

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

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**March 30, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

**IN RE: HB255** by Hilderbran (relating to the enforcement of tax laws; providing a criminal penalty.),  
**Committee Report 1st House, Substituted**

<b>Estimated Two-year Net Impact to General Revenue Related Funds</b> for HB255, Committee Report 1st House, Substituted: a positive impact of \$15,000,000 through the biennium ending August 31, 2013.
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**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2012	\$5,000,000
2013	\$10,000,000
2014	\$10,000,000
2015	\$10,000,000
2016	\$10,000,000

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

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from General Revenue Fund 1</b>
2012	\$5,000,000
2013	\$10,000,000
2014	\$10,000,000
2015	\$10,000,000
2016	\$10,000,000

**Fiscal Analysis**

The bill would amend various codes relating to the enforcement of tax laws.

The bill would authorize the state to file a written request for the court to make affirmative findings regarding the commission of tax fraud in a trial for an offense under the Tax Code or Penal Code.

The bill would allow the Comptroller to accept money or property under a federal equitable sharing program.

The bill would expand the definition of proceeds from money laundering activity to include funds acquired due to the failure to pay sales and use taxes collected. The bill would add an offense classified as a felony under the Tax Code to the list of organized criminal activities under Section 71.02(a), Penal Code. The bill would apply Sections 15.02 and 15.04, Penal Code and Title 11, Penal Code to offenses prescribed by the Tax Code.

The bill would authorize a Comptroller investigator to investigate any criminal offense under the Tax Code or any offense that relates directly or indirectly to a tax, fee, penalty, or charge administered, collected, or enforced by the Comptroller.

The bill would toll statute of limitations for tax assessments during periods when an indictment or information is pending for a felony offense related to the administration of the Tax Code.

The bill would amend and enhance the provisions providing for criminal penalties for failure to pay sales taxes collected and authorize amounts to be aggregated to determine the grade of the offense. The bill would enhance the criminal penalty for a person who intentionally conceals, removes, or impairs the verity or legibility of an exemption or resale certificate.

The bill would create an offense for failure to produce records that document a taxpayer's taxable sale of items obtained using a resale certificate. The offense would range from a Class C misdemeanor to a second degree felony depending on the amount of tax avoided.

The bill would amend provisions regarding cigarette and cigar and tobacco products taxes to authorize the Comptroller to retain forfeited property for official use by the Comptroller's criminal investigations division.

### **Methodology**

Based on the analysis of the Comptroller, provisions of the bill which would enhance certain misdemeanor and criminal penalties for offenses under the Tax Code (Sections 8, 16 and 18 of the bill) would result in an increase to General Revenue by \$5,000,000 in fiscal year 2012 and \$10,000,000 each fiscal year thereafter due to increased compliance with tax laws. The fiscal impact of remaining sections of the bill cannot be estimated.

It is anticipated that any additional administrative costs to the Comptroller, Office of Court Administration and Office of Administrative Hearings associated with implementation of the legislation could be absorbed within existing resources.

### **Local Government Impact**

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

### **Source Agencies:**

**LBB Staff:** JOB, KK, MS, LCO