LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 2, 2011

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

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

IN RE: **SB1811** by Duncan (Relating to certain state fiscal matters; providing penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1811, Committee Report 2nd House, Substituted: a positive impact of $2,565,221,648 through the biennium ending August 31, 2013, assuming an immediate effective date for articles 2 and 12 of the bill and a September 1, 2011 effective date for the other provisions of the bill; or a positive impact of $2,501,088,648 through the biennium ending August 31, 2013, if the effective date of the bill is September *1*, 2011 for all provisions of the bill.

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

Fiscal Impact Assuming Immediate Effect of Articles 2 and 12 and a September 1, 2011 Effective Date for All Other Articles

All Funds, Six-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Federal Funds* 555	Probable Savings/(Cost) from *Foundation School Fund* 193	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1
2011	$0	$0	$0	$17,000,000
2012	($396,856)	$1,427,405	$1,788,000	$74,165,000
2013	$751,504	$1,606,538	$2,201,858,000	$270,056,000
2014	$751,504	$1,606,538	$2,288,000	$34,332,000
2015	$751,504	$1,606,538	$1,955,000	$37,523,000
2016	$751,504	$1,606,538	$1,955,000	$41,868,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Cities*	Probable Revenue Gain/(Loss) from *Transit Authorities*	Probable Revenue Gain/(Loss) from *Counties*	Change in Number of State Employees from FY 2011
2011	$0	$0	$0	(25.0)
2012	$11,200,000	$3,500,000	$2,000,000	(25.0)
2013	$11,400,000	$3,600,000	$2,000,000	(25.0)
2014	$0	$0	$0	(25.0)
2015	$0	$0	$0	(25.0)
2016	$0	$0	$0	(25.0)

Fiscal Impact Assuming September 1, 2011 Effective Date

Fiscal Year	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *Federal Funds* 555	Probable Savings/ (Cost) from *Foundation School Fund* 193	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1
2012	($396,856)	$1,427,405	$0	$29,102,000
2013	$751,504	$1,606,538	$2,201,788,000	$269,844,000
2014	$751,504	$1,606,538	$2,121,000	$33,832,000
2015	$751,504	$1,606,538	$1,955,000	$37,523,000
2016	$751,504	$1,606,538	$1,955,000	$41,868,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Cities*	Probable Revenue Gain/(Loss) from *Transit Authorities*	Probable Revenue Gain/(Loss) from *Counties*	Change in Number of State Employees from FY 2011
2012	$0	$0	$0	(25.0)
2013	$11,400,000	$3,600,000	$2,000,000	(25.0)
2014	$0	$0	$0	(25.0)
2015	$0	$0	$0	(25.0)
2016	$0	$0	$0	(25.0)

Fiscal Analysis

Article 1 would authorize state agencies to reduce or recover expenditures by taking action to consolidate reports, extend license, permit or registration periods, enter into contracts to carry out an agency's duties, adopt additional eligibility requirements for benefits, provide for electronic communication, and adopt and collect fees or charges to recover costs incurred by an agency.

Article 2 would implement a recommendation in the report, "End the Use of General Revenue Funds to Pay for Insurance Company Examinations," in the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011, by repealing insurance premium tax credits for examination fees.

Article 3 would require the Health and Human Services Commission (HHSC) to use appropriate technology to confirm the identity of applicants and prevent duplicative participation in the financial assistance program and the supplemental nutrition assistance program. The bill would repeal the requirement for fingerprint-imaging or photo-imaging for adult and teen applicants for these programs.

Article 4, relating to tax records, would amend the Occupations Code and the Tax Code to extend the amount of time that taxpayers must keep records. Specifically, Section 111.0041 of the Tax Code would be amended to extend the time to at least four years that taxpayers would be required to maintain records to substantiate and verify a claim regarding the taxes, penalties, and interest. Conforming changes would be made elsewhere in the Tax Code and the Occupations Code.

Article 5 of the bill would amend the Code of Criminal Procedure Article 103.0033 by transferring audit responsibilities for the court-related Collection Improvement Program (CIP) from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA). This article is effective September 1, 2011.

Article 6, relating to the penalties for failure to report or remit certain taxes or fees, would amend the Tax Code and the Health and Safety Code to add a penalty of $50 for a person who fails to file certain reports required under the codes. The penalty would be in addition to any other authorized penalties, and without regard to whether the person subsequently files the report or whether any taxes or fees were due. The bill's provisions would apply to several taxes including the sales and use tax and motor vehicle rental and seller financed taxes.

Article 7 would defer the Foundation School Program (FSP) payment to school districts scheduled for

August of fiscal year 2013 to not earlier than September 5th of the following fiscal year.

Article 8 of the bill would move the deadline for businesses to transfer unclaimed property to the Comptroller from November 1 to July 1. As a result, three unclaimed property transfers would occur in the 2012-13 biennium. There would be two transfers in all future biennia, but with a new July 1st transfer deadline.

