

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 14, 2011

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

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

IN RE: HB303 by Berman (Relating to the imposition of a fee for money transmissions sent to certain destinations outside the United States.), **As Introduced**

Depending upon compliance with the U.S. Constitution, there could be an indeterminate revenue gain to the state.

The bill would add Chapter 279 to the Finance Code to impose a fee on money transmissions sent to certain destinations outside the United States.

The bill would set a new state fee of 8 percent on the total amount sent by a money transmission business from Texas to a destination in Mexico or in Central or South America for a personal, family, or household purpose. A money transmission business, as defined in the bill, would collect and remit the fee to the Comptroller's Office. U.S. citizens and other persons lawfully present in the U.S. would be entitled to apply for a fee refund. The Comptroller's Office would adopt rules by October 1, 2011, necessary for the imposition, administration, payment, collections, enforcement, and refund of the fee. The proposed fee would apply to money transmissions occurring on or after October 1, 2011. Net fee revenue collected by the Comptroller's Office would be deposited to the credit of GR Account—Indigent Health Care Support, a new account created by the bill. Money in the account could only be appropriated to the Health and Human Services Commission to provide funding for indigent health care and for other health care services to needy residents of Texas. Therefore, this bill would not make an appropriation, but would establish the basis for an appropriation.

This legislation, as drafted, could be subject to constitutional challenge on several grounds, including claims that it would constitute an attempt by the state to regulate foreign commerce and that it would violate the constitutionally guaranteed right to equal protection under the law. As such, the fiscal impact cannot be estimated. However, strictly for purposes of providing an illustrative example and assuming that the legislation were determined in compliance with the U.S. Constitution, it is estimated that the fee could generate on the order of \$60 million per year. This illustrative example was based on data from a study by the Inter-American Bank titled "Remittances from the U.S. to Latin America 2008"; an Inter-American Development Bank New Release titled "IDB sees turning point in remittances to Latin American and the Caribbean," dated May 6, 2010; and a *New York Times* article, "Fewer Latinos in U.S. are sending money home," dated May 1, 2008. The estimated fiscal impact took into account the expected change in transmission methods that would be used by some remitters due to the new fee to arrive at the dollar amount of money transmissions subject to the fee. The example was also adjusted for expected refunds.

The Comptroller has indicated they would require an additional 50 FTEs to handle the increased workload of collecting and refunding the new fee and auditing businesses remitting the fee.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts

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