

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 23, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB590 by Thompson (Relating to amended sales tax reports and the reallocation of sales tax revenue.), **As Passed 2nd House**

Depending upon the amount of fees that the Comptroller could collect from local government entities, there could be an indeterminate fiscal impact to the state.

The bill would amend Chapters 321, 322, and 323 of the Tax Code, to provide for a local governmental entity to request a review of all sales tax returns and reports filed by not more than five taxpayers that relate to certain reallocations and refunds of local sales tax revenue, and to clarify that a business location engaged in certain activities is not a place of business of a retailer.

New Sections 321.510 and 323.510 would provide that a local governmental entity may request related tax returns for review if the Comptroller reallocates or refunds tax revenues that equal the lesser of: 1) \$200,000; 2) 10 percent of the revenue received by the entity during the prior calendar year; or 3) an amount that changes the revenue received during a calendar month by more than 15 percent as compared with the same month in any previous year. The Comptroller would be required to provide the requested taxpayer information. Provision of confidential information under the new sections would not affect the confidential nature of the information. The Comptroller would be authorized to set and collect a reasonable fee from local governmental entities for the expense of compiling and providing information under these sections.

The bill would amend Section 321.002 to provide that any business location that contracts with a retail or commercial business to process invoices, purchase orders, bills of lading, or other equivalent records onto which sales tax is added, including an office operated for the purpose of buying and selling taxable goods to be used by the retail or commercial business, is not a "place of business of the retailer" if the Comptroller determines that the location functions to avoid the tax imposed by Chapter 321 or to rebate a portion of such tax to the contracting business.

The fiscal impact from the fees which the Comptroller could collect from local governmental entities cannot be determined. The provisions of the bill pertaining to information requests would have no revenue implications.

The Comptroller indicates they would need an additional 5 FTEs to process and handle the increased number of returns filed and the requests associated with reallocation of local sales and use tax to local governmental entities.

The bill would take effect September 1, 2011.

Local Government Impact

The provision excluding certain business locations from the definition of a place of business may result in greater sales tax revenues for some municipalities but in amounts that cannot be determined.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, KK, SD