LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 30, 2013

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB3571** by Hilderbran (Relating to taxes administered by the comptroller of public accounts; raising and lowering the rates of certain taxes.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3571, As Introduced: a positive impact of $3,290,000 through the biennium ending August 31, 2015.

**Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($20,740,000) for the 2014-15 biennium. Any loss to the Property Tax Relief Fund must be made up with an equal amount of General Revenue to fund the Foundation School Program.**

## General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|---|---|
| 2014 | $1,170,000 |
| 2015 | $2,120,000 |
| 2016 | $2,390,000 |
| 2017 | $2,690,000 |
| 2018 | $2,980,000 |

## All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain from *General Revenue Fund* 1 | Probable Revenue Gain from *Foundation School Fund* 193 | Probable Revenue Gain from *Hotel Occup Tax Depos Acc* 5003 | Probable Revenue (Loss) from *Property Tax Relief Fund* 304 |
|---|---|---|---|---|
| 2014 | $620,000 | $340,000 | $210,000 | ($10,350,000) |
| 2015 | $1,200,000 | $540,000 | $380,000 | ($10,390,000) |
| 2016 | $1,420,000 | $570,000 | $400,000 | ($10,590,000) |
| 2017 | $1,660,000 | $610,000 | $420,000 | ($10,400,000) |
| 2018 | $1,900,000 | $640,000 | $440,000 | ($10,310,000) |

## Fiscal Analysis

The bill would amend numerous chapters of the Tax Code.

Section 111.002(b) would be amended to provide that the minimum forfeiture to the state for a rule violation under the section would be not less than $50, rather than $25.

Section 111.004(d) would be amended to provide that the books, records, papers, and other objects subject to examination by the comptroller are so subject regardless of electronic or physical form.
Section 151.319(f) would be amended to provide that the maximum average sales price for qualification of a publication as a newspaper is $3.00 rather than $1.50.

Section 151.333(b) would be amended to include a light-emitting diode lightbulb within the items eligible for temporary exemption under the section, and to increase the maximum sales price of a refrigerator eligible under the section from $2,000 to $2,500.

Section 152.022 would be amended to provide that the tax imposed by the section does not apply to a motor vehicle purchased at retail sale in a foreign country and used on the public highways of this state by an active duty member of the United States armed forces residing in this state on military orders.

Section 152.023 would be amended to provide that the tax imposed by the section does not apply to a motor vehicle described in the section that is brought into this state by an active duty member of the United States armed forces residing in this state on military orders and that was purchased, leased, or otherwise acquired in a foreign country by the active duty member while serving on active duty.
Section 156.101 would be amended to limit the permanent resident exception to an individual rather than a person.

Section 171.0001(12) would be amended to include rental-purchase agreement activities regulated by Chapter 92, Business and Commerce Code, within the meaning of retail trade.

Section 171.1011 would be amended to provide for exclusion from total revenue of certain subcontracting payments related to the exploration, exploitation, or disposition of petroleum or mineral interests.

Section 181.002 would be amended to increase the rate of tax for each 100 pounds or fraction thereof of taxable cement from $0.0275 to $0.035.

Section 191.086 would be amended to provide that the minimum forfeiture to the state for a rule violation under the subchapter (oil well service tax) would be not less than $50, rather than $25.

Section 203.003 would be amended to reduce the rate of tax on a long ton or fraction thereof of sulphur produced in this state from $1.03 to $1.

Section 321.209(b) would be amended to provide that a taxpayer must give the comptroller notice of the contract or bid on which an exemption is to be claimed within 45 days rather than 60 days.

The bill would take effect January 1, 2014.

## Methodology

With respect to the sales and use tax, the estimates of the value of the Section 151.333 sales tax holiday for certain energy-efficient items as published in the March 2013 Tax Exemptions and Tax Incidence report were adjusted for the expansion of eligibility of items proposed by the bill.

The estimates for changing the tax rates of the cement tax and the sulphur production tax were developed by applying the proposed change in the rates to the estimates of those taxes in the 2014-2015 Biennial Revenue Estimate, adjusting for the effective date, and extrapolating to subsequent years.

With respect to the motor vehicle sales tax provisions, there were approximately 34,000 active duty military (ADM) personnel with Texas residency deployed outside of the United States in 2011, of which an estimated 3,385 would purchase a vehicle annually. Using an average vehicle price of $20,000 and a tax rate of 6.25 percent, this exemption would cost an estimated $5 million annually. The estimate employs a 1.5 percent growth factor. Vehicles brought into Texas by new residents are eligible for a $90 use tax payment (in lieu of the 6.25 percent of sales price, less taxes paid to the other state) provided it was first registered in another state or foreign country. The number of ADMs that are new residents to Texas annually, coming from an assignment where a vehicle was purchased in a foreign country, and that could be exempt from the $90 new resident use tax, is estimated to be about 903, after adjusting for new residents that actually own a vehicle. This exemption would be expected to cost about $81,000 per year, with a 1.5 percent annual growth factor.

With respect to the hotel tax, the change from "person" to "individual" regarding the permanent resident exemption would restrict the exemption to an individual person, as opposed to being applicable to a business or entity that rents hotel rooms for greater than 30 days. The revenue generated from hotel stays that would no longer be fall under the permanent resident exemption was estimated and multiplied by the state hotel tax rate. Because of the timing of remittances, the fiscal impact for the first year in the table below was adjusted to reflect the collection schedule. Under statute, 8.33 percent of the revenue collected from state hotel tax collections is allocated to GR Account 5003-Hotel Occupancy Tax for Economic Development.

The estimated fiscal impacts related to the franchise tax are based on information in the Comptrollers franchise tax data files.

## Local Government Impact

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

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** UP, KK, SD