

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

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

**April 5, 2011**

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

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

**IN RE: HB2043** by Menendez (Relating to the taxation of certain tangible personal property located inside a defense base development authority.), **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 the Local Government Code to add new Subsections 379B.011(c), (d), and (e) 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, regarding property taxation. 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 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. 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. 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)

The bill would take effect on January 1, 2012.

**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, SJS, JB, TP, SD