

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: HB3268 by Leibowitz (Relating to the exemption of certain metropolitan rapid transit authorities from motor fuel taxes.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3268, As Introduced: a negative impact of (\$3,268,000) through the biennium ending August 31, 2011, if the effective date of the bill is July 1, 2009; or a negative impact of (\$3,049,000) 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 Available School Fund 2	Probable Revenue (Loss) from State Highway Fund 6	Probable (Cost) from General Revenue Fund 1
2009	(\$108,000)	(\$324,000)	\$0
2010	(\$1,327,000)	(\$3,980,000)	(\$463,000)
2011	(\$1,370,000)	(\$4,111,000)	\$0
2012	(\$1,413,000)	(\$4,239,000)	\$0
2013	(\$1,460,000)	(\$4,380,000)	\$0
2014	(\$1,504,000)	(\$4,512,000)	\$0

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 Available School Fund 2	Probable Revenue (Loss) from State Highway Fund 6	Probable (Cost) from General Revenue Fund 1
2010	(\$1,216,000)	(\$3,648,000)	(\$463,000)
2011	(\$1,370,000)	(\$4,111,000)	\$0
2012	(\$1,413,000)	(\$4,239,000)	\$0
2013	(\$1,460,000)	(\$4,380,000)	\$0
2014	(\$1,504,000)	(\$4,512,000)	\$0

Fiscal Analysis

The bill would amend Chapter 162 of the Tax Code, regarding motor fuel taxes, to provide an exemption from the gasoline and diesel fuel taxes for certain metropolitan rapid transit authorities.

Currently, the motor fuels purchased for the exclusive use of metropolitan rapid transit authorities operating under Chapter 451 of the Transportation Code are subject to the state motor fuel taxes unless the fuels are used to provide public school transportation services to a school district under Section 34.008 of the Education Code. The bill would provide an exemption from the state motor fuel taxes for all motor fuel used by these transit authorities for their exclusive use. The exemption would apply to the gasoline tax, the diesel fuel tax, and the liquefied gas tax.

Under current law, motor fuels used by metropolitan rapid transit authorities are taxed at the rate of \$0.20 per gallon for diesel fuel and gasoline, and at the rate of \$0.15 per gallon for liquefied gas, unless they are used to provide public school transportation services in which case the fuels are exempt from tax. In addition, the Code provides that a transit company that paid tax on the purchase of gasoline could seek a refund with the Comptroller in an amount equal to 1 cent per gallon for gasoline used in transit vehicles. The Code further allows that a transit company that paid tax on the purchase of diesel fuel could seek a refund with the Comptroller of one-half of 1 cent per gallon for diesel fuel used in transit vehicles.

The bill would repeal various sections elsewhere in this Code to make conforming changes.

The bill would take effect July 1, 2009, 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

Based on an April 2009 survey, the amount of fuel used by Chapter 451 metropolitan rapid transit authorities was calculated; and the appropriate tax rate, as well as the refund provisions applicable for fuel used in transit company vehicles, was applied to estimate the potential annual revenue loss. An allowance was made for tax exempt fuel currently used to provide public school transportation services. The first year's revenue loss was adjusted to allow for the statutory lag in motor fuel tax remittances.

Technology

There would be a one-time technology cost of \$463,000 in fiscal 2010 to the Comptroller's Office for programming/project management.

Local Government Impact

Certain metropolitan rapid transit authorities would have an increase in available revenue since they are no longer required to pay motor fuel taxes.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, KK