

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 26, 2009

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

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

IN RE: SB636 by Seliger (Relating to the authority of a county or other local governmental entity to receive local sales tax information.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapters 151, 171, 321, 322, and 323 of the Tax Code

The bill would require the Comptroller, upon request, to provide county sales tax information to a county that had adopted a sales tax. It is assumed that any additional cost associated with implementation of this section of the bill could be absorbed within existing state resources.

The bill would clarify where the sale of a taxable item is consummated for the administration of local sales taxes. The bill would specify that for the sale of each taxable item by a retailer, the sale is consummated at the place of business of the retailer where the retailer first accepts payment in person by the purchaser at a place of business of the retailer in this state.

The bill would define "destination management services" and "qualified destination management company." The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to provide certain taxable entities an exclusion from total revenue. Under the bill, a taxable entity that is a qualified destination management company would exclude from its total revenue the payments made to other persons to provide services, labor, or materials in connection with the provision of destination management services.

A destination management company would be required to meet 10 requirements listed in the bill, to include receiving at least 80 percent of its annual total revenue from providing or arranging at least four of the destination management services defined in the bill. It would also require the entity have at least three full-time employees; spend at least one percent of its annual gross receipts to market the destinations with respect to which destination management services are provided; have at least 80 percent of the clients for the entity's destination services located outside this state; not own equipment or a venue for the provision of destination services; is not doing business as a caterer; does not provide services for weddings; and is not a subsidiary of another entity doing business as a caterer or owning or operating a venue. The bill would also specify that a qualified destination management company is the consumer of taxable items sold under a qualified destination management services contract, and the services provided under the contract are not considered taxable services under the sales tax.

The estimated fiscal impact is based on information describing destination management companies and on information in the Comptroller's franchise and sales tax data bases. The bill would apply to a limited number of companies providing services under qualified destination management services contracts and the resulting sales and franchise tax revenue loss is not considered significant.

Sections of the bill relating to local entities receiving sales tax information from the Comptroller would take effect September 1, 2009. Sections of the bill related to the sourcing of local sales tax revenue take effect immediately upon enactment if it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, they would take effect September 1, 2009. Sections of the bill relating to a qualified destination management company would take effect January 1, 2010.

Local Government Impact

The fiscal impact on units of local government cannot be determined. The bill could change the location at which the sale of a taxable item is consummated for the purpose of sourcing local sales taxes. The amount of local sales tax that would be sourced to different local jurisdictions under the provisions of the bill is not known.

Source Agencies: 304 Comptroller of Public Accounts

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