LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 1, 2015

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2691** by King, Tracy O. (Relating to a sales and use tax exemption and an oil and gas severance tax credit for the use of alternative base fluids in energized fracturing operations; imposing a civil penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2691, As Introduced: a negative impact of ($11,480,000) through the biennium ending August 31, 2017.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	($4,586,000)
2017	($6,894,000)
2018	($6,973,000)
2019	($7,111,000)
2020	($7,212,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *State Highway Fund* 6	Probable Revenue (Loss) from *Foundation School Fund* 193	Probable Revenue (Loss) from *Economic Stabilization Fund* 599
2016	($3,100,000)	($2,229,000)	($1,486,000)	($2,229,000)
2017	($5,300,000)	($2,391,000)	($1,594,000)	($2,391,000)
2018	($5,300,000)	($2,509,000)	($1,673,000)	($2,509,000)
2019	($5,300,000)	($2,717,000)	($1,811,000)	($2,717,000)
2020	($5,300,000)	($2,867,000)	($1,912,000)	($2,867,000)

Fiscal Year	Probable Revenue (Loss) from *Cities*	Probable Revenue (Loss) from *Transit Authorities*	Probable Revenue (Loss) from *Counties and Special Districts*
2016	($240,000)	($60,000)	($190,000)
2017	($410,000)	($110,000)	($330,000)
2018	($410,000)	($110,000)	($330,000)
2019	($410,000)	($110,000)	($330,000)
2020	($410,000)	($110,000)	($330,000)

Note: Reductions of transfers to the Economic Stabilization Fund and the State Highway Fund would occur within the first 90 days of the subsequent fiscal year.

Fiscal Analysis

The bill would amend Chapter 151 of the Tax Code, regarding the limited sales and use tax, by adding new Section 151.3555 to provide for an exemption from sales and use tax of certain alternative base fluids and related tangible personal property used in fracturing of oil and natural gas wells.

The bill would amend the Tax Code to add new Chapter 205 to provide an oil and natural gas severance tax credit for using certain percentages of alternative fluids in a fracturing operation of an oil or natural gas well. Alternative base fluids, other than water, must be at least 20 percent of the total volume of fluid used in the fracturing operation. The tax credit would vary, depending on the percent volume of the alternative base fluids; from a minimum of 20 percent to a maximum of 50 percent of oil production or natural gas production tax liability. Taxpayers would apply to the Comptroller for their proportionate shares of the tax credit. The bill prescribes a civil penalty that may not exceed the amount of the claimed credit plus $10,000. The Comptroller would adopt rules necessary to administer Chapter 205 by December 2015.

The rule adoption provision of the bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2015. The sales tax exemption and the severance tax credit provisions of the bill would take effect January 1, 2016.

Methodology

Comptroller data on well costs, including well stimulation costs of which fracturing is a subset, and an assumption that 200 fracturing operations per year would involve alternative base fluids, were used to model the value of the sales tax exemption.

The severance tax credit would apply to oil, natural gas, and condensate production from a qualifying oil or gas well until production ceases. Railroad commission data was used to derive the production volume associated with one percent of fractured wells. While it is possible that the number of wells using the alternative fracturing fluids and the production volume attributable to those wells could increase in subsequent fiscal years, the production volume was held constant. The tax credit was assumed to average 35 percent for the fiscal analysis. The civil penalty provision of the bill was not expected to have a fiscal impact. The fiscal implications were based on oil and gas price forecast in the 2016-17 *Biennial Revenue Estimate*.

In the tables above, the state loss from the sales tax exemption is shown as a loss to General Revenue. The loss from the severance tax credit would be from the Foundation School Fund, the

State Highway Fund, and the Economic Stabilization Fund.

Local Government Impact

Local taxing jurisdiction would lose a proportional amount of sales and use tax revenue. These losses are shown in the tables above.

Source Agencies: 304 Comptroller of Public Accounts

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