

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 27, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3287 by Paddie (Relating to the sales and use taxation of aircraft.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3287, As Introduced: a negative impact of (\$26,000,000) 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	(\$23,000,000)
2017	(\$3,000,000)
2018	(\$3,000,000)
2019	(\$3,000,000)
2020	(\$3,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund 1</i>	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>
2016	(\$23,000,000)	(\$4,200,000)	(\$1,500,000)	(\$800,000)
2017	(\$3,000,000)	(\$600,000)	(\$200,000)	(\$100,000)
2018	(\$3,000,000)	(\$600,000)	(\$200,000)	(\$100,000)
2019	(\$3,000,000)	(\$600,000)	(\$200,000)	(\$100,000)
2020	(\$3,000,000)	(\$600,000)	(\$200,000)	(\$100,000)

Fiscal Analysis

The bill would amend Chapter 151, Tax Code, with respect to sales and use taxation of aircraft.

A new Subsection (c) would be added to Section 151.105 to provide that there shall be no presumption that use tax is due on an aircraft brought into the state if the aircraft was acquired other than by a purchase.

A new Subsection (i) would be added to Section 151.328 to provide that the leasing or renting of

tangible personal property for purposes of sale for resale exemption includes the lease or rental of aircraft pursuant to written agreement that transfers operational control from a lessor to a lessee for consideration.

The bill would take effect September 1, 2015.

Methodology

The effect of the provision of the bill regarding no presumption of use is uncertain, inasmuch as the meaning of acquisition by means other than by a purchase is not defined and the structure and extent of transactions that may result in acquisition by means other than by a purchase is not known. The effect of the provision of the bill regarding transfers of operational control for consideration is uncertain, inasmuch as what may qualify as consideration is not defined and no standard for determining the amount of operational control that must transfer to qualify for sale for resale exemption is provided. The estimate is based on Comptroller audit experience with respect to certain leases among related entities involving transfers of operational control of aircraft, in view of the uncertain application of the provisions of the bill.

SECTION 3 of the bill asserts the change in law that would be made by the bill is a clarification of existing law and that prior law is not to be construed otherwise. However, the change in law proposed by the bill would represent a clarification of existing law as currently administered only in part, and the section would be the basis for refunds of tax previously collected. The fiscal impact estimate for fiscal 2016 accordingly includes a reserve for refunds.

Local Government Impact

There would be a proportional loss of sales and use tax revenue from local taxing jurisdictions.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD