

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 8, 2015

TO: Honorable Tan Parker, Chair, House Committee on Investments & Financial Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB4120** by Fallon (Relating to money transmissions sent to destinations outside the United States; authorizing a fee.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4120, As Introduced: a negative impact of (\$838,466) through the biennium ending August 31, 2017.

In addition, depending upon the legislation's compliance with the U.S. Constitution, there could be an indeterminate revenue gain to the state.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$419,233)
2017	(\$419,233)
2018	(\$419,233)
2019	(\$419,233)
2020	(\$419,233)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	(\$419,233)	5.0
2017	(\$419,233)	5.0
2018	(\$419,233)	5.0
2019	(\$419,233)	5.0
2020	(\$419,233)	5.0

Fiscal Analysis

This bill would amend the Finance Code to add new Chapter 279, regarding a money transmission

fee.

The fee would be 10 percent of the total amount sent by a money transmission business from Texas to a destination outside the U.S. The fee would apply only to money transmissions where the individual that originated the transmission could not present proof that he or she were a U.S. citizen or lawfully present in the U.S. A money transmission business, as defined in the bill, would remit the fee to the Comptroller in a manner to be prescribed by the Comptroller. The Comptroller would deposit the net fee revenue received to the credit of new GR Account-Border Security. Money in the account could be appropriated only to the Department of Public Safety or the Texas National Guard to provide funding for border security efforts in Texas.

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.

Methodology

This legislation, as drafted, potentially could be subject to constitutional challenge on several grounds, including claims that it would constitute an attempt by the state to regulate foreign commerce, and that it would violate the constitutionally guaranteed right to equal protection under the law. For purposes of providing an illustrative example, assuming that the legislation were determined in compliance with the U.S. Constitution, it is estimated that the fee could generate on the order of \$98 million in fee revenue per year.

This illustrative example was based on data from the Texas Department of Banking, the Inter-American Development Bank, a Bendixen & Associates report, "State by State survey of Remittance Senders: U.S. to Latin America," April 2004, and a New York Times article. The example took into account the various methods used to send money outside the U.S. to arrive at the dollar amount of money transmissions that would be subject to the fee. An allowance was made for the increase that would occur in people using methods to send money outside of the U.S. that are not covered under the Finance Code Section 151.301, and thus would not be subject to the 10 percent fee.

The Comptroller has indicated they would require an additional 5 auditors to perform approximately 50-60 audits per year on money transmission businesses. The agency estimates \$980 million per year will be subject to the fee.

This legislation would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 451 Department of Banking

LBB Staff: UP, CL, SD, KK