LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 18, 2011

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: **SB1004** by Lucio (Relating to the imposition of a tax on certain beverages.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1004, As Introduced: a positive impact of $1,058,466,000 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, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	$473,471,000
2013	$584,995,000
2014	$615,395,000
2015	$609,095,000
2016	$602,995,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from *General Revenue Fund* 1	Probable (Cost) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Cities*	Probable Revenue (Loss) from *Counties and Special Districts*
2012	$474,900,000	($1,429,000)	($6,400,000)	($1,100,000)
2013	$586,000,000	($1,005,000)	($6,900,000)	($1,200,000)
2014	$616,400,000	($1,005,000)	($6,800,000)	($1,200,000)
2015	$610,100,000	($1,005,000)	($6,700,000)	($1,200,000)
2016	$604,000,000	($1,005,000)	($6,700,000)	($1,200,000)

Fiscal Year	Probable Revenue (Loss) from *Transit Authorities*	Change in Number of State Employees from FY 2011
2012	($2,000,000)	16.0
2013	($2,100,000)	16.0
2014	($2,100,000)	16.0
2015	($2,100,000)	16.0
2016	($2,100,000)	16.0

Fiscal Analysis

The bill would impose a tax on soft drinks, defined as a carbonated or noncarbonated nonalcoholic beverage that contains natural or artificial sweeteners. Soft drinks do not include milk or milk products, milk substitutes, beverages containing more than 50 percent vegetable or fruit juice by volume or beverages intended by the manufacturer for consumption by an infant.

The bill would impose a tax on each sale at retail of a soft drink at a rate of one cent on each ounce or fractional ounce of a soft drink sold. The tax would be imposed in addition to any other tax imposed by state law. Exceptions to the application of the tax would include beverages sold in or by a restaurant, lunch counter, hotel or other business for consumption on the premises of the business, and if the receipt from the sale of a beverage are taxable under Chapter 183.

The bill would require the comptroller to prescribe the manner in which the tax would be administered, imposed, and collected. The revenue of the tax would be deposited to the credit of the general revenue fund.

The bill would take effect September 1, 2011.

Methodology

Data on national consumption of soft drinks by volume was apportioned to Texas based on share of population, and amounts attributable to consumption at restaurants and other on-premise consumption such as vending machine sales at businesses excluded. Relative to current soft drink prices at supermarkets and mass merchandisers, the tax would result in a significant price increase that would be expected to depress consumption. The estimated tax base was thus reduced for lower expected consumption, as well as for collection and compliance lags after the effective date. Reduced consumption would also result in a decline in state sales tax revenues from soft drinks.
Because this tax would be collected at the retail level, some retailers may encounter computer system difficulties in collecting a tax based on product volume rather than sales price. Existing taxes based on volume (such as the excise taxes on beer, wine, and distilled spirits) are typically imposed at the distributor level rather than at retail.

It is not clear whether the proposed tax on each sale at retail would be added at the point of sale and thus not be included in the sales price subject to sales tax, or would be included in a retailer's stated product price and thus be included in the sales price subject to sales tax. For purposes of the estimates below, it is assumed that the soft drink tax would not be included in the retail price subject to sales tax.

The administrative cost estimate reflects the funds that would be necessary to hire 16 FTEs and contract for seasonal employees to process applications and forms for the new tax for sale of soft drinks, existing system program changes, and printing costs.

Technology

There would be a one-time technology cost of $391,000.00 in fiscal year 2012 for system updates, maintenance, and project management.

Local Government Impact

Reduced consumption induced by higher soft drink prices would result in a decline in sales tax revenues for local taxing jurisdictions.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, KK, SD, ACl