Article 9, regarding voter registration, would amend Chapters 18 and 19 of the Election Code to remove the requirement that the Secretary of State (SOS) notify the Comptroller's Office of statutory noncompliance by voting registrars, and when a registrar has corrected the violation and is in substantial compliance; remove the requirement that registrars submit notices to the Comptroller regarding voter registrations; replace the Comptroller with the SOS in making authorized payments to registrars; and repeal Section 19.002(c), which allows the Comptroller to require proof before issuing a warrant.

Article 10, regarding certain powers and duties of the Comptroller of Public Accounts, to expand the Comptroller's warrant hold offset authority to include state employee lump sum payments.

Article 11, regarding preparation and publication of certain reports and other materials, would amend Chapter 61 of the Education Code and Chapter 5 of the Tax Code to require the electronic publication of various reports. The Comptroller would be allowed to charge a reasonable fee to offset the costs of preparing materials. The bill repeals Sections 51.607, regarding implementation of new or amended court costs or fees, 403.030, regarding information on economic development activities, and 552.143 (e) of the Government Code; and Chapter 379A of the Local government Code, regarding a report to the Comptroller by municipal development corporations.

Article 12 would implement recommendations from the report "Tie the August State Sales Tax Holiday to Budget Conditions" from the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011. Article 12 would require the comptroller on or after January 1 of odd-numbered years to determine whether or not the exemptions under Sections 151.326 (clothing and footwear) and 151.327 (school supplies and school backpacks) apply, based on certain criteria. The comptroller would be required to provide notice of the determination to each sales tax permit holder and on its website. Notwithstanding those Sections as amended by the bill, the bill would provide that the sales tax holiday exemptions would not have effect in August 2011 and August 2012 if the bill has immediate effect, and would not have effect in August 2012 if the bill is effective September 1, 2011.

Article 13, regarding surplus lines and independently procured insurance, would amend Chapter 225 and 226 of the Insurance Code to comply with the requirements of the Nonadmitted and Reinsurance Reform Act (NRRA) of 2010. Under the provisions of the bill, this state could not impose a premium tax on nonadmitted insurance for policies in which this state is not the home state of the insured. If this state has not entered into a cooperative agreement or compact with another state for the collection of nonadmitted insurance tax, the tax would be computed on the entire premium for any policy in which this state is the home state. If this state has entered into a cooperative agreement or compact with another state, taxes due on multi-state policies would be allocated in accordance with the agreement or compact. The bill would allow the Comptroller to establish an alternate basis for taxation of nonadmitted policies for the purposes of achieving uniformity. The bill would repeal Insurance Code Sections 225.004(d) and (d-1), and Sections 226.053(b-1) and (c), which would conflict with the provisions of NRRA.

Article 14, regarding obesity intervention and prevention program, would amend Chapter 403 of the Government Code to add Subchapter Q establishing this program. The bill would direct the Comptroller to establish and administer the obesity intervention and prevention grant program and study, and submit a report to the Legislature not later than January 1 of each odd-numbered year regarding the effectiveness of the grant program. The Comptroller would adopt rules as necessary for the administration of this Subchapter.

Except as otherwise provided by this act, this act would take effect September 1, 2011.

Methodology

To the extent to which an agency would use the authority granted in this section is unknown. Therefore, the impact of these changes is not included in the estimates shown above.

To estimate the provisions of Article 2, data from TDI and the Comptroller were used to calculate the amount of examination fee and overhead assessment credits that would be available, the proportion of available examination fee credits that would be applied towards premium tax liability under current law, and the extent to which the repeal of these credits would increase the use of other types of premium tax credits. It is assumed examination fees and overhead assessment credits earned prior to the effective date of this bill would be applicable to premium tax liabilities due in fiscal 2012. It is further assumed that this bill would take effect before TDI overhead assessments are posted (in effect that the bill passes with two-thirds majority votes in both houses of the Legislature). If the bill does not take effect until September 1, 2011, the estimated fiscal 2012 fiscal impact would be zero and the 2013 fiscal impact would be reduced by $280,000.

The Health and Human Services Commission (HHSC) assumes implementation of the provisions Article 3 on September 1, 2011. Based on HHSC estimates, All Funds net savings are estimated to be$2,899,462 in fiscal year 2012 and $3,263,331 in each subsequent fiscal year. Savings in General Revenue Funds are estimated to be $1,472,057 in fiscal year 2012 and $1,656,793 in each subsequent fiscal year. HHSC indicates the Texas Integrated Eligibility Redesign System (TIERS) provides an alternative means of identifying duplicate participation, including electronic verifications of identity and other personal information. It is therefore assumed that HHSC can meet the verification requirements of the bill without additional costs. Based on HHSC estimates, elimination of the fingerprint-imaging requirement would reduce time spent by staff on processing eligibility for these programs, resulting in a reduction of training costs, salaries and benefits, operating and travel costs, miscellaneous overhead costs and full-time-equivalent technology-related costs totaling an estimated savings of $1,699,518 in All Funds each year for 37full-time equivalents. Savings associated with the Lone Star Imaging Services (fingerprint-imaging) contract are estimated at $1,102,444 in fiscal year 2012 and $1,338,813 in each subsequent fiscal year. Additional savings relating to data center services supporting the Lone Star Imaging Services contract are estimated at $225,000 each year. Modification of HHSC's automated eligibility system, Texas Integrated Eligibility Redesign System (TIERS) is estimated to require a one-time cost of $127,500 in All Funds in fiscal year 2012.

The fiscal impact of the provisions of Article 4 was estimated by the Comptroller.

Article 5 of the bill would transfer the auditing of the court-related Collection Improvement Program (CIP) function from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA). When the mandatory CIP was created by legislation in 2005, the CPA received appropriations for eight full-time equivalents (FTEs) to fulfill the related auditing functions. It is assumed that eight FTEs, Auditor IV positions, would be needed at OCA at a salary cost of $54,498 per FTE per fiscal year, with a total salary cost of $435,984 to General Revenue per year. Additional expenses include travel, at a cost of $80,000 per year; other operating expenses, at a cost of $13,840-$14,640 per year; and equipment costs for computers at a cost $19,824 in fiscal year 2012 with a four-year replacement schedule. In addition, benefits would cost $121,465 per fiscal year. The estimated cost to OCA for the auditing function is approximately $671,913 in fiscal year 2012 and $651,289 in subsequent fiscal years.

The CPA reports that redirecting the existing staff currently performing court collections audits to taxpayer audits would result in additional General Revenue to the state of: $5.1 million in fiscal year 2012; $5.2 million in fiscal year 2013; $5.3 million in fiscal year 2014; $5.5 million in fiscal year 2015; and $5.7 million in fiscal year 2016. Since existing CPA staff will be redirected to taxpayer audits, for purposes of this analysis, it is assumed that the OCA would require additional funding and FTEs, as previously described, to assume the auditing function currently performed by CPA staff.

In Article 7 of the bill, the effect of deferring the August FSP payment in fiscal year 2013 to September of the following fiscal year is that a total of 23 monthly FSP payments would be dispersed during the 2012-13 biennium. Under current law funding of the FSP, this deferral would result in a one-time savings of $2.2 billion in fiscal year 2013. However, any statutory reduction to school districts' FSP entitlements would decrease the savings gained from this deferral. The value of the deferral under the FSP funding levels in HB 1 Engrossed would be reduced to approximately $1.8 billion in fiscal year 2013.

In Article 8, moving the unclaimed property transfer deadline to July 1 from November 1 would result in a one-time gain of $200 million in fiscal year 2013. The estimate reflects the impact of changes in the unclaimed property determination and transfer date and was developed using Comptroller data.

According to the CPA, with immediate implementation of article 12, suspension of the sales tax holiday would occur in 2011 and 2012 and would result in a general revenue fund gain of $17.0 million in fiscal year 2011, $57.4 million in fiscal year 2012, and $41.4 million in fiscal year 2013. If the effective date is September 1, 2011, the holiday would only be suspended in 2012, and would result in a general revenue fund gain of $17.7 million in fiscal year 2012 and $41.4 million in fiscal year 2013. The fiscal impacts are estimated based on the Comptroller's February 2011 Tax Exemptions & Tax Incidence report, adjusted for effective dates and collections timing differences between regular sales tax payments and prepayments.

The Comptroller of Public Accounts (CPA) anticipates hiring 4 FTEs for fiscal years 2012-2016 to handle quarterly remittance of taxes, penalty waiver and payment transfer requests, and refunds. The administrative cost also reflects the funds necessary for programming and project maintenance, taxpayer notification and printing costs.

Technology

Net savings for technology in Article 3 are estimated to be $470,980 over the 2012-13 biennium. This includes a savings of $148,480 associated with decreased workload; a savings of $450,000 related to data center services supporting the Lone Star Imaging Services contract; and a one-time cost of $127,500 in fiscal year 2012 to modify HHSC’s automated eligibility system, TIERS.

The Comptroller of Public Accounts (CPA) anticipates a one-time technology cost of $400,000 in fiscal year 2012 programming and project maintenance.

Local Government Impact

For Article 7 regarding certain foundation school program payments, the Texas Education Agency anticipates that school districts would have to wait until September to receive their final monthly payment for prior school year. The delay in the August payment might cause some difficulties with cash flow; however, districts have experienced similar situations before.

In Article 12, there would be a proportional gain of sales tax revenue to units of local government. There would be no impact on local governments in the first year of implementation as August sales tax collections remitted to the CPA will not be allocated to the local jurisdictions until the following fiscal year

For Article 14 regarding the Obesity Intervention and Prevention Program at the CPA, TEA anticipates that school districts that applied for and received grant awards from the CPA for obesity intervention and prevention programs would be required to collect and report data as required by the comptroller. There would be some administrative costs to collect and report new data to the CPA but these costs would be voluntary based on application for a grant, and it is assumed that any administrative costs would be offset by grant funding.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 307 Secretary of State, 454 Department of Insurance, 529 Health and Human Services Commission, 701 Central Education Agency, 781 Higher Education Coordinating Board, 537 State Health Services, Department of

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