

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

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 11, 2009**

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

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

**IN RE: HB2319** by Eissler (relating to the treatment of certain exempt organizations as agents of suppliers or distributors of taxable items for purposes of the sales and use tax.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2319, Committee Report 1st House, Substituted: a negative impact of (\$10,744,000) through the biennium ending August 31, 2011, if the effective date of the bill is July 1, 2009; or a negative impact of (\$9,924,000) through the biennium ending August 31, 2011, if the effective date of the bill is September 1, 2009.

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

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>Cities</i>	Probable Revenue (Loss) from <i>Transit Authorities</i>	Probable Revenue (Loss) from <i>Counties</i>
2009	(\$400,000)	\$0	\$0	\$0
2010	(\$5,046,000)	(\$938,000)	(\$320,000)	(\$133,000)
2011	(\$5,298,000)	(\$985,000)	(\$336,000)	(\$139,000)
2012	(\$5,563,000)	(\$1,035,000)	(\$353,000)	(\$146,000)
2013	(\$5,841,000)	(\$1,086,000)	(\$370,000)	(\$154,000)
2014	(\$6,134,000)	(\$1,141,000)	(\$389,000)	(\$161,000)

The above table assumes an effective date of July 1, 2009. The table below assumes an effective date of September 1, 2009.

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>Cities</i>	Probable Revenue (Loss) from <i>Transit Authorities</i>	Probable Revenue (Loss) from <i>Counties</i>
2010	(\$4,626,000)	(\$782,000)	(\$267,000)	(\$111,000)
2011	(\$5,298,000)	(\$985,000)	(\$336,000)	(\$139,000)
2012	(\$5,563,000)	(\$1,035,000)	(\$353,000)	(\$146,000)
2013	(\$5,841,000)	(\$1,086,000)	(\$370,000)	(\$154,000)
2014	(\$6,134,000)	(\$1,141,000)	(\$389,000)	(\$161,000)

**Fiscal Analysis**

The bill would amend Section 151.310 of the Tax Code, relating to sales tax exemptions for religious, educational, and public service organizations.

The bill would specify the Comptroller could not regard a religious, educational, or public service organization as the agent of a wholesale supplier or distributor if, in exchange for consideration, title to taxable items is transferred to the organization for purposes of the sale of those items at a tax-free sale or auction.

The 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 September 1, 2009.

### **Methodology**

Currently, certain firms are considered the sellers of taxable items and the two day tax-free sale exemption (provided for exempt organizations in 151.310, Tax Code) does not apply when orders are taken through an exempt organization. Such firms are responsible for the collection and remittance of sales tax on items sold. This bill would shift the tax responsibility to the exempt organization. This analysis assumes exempt entities affected by this bill's provisions would hold fundraisers in such a manner as to fully utilize the tax-free sale days mentioned above.

Sales of items by brochure fundraising firms for fundraisers by exempt entities were estimated based on data gathered from a variety of sources including Comptroller tax files. Sales were multiplied by the state sales tax rate; adjusted for the potential effective dates of July 1, 2009 and September 1, 2009; and extrapolated through fiscal 2014. The fiscal impacts on units of local government were estimated proportionally.

### **Local Government Impact**

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

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

**LBB Staff:** JOB, MN, SD, KK