

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 31, 2011

TO: Honorable Joseph Pickett, Chair, House Committee on Defense & Veterans' Affairs

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

IN RE: HB2042 by Menendez (Relating to defense base development authorities, including the powers of an authority and the taxation of certain tangible personal property located on the base property for which the authority is established.), **As Introduced**

There could be an indeterminate fiscal impact to the state through the operation of the school finance formulas if there was constitutional authorization for an exemption of commercial aircraft as proposed by the bill.

The bill would amend Chapter 379B of the Local Government Code to specify that charging for the use, lease, or sale of an open space is one of the powers of a defense base development authority. The bill also would add new Section 379B.0042 to the chapter to list the services for which a defense base development authority may charge.

The bill would add new Subsections 379B.011(c), (d), and (e) to the chapter to require a presumption that a commercial aircraft to be used as an instrumentality of commerce that is under construction inside a defense base development authority is in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02 of the Tax Code. This presumption also would be required for personal property located inside the authority if the owner demonstrates to the chief appraiser for the appraisal district in which the authority is located that the owner intends to incorporate the property into, or attach the property to, a commercial aircraft. A commercial aircraft would be defined as an aircraft under construction that is designed to be used as described by Section 21.05(e) of the Tax Code.

The sections of the bill that would require the presumption discussed above would apply only to property taxes imposed for a tax year beginning on or after January 1, 2012. Otherwise, the bill would take effect on September 1, 2011.

The Boeing Port of San Antonio aircraft Maintenance, Repair and Overhaul (MRO) facility at the former Kelly Air Force Base is the site of the aircraft finishing operation that is the focus of the bill. The site is in Bexar County, the City of San Antonio, with 91 percent in the South San Antonio school district and 9 percent in the Edgewood school district. The bill's provision that would require a presumption that the commercial aircraft and other personal property to be incorporated into the aircraft is in interstate commerce and not located in this state for more than a temporary period would cause the property to lose taxable situs. In other words, the property would be exempt. This would cause a property tax revenue loss to local taxing units and to the state through the operation of the school funding formula. Note that there is no constitutional authorization for an exemption of commercial aircraft as proposed by the bill.

The Comptroller's official response was that the fiscal impact of the bill cannot be determined. However, the Comptroller did give an illustrative example of the revenue losses which could occur if the appraised value of the subject aircraft at the Boeing Port of San Antonio MRO facility were set at 50 percent of list price versus the zero appraised value that would be required by the bill. The exact percentage of list price at which the aircraft would finally be set under current law, and the exact list price of aircraft on January 1st in future years, are unknown, so the exact extent of the fiscal impact cannot be estimated. Also, as noted earlier, there is no constitutional authorization for an exemption of

commercial aircraft as proposed by the bill. The Comptroller's illustrative example is included below:

| Fiscal Year | Savings/(Cost) to Foundation School Fund (0193) | Gain/(Loss) to South San Antonio ISD | Gain/(Loss) to Bexar County | Gain/(Loss) to City of San Antonio |
|-------------|---|--------------------------------------|-----------------------------|------------------------------------|
| 2012 | \$0 | \$0 | \$0 | \$0 |
| 2013 | (3,063,000) | (1,425,000) | (1,114,000) | (1,918,000) |
| 2014 | (3,569,000) | (994,000) | (1,132,000) | (1,944,000) |
| 2015 | (3,642,000) | (998,000) | (1,150,000) | (1,970,000) |
| 2016 | (3,715,000) | (1,003,000) | (1,168,000) | (1,997,000) |

Local Government Impact

There could be an indeterminate fiscal impact to units of local government if there was constitutional authorization for an exemption of commercial aircraft as proposed by the bill.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, KM, SD, TP, SJS