LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 3, 2009

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

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

IN RE: **HB2505** by Kolkhorst (Relating to the rates and imposition of the state sales and franchise taxes and to the allocation of certain revenue.), **As Introduced**

The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of $435,868,000 for the 2010-11 biennium. Any loss to the Property Tax Relief Fund will have to be made up with General Revenue of the same amount to fund property tax relief.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	$0
2012	$0
2013	$0
2014	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304
2010	$2,270,000	($241,991,000)
2011	$2,770,000	($193,877,000)
2012	$2,813,000	($178,644,000)
2013	$2,858,000	($182,163,000)
2014	$2,906,000	($185,959,000)

Fiscal Analysis

The bill would amend Chapter 151 of the Tax Code to raise the state sales and use tax rate to 6.75 percent from 6.25 percent. Proceeds from the state sales and use tax above the rate of 6.25 percent would be deposited to Property Tax Relief Fund 0304.

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by changing the total revenue exemption amount, the calculation of taxable margin, and the tax rates applicable to taxable margin. The bill would raise the total revenue amount at which a taxable entity owes no tax from $300,000 to $1 million. The bill would reduce the tax rates on taxable margin for taxable entities primarily engaged in wholesale or retail trade from 0.5 percent to 0.375 percent and from 1 percent to 0.75 percent for other taxable entities.

The bill would change the calculation of taxable margin by reducing the maximum percent of total revenue that would be reported as margin for a taxable entity. The current maximum is 70 percent. The bill would change that amount to 25 percent for taxable entities with total revenue of not more than $10 million, and to 50 percent for taxable entities with total revenue of at least $10 million and not more than $50 million. For reports due in calendar 2010, the maximum percentage would be 70 percent for taxable entities with total revenue of more than $50 million. After 2010, the maximum percentage would be 50 percent for these taxable entities.

The provisions of the bill would apply to a franchise tax report due on or after January 1, 2010.

The provisions affecting the sales tax would take effect October 1, 2009. The provisions affecting the franchise tax, except those changing the calculation of taxable margin, would take effect January 1, 2010. The franchise tax provisions changing the calculation of taxable margin would take effect January 1, 2011.

Methodology

The fiscal implications of raising the state sales tax rate to 6.75 percent were estimated using current state sales and use tax revenue projections from the *2010-2011 Biennial Revenue Estimate.* These amounts represent a gain to Fund 0304.

The estimated fiscal impact on the franchise tax is based on 2008 return information from the Comptroller's tax files. These amounts represent a loss to Fund 0304. The difference between the fiscal implications of the sales tax provisions and the franchise tax provisions represent the final impact on Fund 0304.

Note: Article 8, Section 7-a of the Texas Constitution dedicates sales taxes collected on the sale of motor lubricants to the State Highway Fund 0006. This analysis assumes that the dedication would continue and that these revenues would continue to go to Fund 0006.

Note: The provisions of the bill are not completely clear with regard to the treatment of General Revenue vis-a-vis the rate increase. As a sales tax rate increases, a slight contraction in the tax base is expected; conversely, a reduction in the rate produces a slight increase in the size of the tax base. For the purposes of this analysis, current law tax revenue would accrue to General Revenue Fund 0001 while the remainder of the tax—when levied at 6.75 percent—would be directed to Fund 0304. If this assumption were not to be the case, there would be a loss to Fund 0001.

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, SM