# LEGISLATIVE BUDGET BOARD
## Austin, Texas

## FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

**May 30, 2015**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

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

**IN RE:** **HB1905** by Springer (Relating to certain state and local taxes, including ad valorem taxes, and to the repeal of certain of those taxes.), **Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1905, Conference Committee Report: a negative impact of ($4,447,000) through the biennium ending August 31, 2017.

**Additionally, passage of the bill would extend the property tax exemption for nonprofit community business organizations providing economic development to certain real and personal property owned by Type A and Type B corporations and would create a cost to the state through the operation of the school funding formulas to the extent that the property is not already exempt as public property or under another exemption in Chapter 11 of the Tax Code.**

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

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|---|---|
| 2016 | ($1,669,000) |
| 2017 | ($2,778,000) |
| 2018 | ($7,117,000) |
| 2019 | ($7,662,000) |
| 2020 | ($8,264,000) |

## All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue (Loss) from *General Revenue Fund* 1 | Probable Revenue (Loss) from *Available School Fund* 2 | Probable Revenue (Loss) from *State Highway Fund* 6 | Probable Revenue (Loss) from *Foundation School Fund* 193 |
|---|---|---|---|---|
| 2016 | ($1,392,000) | ($277,000) | ($831,000) | $0 |
| 2017 | ($1,411,000) | ($289,000) | ($868,000) | ($1,078,000) |
| 2018 | ($1,399,000) | ($295,000) | ($885,000) | ($5,423,000) |
| 2019 | ($1,387,000) | ($301,000) | ($902,000) | ($5,974,000) |
| 2020 | ($1,376,000) | ($307,000) | ($922,000) | ($6,581,000) |

| Fiscal Year | Probable Revenue (Loss) from *School Districts* | Probable Revenue (Loss) from *Cities* | Probable Revenue (Loss) from *Counties* | Probable Revenue (Loss) from *Other Special Districts* |
|---|---|---|---|---|
| 2016 | $0 | $0 | $0 | $0 |
| 2017 | ($5,484,000) | ($1,969,000) | ($1,995,000) | ($1,387,000) |
| 2018 | ($1,831,000) | ($2,177,000) | ($2,211,000) | ($1,535,000) |
| 2019 | ($2,044,000) | ($2,408,000) | ($2,449,000) | ($1,699,000) |
| 2020 | ($2,282,000) | ($2,663,000) | ($2,714,000) | ($1,881,000) |

## Fiscal Analysis

The bill would repeal certain alcoholic beverage taxes and the tax on controlled substances.

The bill would repeal Section 2001.501 of the Occupations Code, regarding the bingo gross rental tax, and would make conforming changes elsewhere in this chapter. All other bingo-related fees imposed by this chapter would be unchanged.

The bill would amend Chapter 162 of the Tax Code, regarding motor fuel taxes, to exempt certain nonprofit emergency medical service (EMS) entities from the taxes imposed under Subchapters B (gasoline), C (diesel fuel), D (liquefied gas), and D-1 (compressed natural gas and liquefied natural gas).

The bill would provide a tax exemption for each of the four motor fuels listed above when sold to a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and uses the motor fuel exclusively to provide emergency medical services, including rescue and ambulance services. The bill would allow an eligible nonprofit EMS entity that paid a tax on these motor fuels, except liquefied gas, to file a claim with the Comptroller for a refund of the tax.

The bill would amend Chapters 34 (airline beverage permit) and 48 (passenger train beverage permit) of the Alcoholic Beverage Code to abolish the beverage service fee of five cents per serving of an alcoholic beverage served in Texas by the holder of an airline beverage permit or a passenger train beverage permit.

The bill would repeal Chapter 159 of the Tax Code, thereby abolishing the controlled substances tax, and would make conforming changes to Section 111.021 of the Tax Code and Section 411.109 of the Government Code.

The bill would repeal sections in Chapter 162 (motor fuel tax) of the Tax Code to abolish the liquefied gas tax, and would make conforming changes elsewhere in this code.

The bill would exempt certain motor vehicles used to provide transit services, including vehicles of a metropolitan rapid transit authority operating under Chapter 451 of the Transportation Code, or a regional transportation authority operating under Chapter 452 of the Transportation Code, from the compressed natural gas and liquefied natural gas (CNG/LNG) tax imposed under Subchapter D-1 of Chapter 162 of the Tax Code.

The bill would make conforming changes to the Transportation Code.

The bill would amend Chapter 11 of the Tax Code, regarding property taxation and exemptions, to grant a property tax exemption on the real property a person owns and leases to a qualified open-enrollment charter school if:

1) the real property is used exclusively by the school for educational functions;
2) the real property is reasonably necessary for the operation of the school;
3) the owner certifies by affidavit to the school that the rent for the lease of the real property will be reduced by an amount equal to the tax savings;
4) the owner provides the school with a disclosure document stating the amount by which the taxes on the real property are reduced as a result of the exemption and the method the owner will implement to ensure that the property rent fully reflects the reduction; and
5) the rent charged for the lease of the real property reflects the reduction in the amount of taxes on the property resulting from the exemption through a monthly or annual credit against the rent.

The charter school would be required to qualify as a school under current law (Section 11.21(d), Tax Code).

