

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 16, 2017**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Finance

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3169** by Capriglione (Relating to the operation and administration of the Texas Bullion Depository, to depository agents, to the appropriation of money from the fees, charges, penalties, and other amounts related to the depository and deposited to the general revenue fund for that purpose, and to the provision of a related ad valorem tax exemption.), **As Engrossed**

**Depending upon the number of depository transactions and the amount of fees and other charges that could be assessed, there could be an indeterminate fiscal impact to the state.**

The bill would amend Chapter 2116 of the Government Code, Chapter 151 of the Finance Code, and Chapter 11 of the Tax Code as they relate to the Texas Bullion Depository (depository). The bill would indicate that the depository is a program in the office of the Comptroller rather than an agency of the state, as it is referenced in current law. The bill would specify that Chapter 2116, Government Code, may not be construed as creating financial or other responsibilities to the state or to the Comptroller and that the state does not pledge the full faith and credit of the state for the benefit of the depository.

The bill would authorize the Comptroller to establish other fees and charges and receive payments in the course of the depository operations, which would be deposited to the General Revenue Fund and which may be appropriated to the Comptroller to offset the costs to operate and promote the depository.

The bill would exempt from claims of creditors any deposits of bullion or specie held in the depository in accordance with Chapter 2116. An exception would be made for claims of a creditor for a debt, judgment, lien, or claim, including a tax delinquency, asserted by or owed to the state, a person who has perfected a pledge under Section 2116.014(d), or a person who is owed child support arrearages by the depository account holder.

The bill would specify representation of the depository by the Attorney General.

The bill would authorize the depository to apply for, register, secure, hold and protect under the laws of the U.S. or any state or nation certain intellectual property. The bill would require the Comptroller to deposit to the General Revenue Fund the revenue realized by the depository pertaining to the intellectual property. Those funds may be appropriated only to the Comptroller to offset the costs of the depository.

The bill would require the Banking Commissioner of Texas, in consultation with and subject to approval by the Comptroller, to create defined categories of licenses for depository agents.

The bill would exempt from ad valorem taxation any precious metal owned and held in the depository, regardless of whether the precious metal is held or used by the person for the production of income.

The bill would take effect immediately upon receipt of a two-thirds vote of all members elected to each house; otherwise, the bill would take effect September 1, 2017. The provisions of the bill amending Chapter 11 of the Tax Code would take effect January 1, 2018, but only if the constitutional amendment proposed by the 85th Legislature, Regular Session, authorizing the Legislature to exempt from ad valorem taxation precious metal held in the depository is approved by voters; otherwise the provision would have no effect.

Based on the analysis of the Comptroller, the bill would allow the Comptroller to establish new fees and charges for operation and administration of the depository. The amount of revenue the charges may generate are unknown at this time.

To the extent that precious metals held in the depository would be taxable under current law, provisions of the bill exempting precious metals held in the depository from ad valorem taxation would potentially result in increased state expenditures for the Foundation School Program allocated to independent school districts (ISDs), thereby offsetting any lost revenues to the ISDs. The impact is indeterminate as the potential holdings of precious metals in the depository is unknown, but unlikely to be significant.

The Comptroller and the Office of the Attorney General indicate that any costs to implement the provisions of the bill could be absorbed within existing resources.

### **Local Government Impact**

To the extent that precious metals held in the depository would be taxable under current law, provisions of the bill exempting precious metals held in the depository from ad valorem taxation would result in an indeterminate loss of local ad valorem tax revenues. The loss of revenues for an independent school district would be offset by an increased allocation to the district from the Foundation School Program.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts

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