

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 26, 2009

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

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

IN RE: HB412 by Isett (Relating to an exemption from the sales and use tax for certain assessments and fees related to telecommunications services.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB412, As Introduced: a negative impact of (\$137,684,000) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|--|
| 2010 | (\$65,562,000) |
| 2011 | (\$72,122,000) |
| 2012 | (\$72,721,000) |
| 2013 | (\$73,324,000) |
| 2014 | (\$73,938,000) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue (Loss) from <i>General Revenue Fund 1</i> | Probable Revenue (Loss) from <i>Cities</i> | Probable Revenue (Loss) from <i>Transit Authorities</i> | Probable Revenue (Loss) from <i>Counties</i> |
|-------------|--|--|---|--|
| 2010 | (\$65,562,000) | (\$9,923,000) | (\$1,799,000) | (\$535,000) |
| 2011 | (\$72,122,000) | (\$12,007,000) | (\$2,177,000) | (\$648,000) |
| 2012 | (\$72,721,000) | (\$12,107,000) | (\$2,195,000) | (\$653,000) |
| 2013 | (\$73,324,000) | (\$12,207,000) | (\$2,213,000) | (\$659,000) |
| 2014 | (\$73,938,000) | (\$12,309,000) | (\$2,232,000) | (\$664,000) |

Fiscal Analysis

The bill would amend Chapter 151 of the Tax Code, regarding the sales tax, to exempt from the limited sales and use tax certain telecommunications assessments and fees that are passed through to purchasers.

The bill would exclude from the sales price of telecommunications services the following assessments and fees: 1) the utility gross receipts assessment imposed under Subchapter A, Chapter 16, Utilities Code; 2) the state universal service fund assessment imposed under Subchapter B, Chapter 56, Utilities Code; 3) the federal universal service fund charge; and 4) municipal franchise fees or right-of-way fees authorized under Chapter 283, Local Government Code.

The bill would take effect September 1, 2009.

Methodology

Telecommunications services are taxable by the state and units of local government under Chapter 151, and Chapters 321 through 323, of the Tax Code.

Under current law, the utility gross receipts assessment, state and federal universal service charges, and municipal franchise fees are included in the sales price of telecommunications services and are subject to state and local sales taxes. These assessments and fees are an expense to the company and are presumably recovered from purchasers either through separate line-item charges on bills or through inclusion in the price of the service.

The bill would negatively affect state and local sales tax collections by excluding these assessments and fees from the taxable sales price of telecommunications services. The total amount of fees and assessments that would be excluded was determined using Comptroller tax files and data provided by the Public Utility Commission. Assuming an implementation date of September 1, 2009, the estimated losses were extrapolated through fiscal 2014.

Local Government Impact

There would be a proportional amount of sales tax revenue loss to units of local government.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, KK