

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 11, 2011

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

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

IN RE: HB3120 by Thompson (Relating to the treatment of certain exempt organizations as agents of suppliers or distributors of taxable items for purposes of the sales and use tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3120, As Introduced: a negative impact of (\$9,600,000) through the biennium ending August 31, 2013, if the bill takes immediate effect; or a negative impact of (\$8,800,000) through the biennium ending August 31, 2013, if the effective date of the bill is September 1, 2011.

All Funds, Six-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>Cities</i>	Probable Revenue (Loss) from <i>Transit Authorities</i>	Probable Revenue (Loss) from <i>Counties and Special Districts</i>
2011	(\$400,000)	(\$100,000)	\$0	\$0
2012	(\$4,500,000)	(\$900,000)	(\$300,000)	(\$200,000)
2013	(\$4,700,000)	(\$900,000)	(\$300,000)	(\$200,000)
2014	(\$4,900,000)	(\$1,000,000)	(\$300,000)	(\$200,000)
2015	(\$5,100,000)	(\$1,000,000)	(\$300,000)	(\$200,000)
2016	(\$5,400,000)	(\$1,100,000)	(\$300,000)	(\$200,000)

The table above reflects the revenue loss if the bill took immediate effect. The table below reflects the revenue loss if the bill took effect September 1, 2011.

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>Cities</i>	Probable Revenue (Loss) from <i>Transit Authorities</i>	Probable Revenue (Loss) from <i>Counties and Special Districts</i>
2012	(\$4,100,000)	(\$800,000)	(\$200,000)	(\$100,000)
2013	(\$4,700,000)	(\$900,000)	(\$300,000)	(\$200,000)
2014	(\$4,900,000)	(\$1,000,000)	(\$300,000)	(\$200,000)
2015	(\$5,100,000)	(\$1,000,000)	(\$300,000)	(\$200,000)
2016	(\$5,400,000)	(\$1,100,000)	(\$300,000)	(\$200,000)

Fiscal Analysis

The bill would amend Chapter 151 of the Tax Code, regarding the sales and use tax and the treatment of certain exempt organizations as agents of suppliers or distributors of taxable items.

The bill would amend Section 151.024 to provide that neither an organization described in Section 151.310(a)(1) or (a)(2) nor an individual acting on behalf of the organization is an agent of a retailer or seller under whom the organization or individual operates or from whom is obtained tangible personal

property sold by the organization or individual. Organizations described in Section 151.310(a)(1) and (a)(2) include certain religious, educational, and charitable organizations as well as organizations exempt from federal income tax under various subdivisions of Section 501(c), Internal Revenue Code.

The bill would amend Section 151.310 by adding a new Subsection (f) to provide that a Section 151.310(a)(1) or (a)(2) organization is the seller of a taxable item if the organization purchased the item, and to provide what types of documentation are evidence of a purchase by the organization.

The bill would take immediate effect if it receives the requisite two-thirds votes in each house, otherwise it would take effect September 1, 2011.

Methodology

Currently, certain firms are considered sellers of taxable items and the two-day tax-free sale exemption provided for exempt organizations in Section 151.310 does not apply when orders are taken through an exempt organization. Such firms are responsible for collection and remittance of sales tax. This bill would shift tax collection responsibility to the exempt organizations, and it is expected that affected organizations would hold fundraisers in a manner so as to maximize sales during tax-free sale days.

Taxable sales of fundraising firms were estimated from Comptroller tax files and other data, multiplied by the state sales tax rate, extrapolated through the forecast period, and adjusted for the potential effective dates.

Local Government Impact

The bill would cause a proportional loss of sales and use tax revenue to local taxing jurisdictions.

Source Agencies: 304 Comptroller of Public Accounts

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