

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

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

**April 19, 2009**

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

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

**IN RE: HB2338** by Villarreal (Relating to the refund of the sales taxes imposed on real property repair and remodeling services for certain energy efficient facilities.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2338, As Introduced: a negative impact of (\$1,436,000) 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	(\$718,000)
2011	(\$718,000)
2012	(\$4,318,000)
2013	(\$5,038,000)
2014	(\$5,902,000)

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

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	\$0	(\$718,000)	9.0
2011	\$0	(\$718,000)	9.0
2012	(\$3,600,000)	(\$718,000)	9.0
2013	(\$4,320,000)	(\$718,000)	9.0
2014	(\$5,184,000)	(\$718,000)	9.0

**Fiscal Analysis**

The bill would amend Chapter 151 of the Tax Code, regarding the sales tax, to allow the owner of a facility designated as "Energy Star" or "Designed to Earn the Energy Star" by the U.S. Environmental Protection Agency to apply to the Comptroller for a refund of state sales tax paid on real property repair and remodeling services performed on the facility.

For an Energy Star designated facility, the owner could ask for a refund for tax paid on services performed on the facility in the 18 months preceding the 12-month period in which the facility's energy usage formed the basis of the designation. For a Designed to Earn the Energy Star facility, the refund could be claimed for services performed in the 18 months immediately following the date of designation.

To qualify for a refund, a facility would be required to consume at least 25 percent less energy in the 12-month period immediately following the completion of services than in the 12-month period preceding the start of the services. An applicant for a refund would be required to include a certification by a registered architect or licensed engineer on a form prescribed by the Comptroller of the energy usage data.

Taxes paid on construction materials and taxes paid before the effective date of the bill would not be eligible for the refund.

The bill would take effect September 1, 2009.

### **Methodology**

The value of real property repair and remodeling services performed on Energy Star designated facilities was estimated based on data gathered from the US Environmental Protection Agency and Comptroller tax files. The value of the services was adjusted to reflect amounts that would be eligible for refund based on the timing restrictions in the bill; multiplied by the state sales tax rate; and extrapolated through fiscal 2014.

Existing facilities receiving the "Designed to Earn the Energy Star" designation are likely to have decreased levels of energy consumption in the period before repair and remodeling services are performed. This analysis assumes those facilities would not show a 25 percent reduction in energy use for the period immediately following the repair and remodeling and would not be eligible for a refund. Labor charges for the construction of new facilities receiving the Designed to Earn the Energy Star designation are currently exempt from the sales tax.

The Comptroller indicates they will need to hire an additional 9 FTEs to handle the increased workload from the tax refund program.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

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

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