

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 6, 2011

**TO:** Honorable Jim Pitts, Chair, House Committee on Appropriations

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

**IN RE: HB3640** by Pitts (Relating to the remittance and allocation of certain taxes and fees.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3640, As Introduced: a positive impact of \$516,275,000 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Six-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2011	\$493,545,000
2012	(\$494,479,000)
2013	\$517,209,000
2014	(\$517,991,000)
2015	\$538,500,000
2016	(\$539,282,000)

All Funds, Six-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Available School Fund</i> 2	Probable Revenue Gain/(Loss) from <i>State Highway Fund</i> 6	Probable (Cost) from <i>General Revenue Fund</i> 1
2011	\$554,583,000	(\$61,038,000)	(\$183,113,000)	\$0
2012	(\$554,583,000)	\$61,038,000	\$183,113,000	(\$934,000)
2013	\$581,412,000	(\$63,812,000)	(\$191,433,000)	(\$391,000)
2014	(\$581,412,000)	\$63,812,000	\$191,433,000	(\$391,000)
2015	\$605,046,000	(\$66,155,000)	(\$198,466,000)	(\$391,000)
2016	(\$605,046,000)	\$66,155,000	\$198,466,000	(\$391,000)

Fiscal Year	Change in Number of State Employees from FY 2011
2011	0.0
2012	3.0
2013	3.0
2014	3.0
2015	3.0
2016	3.0

The fiscal impacts shown in the table above would apply if the bill takes immediate effect. If the bill takes effect on September 1, 2011, only the fiscal impacts in fiscal 2013 and each succeeding year would apply.

**Fiscal Analysis**

The bill would amend various chapters of the Alcoholic Beverage Code to require tax remittances for each of the alcoholic beverage taxes for the month of September in odd-numbered years to be paid in August. The taxpayer would be required to remit either 90 percent of expected tax for September or 100 percent of what was paid in the preceding year for the month of September. The bill would affect the airline/train passenger, liquor, wine, malt liquor/ale, beer, and mixed beverage taxes.

The bill would amend Chapter 162 of the Tax Code to require tax remittances for the gasoline and diesel fuel taxes for the month of September in odd-numbered years to be paid in August. The taxpayer would be required to remit either 90 percent of expected tax for September or 100 percent of what was remitted in the preceding year in August. The bill would stipulate that for both taxes the Comptroller may not allocate revenue remitted to the Comptroller during July and August of each odd-numbered year before the first workday of September.

This bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by revising the dates when payments are due from certain taxable entities. The bill would define "large taxable entity" as one that reported more than the median amount of tax due on the preceding annual report. The bill would direct the Comptroller to compute the median tax liability and post the information on the Comptroller's website. The initial posting would be due on June 15 of the year in which the bill becomes effective.

The bill would set the payment schedule for a large taxable entity. The first four payments would be due on July 15, October 15, January 15, and April 15. Each payment would equal one-fourth of 90 percent of the amount tax due on the preceding annual report. A fifth payment would be due on May 15 and would equal the total amount of tax due for the period minus the sum of the first four payments. The bill would provide that a large taxable entity may request an extension for making a required tax payment. The initial payment from a large taxpayer would be due July 15, 2012.

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 except for the provisions affecting the franchise tax, which would take effect on June 1, 2012.

**Methodology**

The effects on revenue from changes to the remittance of taxes listed in the bill are based on the Comptroller's 2012-13 Biennial Revenue Estimate.

Of the change in GR revenue displayed in the first column above, approximately 11 percent comes from changes related to the remittance of alcoholic beverage taxes. The remaining change in GR revenue, along with the change in Available School Fund and State Highway Fund revenue, is associated with the provisions regarding the remittance of motor fuels tax revenue.

Regarding the franchise tax impacts, under the bill's provisions all taxable entities with a tax liability would meet the definitions for a large taxable entity if taxable entities filing a no tax due return are included. In addition, because the provisions in the bill providing for an extension for a large taxable entity to make a payment (a payment, not a return) could eliminate the early payment of tax liability, the fiscal impact cannot be estimated. However, based on the Comptroller's tax files, the acceleration of franchise tax payments in the manner contemplated by this bill could produce a gain of \$800 million in the first biennium in which it is effective.

The administrative cost estimate shown in the 4th column reflects the funds that would be necessary to hire 3 FTEs to handle quarterly remittance of taxes, refunds, and requests for payment transfers. The administrative cost also reflects significant updates to existing system programs, printing costs and security control assessments.

### **Technology**

There would be a one-time technology cost of \$544,000 in FY 2012 for programming and project management and security control assessments

### **Local Government Impact**

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

**Source Agencies:** 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

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