Total	Proposed Law Liability	Percent of Total	Change in Liability	Percent of Total	Percent Change in Liability
	[%]	[\$ Million]	[%]	[\$ Million]	[%]	[\$ Million]	[%]	[%]
Taxes Paid by Business:								
Agriculture, Forestry, Fishing &	0.8	579.8	1.6	579.8	1.6	0.0	0.00	0.00
Mining	6.7	4,750.5	13.1	4,750.5	13.1	0.0	0.00	0.00
Utilities & Transportation	7.3	4,798.4	13.2	4,798.4	13.2	0.0	0.00	0.00
Construction	5.1	1,218.9	3.4	1,218.9	3.4	0.0	0.00	0.00
Manufacturing	13.0	5,025.5	13.8	5,025.5	13.8	0.0	0.00	0.00
Wholesale & Retail Trade	15.8	3,125.1	8.6	3,125.1	8.6	0.0	0.00	0.00
Information	5.1	2,727.2	7.5	2,727.2	7.5	0.0	0.00	0.00
Finance, Insurance & Real Estate	19.7	6,387.6	17.6	6,387.6	17.6	0.0	0.00	0.00
All Other Services	26.5	7,733.9	21.3	7,733.9	21.3	0.0	0.00	0.00
Total Taxes on Business:	100.0	36,346.9	100.0	36,346.9	100.0	0.0	0.00	0.00
Taxes Paid by Households:								
Residential Owner-Occupied		11,131.3		11,131.3		0.0		0.00
Personal Consumption		21,369.5		21,422.5		53.0		0.25
Total Taxes on Households:		32,500.8		32,553.8		53.0		0.16
Total Taxes								
		68,847.7		68,900.7		53.0		0.08

8

Tax Incidence by Income Group

Economists commonly distinguish between the initial "impact" of a tax and its "incidence." The initial impact of a tax falls on taxpayers legally liable to pay the tax, while the incidence refers to the ultimate payer of the tax. For example, the initial impact of a business tax falls on the firm incurring the tax liability. Over time, to varying degrees, the tax cost is "shifted" so that the ultimate burden of the tax falls either to consumers in different retail prices, to employees in changed wages, to owners of land and capital in different investment returns, or most likely, to some combination of all three. The degree to which a tax can be shifted, and the amount of time that elapses before a tax can be shifted, depend on the type of tax and the competitiveness of capital, labor, input material and product markets.

The results of this analysis for tax law changes effective with this proposal are shown in Table 3 and Table 4.

Table 3

**Tax Incidence by Income Decile
Current Law vs. House Bill 1751, As Substituted
Taxes Effective in Fiscal Year 2009
Comparisons Include Property Tax, Sales and Excise Taxes and Taxes on Business**

Decile	Decile Income: Lower Bound	Decile Income: Upper Bound	Current Law Tax	Percent of Total	Proposed Law Tax	Percent of Total	Change in Tax	Percent Change in Tax
	[\$]	[\$]	[\$ Million]	[%]	[\$ Million]	[%]	[\$ Million]	[%]
1	0	24,899	4,255.6	8.1	4,260.5	8.1	4.9	0.12
2	24,899	45,271	6,259.6	11.8	6,266.1	11.8	6.4	0.10
3	45,271	69,614	8,780.9	16.6	8,789.0	16.6	8.1	0.09
4	69,614	109,182	12,371.3	23.4	12,383.0	23.4	11.7	0.09
5	109,182	and above	21,167.7	40.1	21,189.0	40.1	21.2	0.10
		Total:	52,835.1	100.0	52,887.5	100.0	52.4	0.10

9

Summary of Tax Incidence Findings

House Bill 1751, As Substituted would ultimately increase the taxes of all households by \$52.4 million for tax law changes effective in 2009. The difference between the initial increase in revenue of \$53.0 million in fiscal 2009 and the ultimate increase of \$52.4 million in tax incidence is primarily due to the exporting of some of the tax changes to non-Texas consumers and businesses, changes in federal tax liability, and the absorption of some of the tax changes by business profits, some of which are received by non-Texas shareholders and business owners.

Table 4

**Effective Tax Rate by Income Decile
Current Law vs. House Bill 1751, As Substituted
Taxes Effective in Fiscal Year 2009
Comparisons Include Property Tax, Sales and Excise Taxes and Taxes on Business**

Decile	Decile Income: Lower Bound	Decile Income: Upper Bound	Current Law Effective Rate	Proposed Law Effective Rate	Change in Effective Rate	Percent Change in Effective Rate
	[\$]	[\$]	[%]	[%]	[%]	[%]
1	0	24,899	17.67	17.69	0.02	0.12
2	24,899	45,271	10.42	10.43	0.01	0.10
3	45,271	69,614	8.64	8.64	0.01	0.09
4	69,614	109,182	8.01	8.02	0.01	0.09
5	109,182	and above	6.05	6.05	0.01	0.10
		Total:	7.65	7.66	0.01	0.10

Summary of Effective Rate Findings

House Bill 1751, As Substituted would ultimately increase the effective rate for all households by 0.10 percent for taxes effective in fiscal year 2009. The effective tax rate is the aggregate amount of tax in a given income class divided by the aggregate amount of personal income in that class.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, SD, SM

LEGISLATIVE BUDGET BOARD

Austin, Texas

TAX/FEE EQUITY NOTE

80TH LEGISLATIVE REGULAR SESSION

April 16, 2007

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

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

IN RE: HB1751 by Cohen (Relating to imposing a fee on admissions to certain sexually oriented businesses.), **As Introduced**

Table 1
Summary of Elements: House Bill 1751, As Introduced

This analysis is for taxes effective in fiscal 2009.

Revenue Changes

- Admissions fee to sexually oriented businesses
- Mixed beverage tax loss due to decrease in clientele

Dollar Value of Revenue Changes in Fiscal 2009

- \$53.0 million other state and local taxes increase
- \$53.0 million net tax increase

Initial Impact in Fiscal 2009

- A net increase to business of \$0.0 million
- A net increase to households of \$53.0 million

Final Incidence of Changes Effective in Fiscal 2009

- Lowest income level (income range from \$0 to \$24,899):
An increase of \$4.9 million, or 0.12 percent.
- Middle income level (income range from \$45,271 to \$69,614):
An increase of \$8.1 million, or 0.09 percent.
- Highest income level (income range from \$109,182 and above):
An increase of \$21.2 million, or 0.10 percent.

Initial Tax Impact by Industry

House Bill 1751, As Introduced was analyzed using the LBB’s multi-tax model to determine the initial impact of the proposed changes relative to current state and local tax law. The results of the analysis are shown in Table 2 below.

Table 2

**Comparison of Initial Tax Impact under
Current Law vs. House Bill 1751, As Introduced
Fiscal Year 2009**

Comparisons Include Property Tax, Sales and Excise Taxes and Taxes on Business

	Gross State Product: Shares	Current Law Liability	Percent of Total	Proposed Law Liability	Percent of Total	Change in Liability	Percent of Total	Percent Change in Liability
	[%]	[\$ Million]	[%]	[\$ Million]	[%]	[\$ Million]	[%]	[%]
Taxes Paid by Business:								
Agriculture, Forestry, Fishing &	0.8	579.8	1.6	579.8	1.6	0.0	0.00	0.00
Mining	6.7	4,750.5	13.1	4,750.5	13.1	0.0	0.00	0.00
Utilities & Transportation	7.3	4,798.4	13.2	4,798.4	13.2	0.0	0.00	0.00
Construction	5.1	1,218.9	3.4	1,218.9	3.4	0.0	0.00	0.00
Manufacturing	13.0	5,025.5	13.8	5,025.5	13.8	0.0	0.00	0.00
Wholesale & Retail Trade	15.8	3,125.1	8.6	3,125.1	8.6	0.0	0.00	0.00
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**Effective Tax Rate by Income Decile
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4	69,614	109,182	8.01	8.02	0.01	0.09
5	109,182	and above	6.05	6.05	0.01	0.10
		Total:	7.65	7.66	0.01	0.10

Summary of Effective Rate Findings

House Bill 1751, As Introduced would ultimately increase the effective rate for all households by 0.10 percent for taxes effective in fiscal year 2009. The effective tax rate is the aggregate amount of tax in a given income class divided by the aggregate amount of personal income in that class.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, SD, SM