

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 2, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1164 by Guillen (Relating to the application of the sales and use tax to the lease or rental to a caterer of certain tangible personal property.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1164, As Introduced: a negative impact of (\$5,070,000) through the biennium ending August 31, 2019, if the bill takes immediate effect; or a negative impact of (\$4,400,000) through the biennium ending August 31, 2019, if the effective date of the bill is September 1, 2017.

All Funds, Six-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>State Highway Fund</i> 6	Probable Revenue (Loss) from <i>Cities</i>	Probable Revenue (Loss) from <i>Transit Authorities</i>
2017	(\$670,000)	\$0	(\$130,000)	(\$40,000)
2018	\$0	(\$4,200,000)	(\$810,000)	(\$280,000)
2019	(\$4,400,000)	\$0	(\$840,000)	(\$290,000)
2020	(\$4,600,000)	\$0	(\$880,000)	(\$300,000)
2021	(\$4,800,000)	\$0	(\$920,000)	(\$320,000)
2022	(\$5,000,000)	\$0	(\$960,000)	(\$330,000)

Fiscal Year	Probable Revenue (Loss) from Counties & Special Districts
2017	(\$20,000)
2018	(\$150,000)
2019	(\$150,000)
2020	(\$160,000)
2021	(\$170,000)
2022	(\$170,000)

The above tables assume the bill takes immediate effect. The tables below assume the bill takes effect on September 1, 2017.

Fiscal Year	Probable Revenue (Loss) from General Revenue Fund 1	Probable Revenue (Loss) from State Highway Fund 6	Probable Revenue (Loss) from Cities	Probable Revenue (Loss) from Transit Authorities
2018	\$0	(\$3,900,000)	(\$750,000)	(\$260,000)
2019	(\$4,400,000)	\$0	(\$840,000)	(\$290,000)
2020	(\$4,600,000)	\$0	(\$880,000)	(\$300,000)
2021	(\$4,800,000)	\$0	(\$920,000)	(\$320,000)
2022	(\$5,000,000)	\$0	(\$960,000)	(\$330,000)

Fiscal Year	Probable Revenue (Loss) from Counties & Special Districts
2018	(\$140,000)
2019	(\$150,000)
2020	(\$160,000)
2021	(\$170,000)
2022	(\$170,000)

Fiscal Analysis

The bill would amend Section 151.006 of the Tax Code, regarding sales and use tax, by adding a new Subsection (e) to provide that a sale for resale includes the lease or rental of reusable tangible personal property to a caterer if the caterer uses the property in a sale of a taxable item. A sale for resale is exempt from tax.

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, 2017.

Methodology

National data on annual revenue of the catering industry from the U.S. Census Bureau was apportioned to the state based on the number of catering establishments, reduced to reflect off-premise catering activity and revenues estimated to be dedicated for the lease or rental of tangible personal property used in the sale of taxable prepared foods and drinking products. The result was

multiplied by the sales tax rate to yield an estimate of applicable sales tax. Fiscal implications for units of local government were estimated proportionally.

Pursuant to Proposition 7 (2015), any sales tax collections in excess of \$28 billion and less than \$30.5 billion will be deposited into the State Highway Fund. Because total 2018 collections are projected to fall in that range, the 2018 revenue loss is from the State Highway Fund instead of General Revenue.

Local Government Impact

There would be a proportional loss of sales and use tax revenue from units of local government. The estimated losses are displayed in the above tables.

Source Agencies: 304 Comptroller of Public Accounts

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