The bill would amend Chapter 156 of the Tax Code, regarding the state hotel occupancy tax, to define "short term rentals" as the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101.

The bill would amend Section 151.314, Tax Code, in relation to sales and use taxation of certain food items. The definition of "snack items" would be amended to exclude pine nuts and include pork rinds, corn nuts, sunflower and pumpkin seeds, ice cream, sherbet, frozen yogurt, ice pops, juice pops, and certain other frozen fruit items. Snack items when sold in individual-sized portions are subject to tax.
The bill would also provide than when a grocery store or convenience store contains a type of location like a restaurant, lunch counter, cafeteria, or deli, the store is considered a like place of business in relation to items sold at that location.

The bill would amend Chapter 11 of the Tax Code, regarding taxable property and exemptions, to provide that "nonprofit community business organization" also means a Type A and a Type B corporation as specified in Chapter 504 or 505, Local Government Code, related to certain economic development projects. This designation would extend the property tax exemption for nonprofit community business organizations providing economic development to certain real and personal property owned by Type A and Type B corporations.

The provisions of the bill regarding the property tax exemption for real property leased to a qualified open enrollment charter school would take effect January 1, 2016, but only if a constitutional amendment authorizing the exemption is approved by Texas voters.

The provisions of the bill regarding the property tax exemption for nonprofit community business organizations would take effect January 1, 2016.

All other provisions of the bill would take effect September 1, 2015.

## Methodology

The estimated fiscal impact provided by the Comptroller of Public Accounts (CPA), is based on the *2016-2017 Biennial Revenue Estimate*. Upon the bill's effective date, airlines and passenger trains serving alcoholic beverages would continue to be required to hold a permit issued by the Texas Alcoholic Beverage Commission. They no longer would remit the tax on the beverage service. The loss from repealing the liquefied gas tax and exempting certain motor vehicles from the CNG/LNG tax is based on Texas Department of Transportation, Public Transportation Division records; and a summer 2014 survey by the Natural Gas Section of the Railroad Commission, regarding the number of CNG/LNG transit vehicles that would be exempted under the provisions of the bill.

The repeal of the controlled substances tax would have no effect on revenue collections.

Gasoline and diesel fuel are taxed at the rate of $0.20 per gallon, and compressed natural gas and liquefied natural gas are taxed at the rate of $0.15 per gallon. Liquefied gas motor fuel use requires the purchase of an annual liquefied gas decal. The estimate from the EMS motor fuel tax exemption is based on data from the American Ambulance Association, the Texas Ambulance Association, and the Texas Department of State Health Services. The applicable motor fuel tax rate was applied to the estimated number of gallons to be exempted each year to arrive at an annual revenue loss. The annual revenue loss was trended forward over the five-year projection period. The first year's revenue loss was adjusted to allow for the statutory lag in motor fuel tax remittances.

The bill's proposed exemption of real property leased to charter schools and reimbursement of the resulting tax savings to the charter schools through a rent credit would create a fiscal cost. The non-charter (regular) school district and other taxing units would lose taxable value and the associated property tax revenue to the new exemption resulting in a cost to the regular school district, other taxing units, and to the state through the operation of the school funding formulas.

The value of real property leased by charter schools was estimated based on information from the Texas Charter Schools Association, the Texas Education Agency, and appraisal districts. Projected tax rates were applied through the five-year projection period to estimate the school district loss that would be transferred to the state. Under the hold harmless provisions of the Education Code, only a small portion of each year's additional school district loss related to the compressed rate would be transferred to the state while in subsequent years 100 percent of the loss would be transferred to the state. Because lagged year property values are used in the enrichment formula, school districts lose enrichment funding (a state gain) in the first year of a taxable property value reduction. In the second and successive years the enrichment loss and a portion of the school district debt (facilities) loss are transferred to the state through the relevant funding formulas.

The CPA notes that repealing the controlled substances tax, when combined with the repeal of taxes on liquefied gas, oil regulation, sulphur, inheritances and fireworks, will allow the Comptroller to redeploy resources to audit and enforcement activities for other sources of revenue. According to CPA, redeploying these resources will generate revenue sufficient to offset revenue lost from repealing controlled substances and airline and passenger train beverage taxes.

The change to the state hotel occupancy tax provisions would be a clarification of existing law and therefore would have no impact on state revenues.

The bill's provision of a property tax exemption to certain real and personal property owned by Type A and Type B corporations would create a cost to local governments and to the state through the operation of the school funding formulas to the extent that the property is not already exempt as public property or under another exemption in Chapter 11 of the Tax Code. There are over 700 Type A and Type B corporations in Texas. All of the property of Type B corporations, and much of the property of Type A corporations, however, is already exempt under current law (or under an interpretation of the law). The amount of property that would be exempted under the bill is unknown; consequently, the cost of the bill cannot be estimated.

The section of the bill regarding the taxability of snack items would codify current administrative practice and consequently would have no fiscal implications.

## Local Government Impact

The estimated fiscal implication to units of local government is reflected in the table above.

The bill would amend Chapter 351 of the Tax Code, regarding municipal hotel occupancy taxes, to allow a municipality to spend no more than one percent of hotel occupancy tax revenue for the creation, maintenance, operation, and administration of an electronic tax administration system. A municipality could contract with a third party to assist with an electronic tax administration system.

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

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