

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 29, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB263 by Berman (Relating to the imposition of a fee for money transmissions sent to certain destinations outside the United States.), **As Introduced**

The fiscal implication to the State cannot be definitely estimated.

This bill would add new Chapter 279 to the Finance Code, regarding the imposition of a fee on certain money transmissions.

The new fee would be 8 percent of the total amount sent by a money transmission business from Texas to a destination in Mexico or in Central or South America for a personal, family, or household purpose. A money transmission business, as defined in the bill, would remit the fees collected to the Comptroller's Office. U.S. citizens and other persons lawfully present in the U.S. would be entitled to apply for a refund of the fee. This bill would require the Comptroller to adopt, by October 1, 2009, rules necessary to implement the new fee; and the fee would apply only to money transmissions occurring on or after October 1, 2009.

The bill would amend Chapter 64 of the Health and Human Services Code to create new GR Account—Indigent Health Care Support. Money in this account could be appropriated only to the Health and Human Services Commission to fund indigent health care and other health care services to needy residents. The Comptroller would deposit the net revenue received from the money transmission fee to the credit of the new GR Account.

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 on September 1, 2009.

Note: This legislation, as drafted, could be subject to constitutional challenge on several grounds, including claims that it would constitute an attempt by the state to regulate foreign commerce, and that it would violate the constitutionally guaranteed right to equal protection under the law. As such, the fiscal impact cannot be estimated.

The Comptroller has indicated that for purposes of providing an illustrative example, assuming that the legislation were determined in compliance with the U.S. Constitution, it is estimated that the fee could generate on the order of \$70 million per year. This illustrative example was based on data from an Inter-American Development Bank study, "The Changing Pattern of Remittances 2008 Survey of Remittances from the United States to Latin America," April 2008; a Bendixen & Associates report, "State by State Survey of Remittance Senders: U.S. to Latin America," April 2004; and a New York Times article, "Flow of Immigrants' Money to Latin America Surges," October 19, 2006. The estimated fiscal impact took into account the expected change in transmission methods that would be used by some remitters due to the new fee to arrive at the dollar amount of money transmissions subject to the fee. The example was also adjusted for expected refunds.

If this bill became law and revenue could be collected, the Comptroller's office has also indicated that the agency would require funding for over 100 FTEs to handle the increased workload of collecting and refunding the new fee and auditing businesses remitting the fee.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993, and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Note: Although this bill would not make an appropriation, it would establish the basis for an appropriation.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 529 Health and Human Services Commission

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