

**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: HB3709** by Sheffield (Relating to authorizing a county to impose a tax on the sale of certain solid materials and substances.), **As Introduced**

<p><b>No fiscal implication to the State is anticipated.</b></p>
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**Local Government Impact**

The bill relates to authorizing a county to impose a tax on the sale of certain solid materials and substances.

The bill amends Tax Code, Title 3, Subtitle C, by adding new Chapter 329, to authorize a county to impose a tax on the first sale of certain taxable materials. The bill would not authorize this tax on any subsequent sales of taxable material. A sale of taxable material is consummated at the place of business of the seller regardless of the place where the seller first receives the order for the sale; the place from which the seller ships or delivers the taxable material; or the place where the transfer of title or possession occurs.

The new chapter provides the following definitions: "first sale" means the first transfer of possession in connection with a purchase, sale, or exchange for value of taxable material; "place of business of seller" means the location at which taxable materials are mined; "seller" means a person engaged in the business of making sales of taxable materials; and "taxable material" means clay, stone, sand, gravel, aggregate, limestone, caliche, metalliferous and nonmetalliferous ores, and other solid materials or substances of commercial value excavated in solid form from natural deposits on or in the earth. The term does not include coal or lignite.

The bill authorizes a county by order to impose the tax at any rate not to exceed 15 cents for each ton or fraction of a ton of taxable material. The bill allows the county to change the authorized tax rate to any rate that does not exceed the prescribed maximum rate.

The bill requires the seller to collect the tax and add it to the price of the taxable material. The bill would consider this tax as a debt owed to the seller of the taxable material by the person who purchased the taxable material. The bill would consider this debt recoverable at law in the same manner as the price of the taxable material.

The bill authorizes a county by order to require a person selling taxable material to collect a tax on a taxable material. The bill requires the person required to collect the tax to report and remit the tax to the county as provided by the county imposing the tax.

The bill allows a county by order to prescribe penalties, including interest charges, for failure to keep records required by the county, to report when required, or remit the tax when due. The bill allows the attorney acting for the county to bring suit against a person who fails to collect the tax and to remit the tax to the county as required.

The bill allows a county by order to permit a person who is required to collect a tax under this chapter to retain a percentage of the amount collected and required to be reported and remitted as reimbursement to the person for the costs of collecting the tax. The bill allows this amount to be retained only if the person files reports and remits the tax as required by the county.

The bill prescribes that the tax authorized by this bill is not an occupation tax on the person that mines the taxable material or the seller of the taxable material.

The bill allows a county to use revenue collected from the tax only to operate, maintain and improve county roads.

There would be a positive fiscal impact to counties adopting the tax authorized by this bill, but the amount cannot be determined as the rate that would be set by each adopting county and the quantities of taxable materials subject to the tax are not known.

The bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2017.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** UP, KK, SD