

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 10, 2013

TO: Honorable Tommy Williams, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB1633** by Deuell (Relating to the sales tax treatment of a fundraising sale by a qualified organization.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1633, As Introduced: a negative impact of (\$47,000,000) through the biennium ending August 31, 2015, if the bill takes immediate effect; or a negative impact of (\$41,800,000) through the biennium ending August 31, 2015, if the effective date of the bill is September 1, 2013.

All Funds, Six-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>Cities</i>	Probable Revenue (Loss) from <i>Transit Authorities</i>	Probable Revenue (Loss) from <i>Counties and Special Districts</i>
2013	(\$3,400,000)	(\$600,000)	(\$200,000)	(\$100,000)
2014	(\$21,300,000)	(\$3,900,000)	(\$1,300,000)	(\$700,000)
2015	(\$22,300,000)	(\$4,100,000)	(\$1,400,000)	(\$700,000)
2016	(\$23,300,000)	(\$4,300,000)	(\$1,500,000)	(\$700,000)
2017	(\$24,300,000)	(\$4,500,000)	(\$1,500,000)	(\$800,000)
2018	(\$25,400,000)	(\$4,700,000)	(\$1,600,000)	(\$800,000)

The table above assumes the bill receives enough votes to take immediate effect. The table below assumes an effective date of September 1, 2013.

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>Cities</i>	Probable Revenue (Loss) from <i>Transit Authorities</i>	Probable Revenue (Loss) from <i>Counties and Special Districts</i>
2014	(\$19,500,000)	(\$3,600,000)	(\$1,200,000)	(\$600,000)
2015	(\$22,300,000)	(\$4,100,000)	(\$1,400,000)	(\$700,000)
2016	(\$23,300,000)	(\$4,300,000)	(\$1,500,000)	(\$700,000)
2017	(\$24,300,000)	(\$4,500,000)	(\$1,500,000)	(\$800,000)
2018	(\$25,400,000)	(\$4,700,000)	(\$1,600,000)	(\$800,000)

Fiscal Analysis

The bill would amend Chapter 151, Tax Code, relating to sales and use taxation of certain fundraising sales.

Section 151.310 would be amended to provide that a qualified organization could make an unlimited number of tax-free fundraising occasional sales, with each occasional fundraiser not to exceed 14 consecutive days, if the organization purchases and receives delivery of the item from a wholesale supplier or distributor and resells and delivers the item to a consumer, regardless of the sequence in which the product is marketed, purchased, received, sold and delivered by the organization.

A qualified organization would be an organization that is exempt under Subdivisions (a)(1) or (a)(2) -- religious, educational, or charitable organizations, and organizations exempt from federal tax under Section 501(c)(3), (4), (8), (10), or (19), Internal Revenue Code.

A qualified organization would not be required to hold a sales tax permit in order to claim a resale exemption with respect to items sold in a fundraiser, and would be considered to have purchased an item for resale if the organization receives title for consideration under a contract, purchase order, invoice, shipping document, or other proof. The comptroller could not regard a qualified organization as the agent of the supplier or distributor under Section 151.024 unless the organization is authorized in writing to act as agent.

The bill would take effect immediately if it receives the requisite two-thirds vote of the membership of each house of the legislature, otherwise it would take effect September 1, 2013.

Methodology

Currently, a qualified organization is allowed two tax-free sales or auctions during a calendar year, with each sale or auction lasting one day. This bill would provide for almost continuous year-round tax-free sales by such organizations. Data from comptroller files on tax remittances from suppliers or distributors of fundraising products on sales that do not currently qualify for exemption during occasional sales of qualified organizations was used to determine the amount of sales tax revenue that would be foregone if the sales were exempted, and that amount expanded in view of the expansion of the number and duration of exempt occasional sales proposed by the bill, extrapolated through the forecast period.

Local Government Impact

There would be a corresponding loss of sales and use tax revenue to local taxing jurisdictions.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD