

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: HB3462 by Smith, Todd (Relating to the rate of the state gasoline tax and diesel fuel taxes and to the permissible uses of the state highway fund.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3462, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	(\$578,642,935)
2013	(\$537,290,935)
2014	(\$487,948,935)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>Available School Fund</i> 2	Probable Revenue Gain from <i>State Highway Fund</i> 6	Probable Revenue Gain from <i>URMFT (Parks and Wildlife Dept)</i> 8016	Probable Revenue Gain from <i>General Revenue Fund</i> 1
2010	\$0	\$0		\$0
2011	\$0	\$0		\$0
2012	\$44,893,000	\$132,604,000	\$899,000	\$577,000
2013	\$84,915,000	\$254,746,000	\$1,709,000	\$1,097,000
2014	\$132,706,000	\$398,119,000	\$2,653,000	\$1,704,000

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1
2010	\$0
2011	\$0
2012	(\$625,011,935)
2013	(\$625,011,935)
2014	(\$625,011,935)

Fiscal Analysis

The bill would amend the Tax Code and the Transportation Code, regarding motor fuel taxes and the use of the State Highway Fund.

The bill would amend Chapter 162 of the Tax Code to provide for an increase or decrease in the gasoline and diesel fuel tax rates on October 1st of each year equal to the percentage change in the producer price index for highway and street construction published by the U.S. Department of Labor.

The Comptroller would make the annual computation of the motor fuel tax rates. The computation would be done separately for the gasoline tax and the diesel fuel tax. However, if either computation would result in a tax rate that was less than 20 cents per gallon, the Comptroller would set the tax rate at 20 cents per gallon.

Each year, by no later than September 1st, the Comptroller would: 1) compute the new tax rates; 2) provide the new tax rates to the Secretary of State for publication in the *Texas Register*; and 3) notify each affected license holder of the applicable new tax rates.

The bill would amend the Transportation Code to change the statutorily allowed uses of the State Highway Fund. Under the current Chapter 222, money in the State Highway Fund may be used by the Department of Public Safety (DPS) "to police the state highway system and to administer state laws relating to traffic safety on public roads." The bill would limit the use of Highway Fund money for DPS activities to administering state laws relating to traffic safety on public roads. In addition, the bill would establish in this chapter that Highway Fund money could only be used to improve the state highway system.

The bill would repeal Section 222.002 of the Transportation Code, regarding the use of Highway Fund money for purposes other than public roadways.

The bill would take effect only if the constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, limiting the purposes for which revenue from motor vehicle registration fees, taxes on motor fuels and lubricants, and certain revenues received from the federal government may be used and authorizing the legislature to provide for automatic adjustments of the rates of motor fuels taxes was approved by the voters. If the amendment were not approved by the voters, this bill would have no effect.

The bill would take effect September 1, 2011.

Methodology

Estimates of the changes in gasoline and diesel fuel tax revenues were obtained by adjusting the Comptroller's *2010-11 Biennial Revenue* Estimate to reflect the revised tax rates resulting from projected changes in the producer price index under the provisions of the bill.

Because of the October 1 effective date of each year's revised tax rate, the revenue change for each year was calculated based on the appropriate number of months of tax revenue at the differing tax rates during the year. An allowance was made for changes in purchasing behavior due to higher prices at the motor fuel pump. The estimate was also adjusted to reflect statutory collection lags.

The revenue gain in column 3 of the above table reflects the fact that 75 percent of the unclaimed refundable gasoline tax collections are allocated to the Texas Parks and Wildlife Department. The revenue gain in column 4 of the above table reflects the portion of the motor fuel taxes the Comptroller retains for administration purposes.

The Department of Public Safety's State Highway Fund appropriations (including employee benefits) total \$625,011,935 in fiscal year 2009. The bill would allow DPS to use money from the State Highway Fund in fiscal years 2010 and 2011, but the agency would not be able to access these funds beginning in fiscal year 2012. This analysis assumes that General Revenue Funds would be used to fund DPS at fiscal year 2009 funding levels for fiscal year 2012 and beyond. Beginning in fiscal year

2012, the money that would have been appropriated to DPS from the State Highway Fund would be available to TXDOT for the purpose of acquiring rights-of-way, and constructing and maintaining public roadways.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 405 Department of Public Safety, 601 Department of Transportation

LBB Staff: JOB, MN, SD, KK