LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 4, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB1139** by Davis, Yvonne (Relating to the comptroller's report on the effect of certain tax provisions.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 403 of the Government Code, regarding the Comptroller of Public Accounts, to require the Comptroller to provide additional information in the biennial Tax Exemptions & Tax Incidence report.

Section 403.014 requires a biennial report on the effect of exemptions, discounts, exclusions, and special valuations, accounting treatments, rates, and methods of reporting relating to the limited sales and use tax, the franchise tax, school district property taxes, the motor vehicle sales and use tax, and any other tax generating more than five percent of state tax revenue in the fiscal year prior to the report.

Subsection (b) of Section 403.014 would be amended to require that the report must include, for each entity whose tax payable is reduced as a result of a special provision, the actual dollar amount of the reduction received by the entity since the previous report under the section. Publication of this information by entity would be required regardless of whether the information is otherwise confidential under Sections 111.006 and 151.027, Tax Code, or other state law. The bill would affect public disclosure of certain information by taxpayer but would not alter tax liabilities or timing of payments and thus would have no revenue implications. However, there could potentially be administrative expenses for the Comptroller's office.

Much of the information necessary to meet the reporting requirement proposed by the bill is not available as the taxes are currently administered, if exemptions and exclusions are within the meaning of the term special provisions. For the limited sales and use tax, the motor vehicle sales and use tax, and the gasoline tax, the entities that benefit from exemptions and exclusions -- typically the customers of retailers -- are not the entities that remit tax and file tax reports. The identities of customers and the dollar amounts each spends on items exempted or excluded from tax is not information gathered and reported by vendors to the comptroller. Unless the law were amended to impose substantially greater informational reporting requirements on both businesses and households, it is not feasible to determine the value of most of the provisions that limit taxes payable on an individual entity basis for the sales, motor vehicle sales, and gasoline taxes. It would be possible, however, to report the dollar value of timely filing and prepayment discounts received by each entity that collects and remits these taxes.

The Comptroller's Office collects from appraisal districts data on individual exemptions by account number rather than owner name because of confidentiality issues.

With respect to franchise tax, the entities subject to tax are the entities reporting the tax, and it would be in principle possible to identify the value of provisions that reduce the amount of tax payable, relative to the amount of tax payable on a gross receipts basis at the full tax rate, for each entity that files a report. The Tax Exemptions & Tax Incidence report would become significantly larger. In fiscal year 2016, more than 1.25 million franchise tax reports were filed, of which 121,920 were for entities that owed some tax. Additionally, there are more than 160,000 potentially taxable entities that do not file reports because they are exempt from the tax. The number of entities times the number of special provisions to be evaluated for each entity would result in a report of tens of millions of records. For example, and regarding only a subset of exemptions, in 1997 the Comptroller's Office produced a report with the name of each entity completely exempt from the franchise tax because of the nature of the organization, such as public interest, religious or charitable organizations. That report required 836 pages to show the 45,561 individual entities receiving this exemption, when the tax applied only to corporations and limited liability companies and the number of firms engaged in business in the state was fewer than today. It would not be feasible to include the tens of millions of entity level amounts for franchise tax provisions in the printed version of the Tax Exemptions & Tax Incidence report. The administrative cost of providing electronic access to entity level franchise tax report data has not been determined.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD