LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 31, 2015

TO: Honorable Kevin Eltife, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB1283** by Eltife (Relating to the exemption from certain registration and licensing requirements and taxes for certain businesses and employees who enter this state in response to a disaster or emergency.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1283, As Introduced: a negative impact of ($62,600,000) 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	($31,300,000)
2017	($31,300,000)
2018	($31,300,000)
2019	($31,300,000)
2020	($31,300,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1
2016	($31,300,000)
2017	($31,300,000)
2018	($31,300,000)
2019	($31,300,000)
2020	($31,300,000)

Fiscal Analysis

The bill would amend the Business & Commerce Code and the Tax Code to exempt from certain registration and licensing requirements and taxes certain businesses and employees who enter the state in response to a disaster or emergency.

The bill would stipulate that an out-of-state business entity whose transaction of business in this state is limited to the performance of disaster- or emergency-related work during a disaster response period is not required to: 1) register with the secretary of state; 2) file a tax report with or pay taxes or fees to this state or a political subdivision thereof; 3) pay ad valorem tax or use tax on certain equipment used in relation to a disaster; 4) comply with state or local business licensing or registration requirements; or 5) comply with state or local occupational licensing requirements or related fees.

An out-of-state employee whose only employment in the state is for disaster- or emergency-related work during a disaster response period would not be required to: 1) file a tax report with or pay taxes or fees to this state or political subdivision thereof; or 2) comply with state or local occupational licensing requirements and related fees.

An exception would be provided that such out-of-state business entities or employees are subject to a transaction tax or fee, including motor fuels tax, sales and use tax, hotel occupancy tax, and motor vehicle rental tax, unless the entity or employee is otherwise exempt.

The bill would stipulate that an out-of-state entity is not engaged in business in this state if the entity's physical presence in the state is solely from the entity's disaster- or emergency-related work during a disaster response period. The bill would further provide that the sale, lease, or rental of a taxable item by an out-of-state entity in performing disaster- or emergency-related work during a disaster response period is exempt from tax.

The bill would also provide that in regards to a franchise tax that a "taxable entity" does not include an out-of-state business entity whose sole nexus with this state for the purpose of taxation is the entity's provision of disaster- or emergency-related work during a disaster response period.

This bill would take effect immediately upon receiving a two-thirds majority vote of all the members of both chambers. Otherwise, it would take effect September 1, 2015, with an exception stipulated for the amendment to Chapter 171, Tax Code, which would take effect January 1, 2016.

Methodology

The Comptroller has estimated the bill would result in revenue losses to the General Revenue Fund, as well as revenue losses to certain local entities.

The Comptroller has noted that under current law, purchases and leases or rentals of tangible personal property and most taxable services, other than certain labor charges exempt under Sec. 151.350, remain taxable even when occurring as a result of disaster or emergency. Under this bill, such items would be exempt if purchased from an out-of-state business entity (which may be an affiliate of the purchaser) rather than from an in-state business, when the out-of-state entity is performing disaster- or emergency-related work.

In estimating the fiscal impact of the bill, the Comptroller defined "critical infrastructure" broadly to mean equipment and property of communications networks (e.g., telecommunications systems of any kind, cable systems, broadcast systems, data centers, et al.), electric generation, transmission and distribution systems, gas distribution systems, and water pipelines and related support facilities, equipment, and property that serve multiple persons, including buildings, offices, structures, lines, poles, and pipes.

Also, the Comptroller assumed that while the frequency, duration, and geographic extent of disasters and emergencies, and the severity and cost of damage attributable thereto cannot be predicted accurately, the probability of occurrence of declared disasters and emergencies is not zero nor trivial. The Comptroller assumed an annual average of $500,000,000 in purchases of tangible personal property and otherwise taxable services would become exempt under provisions of the bill.

The Comptroller has indicated the fiscal implications of the bill's amendment to Chapter 171 of the Tax Code cannot be estimated.

The Comptroller has indicated the fiscal implications of the exemption of out-of-state employees from payment of license fees are negligible.

Technology

The bill would have no significant technology impact.

Local Government Impact

The Comptroller has estimated the bill would result in revenue losses for certain local entities. According to the Comptroller, counties and special districts are estimated to lose $1,100,000 in revenue per year. Municipalities are anticipated to lose $5,800,000 in revenue per year and local Transit Authorities are estimated to lose $2,000,000 in revenue per year.

Source Agencies: 304 Comptroller of Public Accounts, 307 Secretary of State, 405 Department of Public Safety

LBB Staff: UP, CL, AI, JAW