

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 8, 2015

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

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

**IN RE:** **HB3542** by Raymond (relating to the sales and use tax exemption for certain data processing services.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3542, Committee Report 1st House, Substituted: a negative impact of (\$1,100,000) through the biennium ending August 31, 2017, if the bill takes effect immediately; or an impact of (\$1,000,000) through the biennium ending August 31, 2017, if the effective date of the bill is September 1, 2015.

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>
2015	(\$100,000)	(\$20,000)	(\$10,000)	\$0
2016	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)
2017	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)
2018	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)
2019	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)
2020	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)

The table above assumes the bill takes effect immediately. The table below assumes the bill takes effect on September 1, 2015.

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>
2016	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)
2017	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)
2018	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)
2019	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)
2020	(\$500,000)	(\$90,000)	(\$30,000)	(\$20,000)

Fiscal Analysis

The bill would amend Chapter 151 of the Tax Code, to provide for a sales tax exemption for certain data processing services.

New Section 151.351(b) would be added to provide that data processing services purchased in connection with an electronic visit verification (EVV) system are exempt from the sales tax. In order to qualify for the sales tax exemption, the purchase of data processing services must be related to an EVV system that electronically verifies and documents information related to the delivery of health care services provided under the Medicaid or child health plan programs.

The bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2015.

### **Methodology**

Beginning April 16, 2015, the Health and Human Services Commission (HHSC) requires that Medicaid-enrolled service providers subject to EVV use an HHSC approved EVV system to record on-site visitations. EVV is a telephone and computer-based system that electronically verifies service visits and records the service beginning and ending times.

HHSC is implementing EVV through their Managed Care Organizations (MCO) and Medicaid Management Information Systems (MMIS) contractor Accenture, and has certified three EVV vendors.

The phrase "purchased in connection with" is ambiguous. According to HHSC, the purpose of the proposed exemption is to exempt managed care organizations from payment of sales tax when purchasing EVV service. However, the bill language may be construed to exempt EVV service providers from payment of tax on other data processing services.

Payment of sales tax by MCO's on the purchase of EVV services was not contemplated as part of the biennial revenue estimate; consequently, the exemption of such purchases would have no fiscal implications.

However, the bill language also may imply a basis for EVV vendors to claim exemption on their purchases of other taxable data processing services (e.g. payroll processing services, web hosting services). Given this possibility, a prudential reduction in estimated available revenue is warranted.

### **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