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: **HB1228** by King, Phil (Relating to the phaseout and repeal of the miscellaneous gross receipts tax on utility companies; decreasing the rates of the tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1228, As Introduced: a negative impact of ($184,400,000) through the biennium ending August 31, 2019.

Additionally, there would be a negative impact to General Revenue Related Funds of ($493,300,000) through the biennium ending August 31, 2021.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	($54,700,000)
2019	($129,700,000)
2020	($206,900,000)
2021	($286,400,000)
2022	($368,100,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Foundation School Fund* 193
2018	($54,700,000)	$0
2019	($129,700,000)	$0
2020	($206,900,000)	$0
2021	($286,400,000)	$0
2022	($295,500,000)	($72,600,000)

Fiscal Analysis

The bill would amend Chapter 182 of the Tax Code, regarding miscellaneous gross receipts taxes, to provide for a phase out and repeal of the taxes on utility companies (also known as the gas, electric & water utility tax). The bill would decrease the tax rates in fiscal 2018, 2019, 2020 and 2021 before repealing the tax on October 1, 2021.

The bill would remove the requirement that the population of a city or town, used to identify the appropriate tax rate, must be based on the last federal census next preceding the filing of a tax report.

The bill would amend Section 182.122 to add Subsection (c) requiring that, in addition to the current allocation of one-fourth of the miscellaneous gross receipts tax revenues to the Foundation School Fund, the Comptroller would transfer funds from the General Revenue Fund sufficient to ensure that the Foundation School Fund receives the same amount of revenue as would have been received if the tax rates were not reduced.

The bill would amend Chapters 36 and 104 of the Utilities Code, and Chapter 13 of the Water Code, to require regulatory authorities to provide for the adjustment of a gas, electric or water utility's billing to reflect a decrease in the utility's tax liability resulting from the tax rate reductions and eventual repeal. The bill would require the adjustments to be effective at the time of or soon after the decrease of the tax liability, and remain effective until the next adjustment.

The bill would add new Chapter 253 to the Utilities Code, regarding taxes and charges imposed on or prohibited from being imposed on certain utilities located in incorporated areas, to add new or updated definitions and transfer Sections 182.024 (preventing political subdivisions from imposing an occupation tax or charge on a utility company subject to the miscellaneous gross receipts), 182.025 (charges by a city), and 182.026 (applicability of the miscellaneous gross receipts) of the Utilities Code as new Sections 253.002, 253.003, 253.004. The new Sections also would make conforming changes.

The bill would amend Section 91.904 of the Natural Resources Code, and Sections 37.101, 41.005, 121.2025(a), 121.211(g), 181.005(b), and 181.047(d) of the Utilities Code, to replace existing references to Chapter 182 of the Tax Code with new Chapter 253.

The bill would amend Sections 447.013(d) and (e) of the Government Code to eliminate obsolete references regarding the issuance of bonds and make conforming changes.

The bill would repeal the following provisions of the Tax Code: the headings to Chapter 182 (miscellaneous gross receipts taxes) and its Subchapter B (utility companies); Sections 182.021 (definitions), 182.022 (imposition and rate of the tax), 182.023 (payment of the tax) and 182.027 (no exemption for retail electric providers owned, operated, or controlled by an electric cooperative); Subchapters E (tax collections and business permits), F (penalties), and G (nature and allocation of tax) of Chapter 182; and Section 191.089 (requirement for oil well service taxpayers to acquire the same permit required from miscellaneous gross receipts taxpayers).

This bill would take effect October 1, 2017, with the exception of the repeals and other provisions in Article 2 which would take effect October 1, 2021.

Methodology

This bill would decrease the rates for the miscellaneous gross receipts taxes over four consecutive years, then repeal the tax on October 1, 2021. The estimates are based on the *2018-19 Biennial Revenue Estimate* and the adjusted rates proposed by this bill.

Transfers to the Foundation School Fund to compensate for reduced miscellaneous gross receipts tax revenues would not occur after the tax is repealed, therefore there is a revenue loss from the Foundation School Fund beginning in FY 2022, the first year that the tax is repealed.

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