

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 29, 2013**

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

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

**IN RE: HB3713** by Guerra (Relating to the collection, administration, and enforcement of state taxes and fees.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3713, As Introduced: a negative impact of (\$1,783,097,780) 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 (\$245,000,000) 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.**

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	(\$854,403,890)
2015	(\$928,693,890)
2016	(\$983,693,890)
2017	(\$1,028,693,890)
2018	(\$1,063,693,890)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Revenue (Loss) from General Revenue Fund 1</b>	<b>Probable (Cost) from General Revenue Fund 1</b>	<b>Probable Revenue (Loss) from Property Tax Relief Fund 304</b>	<b>Probable Revenue (Loss) from Economic Stabilization Fund 599</b>
2014	(\$850,000,000)	(\$4,403,890)	(\$120,000,000)	\$0
2015	(\$925,000,000)	(\$3,693,890)	(\$125,000,000)	(\$46,000,000)
2016	(\$980,000,000)	(\$3,693,890)	(\$130,000,000)	(\$47,000,000)
2017	(\$1,025,000,000)	(\$3,693,890)	(\$135,000,000)	(\$48,000,000)
2018	(\$1,060,000,000)	(\$3,693,890)	(\$140,000,000)	(\$49,000,000)

<b>Fiscal Year</b>	<b>Probable Revenue (Loss) from Cities</b>	<b>Probable Revenue (Loss) from Transit Authorities</b>	<b>Probable Revenue (Loss) from Counties and Special Districts</b>	<b>Change in Number of State Employees from FY 2013</b>
2014	(\$149,000,000)	(\$51,000,000)	(\$25,000,000)	50.0
2015	(\$163,000,000)	(\$55,000,000)	(\$27,000,000)	50.0
2016	(\$172,000,000)	(\$59,000,000)	(\$29,000,000)	50.0
2017	(\$180,000,000)	(\$61,000,000)	(\$30,000,000)	50.0
2018	(\$186,000,000)	(\$63,000,000)	(\$31,000,000)	50.0

**Fiscal Analysis**

The bill amends Chapters 111, 112, and 151, Tax Code, and Chapter 403, Government Code, relating to collection, administration, and enforcement of state taxes and fees.

Numerous sections of Chapter 111 would be amended: to provide that a petition for redetermination must be filed before the expiration of 90 days rather than 30 days after the date on which service of notice of determination is completed; that for a refund claimed on or after September 1, 2013, to provide that interest is at the rate set by Section 111.060 instead of at the lesser of that rate or the annual rate of interest earned on deposits in the state treasury during December of the previous calendar year; to strike the requirement that a claim for refund must state each reason or ground fully and in detail, to increase the period during which a claim for refund may be filed to the eighth anniversary of the date the tax was due, and to strike the limitation of a refund claim found due in a jeopardy or deficiency determination to the amount of tax, penalty, and interest and to the tax period for which the determination was issued; to delay the comptroller's demand that all evidence to support a claim for refund must be produced by a specified date until after discovery has been completed; to provide that the comptroller's assessment or suit for collection shall be limited to the items and periods for which a final determination was issued, but that a taxpayer's claim for refund following a final determination that tax was overpaid would not be limited to the items and tax payment period for which the determination was issued; and to strike the limitation of the tolling of a period of limitation under Subsections (a)(1), (2), or (3) of Section 111.207 to issues contested under those subdivisions.

A new Subchapter B-1 would be added to Chapter 112 to provide that a person may not be required to pay a disputed tax under protest as a prerequisite to filing a lawsuit contending any tax or fee nor be required to pay a disputed tax as a prerequisite to an appeal. Otherwise the new subchapter would generally restate provisions of current Subchapter B, which would be repealed.

Section 112.108 would be amended to permit a court to issue a declaratory judgement in a tax case.

Section 151.511(c) would be amended to increase the period of a continuance from 30 days to 90 days when an additional claim is asserted.

Section 111.1042(d), which precludes tolling the limitation period for a subsequent claim for the period during which the comptroller engaged in informal review of certain claims, would be repealed.

Section 111.107(b), prohibiting a person from refiling a refund claim for the same transaction or item, tax type, period, and ground or reason that was previously denied by the comptroller, would be repealed.

Subchapter B of Chapter 112, Section 112.101, and Section 112.104, would be repealed to conform with the elimination of payments under protest as would be provided by the new Subchapter B-1.

The bill would take effect September 1, 2013.

### **Methodology**

The provisions of the bill regarding refund claims would significantly expand opportunities for refund claims and the likelihood that refunds would be paid, and would increase the interest rate paid on refunds. Tax compliance and collections would be reduced due to elimination of the requirement that taxes be paid under protest, and the ability of the comptroller to enforce collections even after a court decision against a nonpaying taxpayer would be curtailed due to inability of the comptroller to require bond and place liens after notices of abatement filed by nonpaying taxpayers. The provisions of the bill are applicable to all taxes under Title 2, Tax Code, as well as to all other taxes, fees, and amounts collected and administered by the comptroller and would thus affect many revenue sources and funds. The expected fiscal implications are summarized above as reductions in general revenue-related funds, in the property tax relief fund, and in the economic stabilization fund.

The Comptroller's office indicates administrative costs would be necessary to hire auditors and account examiners to handle the significant increase in redetermination requests.

### **Technology**

There would be a one-time technology cost of \$710,000 in fiscal 2014 for programming and system support costs.

### **Local Government Impact**

Reductions in sales tax allocations to units of local governments would occur upon passage of the bill.

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

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