

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 17, 2013

TO: Honorable Brandon Creighton, Chair, House Committee on Federalism & Fiscal Responsibility, Select

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3785 by Perry (Relating to the nullification of unconstitutional federal laws that create or increase taxes and the enforceability of related federal tax liens or levies; providing for a filing fee and providing criminal penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3785, As Introduced: a negative impact of (\$825,943) through the biennium ending August 31, 2015.

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
2014	(\$435,566)
2015	(\$390,377)
2016	(\$390,377)
2017	(\$390,377)
2018	(\$390,377)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain from <i>General Revenue Fund</i> 1
2014	(\$465,566)	\$30,000
2015	(\$420,377)	\$30,000
2016	(\$420,377)	\$30,000
2017	(\$420,377)	\$30,000
2018	(\$420,377)	\$30,000

Fiscal Year	Change in Number of State Employees from FY 2013
2014	9.0
2015	9.0
2016	9.0
2017	9.0
2018	9.0

Fiscal Analysis

The legislation would declare the Patient Protection and Affordable Care Act invalid and seek to absolve all taxpayers in Texas from all tax liabilities arising from the federal law. The legislation would add a chapter to Title 5 of the Property Code. It would allow a taxpayer to register a claim of non-liability for unlawful federal taxes with the secretary of state. The filing fee would be set at \$30 per registration.

Federal tax authorities would not be able to file a notice of federal tax lien or execute a levy without a form from the Secretary of State either attesting that a taxpayer has not registered a claim of non-liability for unlawful federal taxes, or that the secretary of state has determined that the taxpayer is liable for lawful federal taxes. This determination would be based on an itemized list of the taxpayer's tax liability from the federal tax authority. Filing of the federal tax lien or executing the levy could only be up to the amount attributable to the lawful taxes. Depending on the filer or type of lien, the forms would be filed in the offices of county clerks or with the Secretary of State's office.

A federal tax authority who executes or attempts to execute a federal tax levy without following the procedures, or a third party who complies with a federal tax levy in violation of the procedures commits a Class B misdemeanor offense punishable by confinement of up to 180 days, a fine of up to \$5,000, or both.

The bill would take effect immediately if it receives a vote of two-thirds of each house; otherwise it would take effect on September 1, 2013.

The Secretary of State indicates that two additional attorneys, an accountant, and six support staff would be needed to implement the bill. The cost to the General Revenue fund would be \$465,566 in fiscal year 2014 and \$420,377 in each of the following fiscal years. Revenues from filing fees are estimated at \$30,000 per year. No estimate of the amount of fines collected is available.

The Office of the Attorney General indicates that any work resulting from the passage of the bill could be handled with current resources.

Methodology

The Secretary of State estimates 60,000 notices of federal tax liens are filed each year through Texas counties. Another 25,000 are filed through the secretary of state, for a total of 85,000 per year. The Secretary of State estimates the additional cost of postage to mail the new forms to federal tax authorities would be \$39,100 a year, at 46 cents per mailing. To comply with the legislation, the Secretary of State estimates it would need additional staff, including two Attorney IIs (level B21), at \$46,731 a year each; one Accountant I (level B14), at \$29,933 a year; four Administrative Assistant IIIs (level A13), at \$28,239 a year each; and two Administrative Assistant IIs (level A11) at \$25,132 a year each. Related benefits for these staff would total \$85,239 a year. The Secretary of State estimates a cost of \$9,423 annually in other operating expenses, and a one-time start-up cost for equipment totaling \$45,189 in fiscal year 2014. Costs total \$465,566 in fiscal year 2014 and \$420,377 in each of fiscal years 2015 to 2018. All costs would be paid from the General Revenue Fund.

The Secretary of State estimates approximately 1,000 taxpayers may file a claim of non-liability each year. The filing fee would be \$30 per claim, totaling \$30,000 a year in revenues to the General Revenue fund.

Technology

No significant changes to technology would be required.

Local Government Impact

The bill would create a Class B misdemeanor punishable by confinement for a term not to exceed 180 days, a fine of not more than \$5,000, or both the confinement and the fine. Costs associated with enforcement, prosecution, and confinement could likely be absorbed within existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 302 Office of the Attorney General, 307 Secretary of State, 304 Comptroller of Public Accounts

LBB Staff: UP, SZ, MH, LI, SD, KKR