

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 22, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1539 by Watson (Relating to the application of the sales and use tax to certain property and services.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1539, As Passed 2nd House: a negative impact of (\$8,890,000) through the biennium ending August 31, 2019.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	(\$8,890,000)
2020	(\$1,980,000)
2021	(\$2,080,000)
2022	(\$2,180,000)

All Funds, Five-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>
2018	\$0	(\$1,800,000)	(\$350,000)	(\$120,000)
2019	(\$8,890,000)	\$0	(\$1,700,000)	(\$590,000)
2020	(\$1,980,000)	\$0	(\$380,000)	(\$130,000)
2021	(\$2,080,000)	\$0	(\$400,000)	(\$140,000)
2022	(\$2,180,000)	\$0	(\$420,000)	(\$140,000)

Fiscal Year	Probable Revenue (Loss) from Counties & Special Districts
2018	(\$60,000)
2019	(\$310,000)
2020	(\$60,000)
2021	(\$80,000)
2022	(\$80,000)

Fiscal Analysis

The bill would amend Chapter 151 of the Tax Code, regarding the application of the sales and use tax to certain property and services.

Section 151.006(a)(1) would be amended to narrow the definition of a sale for resale to tangible personal property or taxable service resold as a taxable item rather than resold with or as a taxable item.

Section 151.006(c) would be amended to limit the exclusion from the definition of sale for resale of certain items used in the performance of a service not taxed to items under the care, custody, and control of a service provider used in the performance of a contract with certain governmental and nonprofit organizations exempted from tax under Sections 151.309 and 151.310.

New Subsection 151.006(e) would exclude from the definition of sale for resale the sale of tangible personal property that will be used, consumed, expended in, or incorporated into an oil or natural gas well by a purchaser in the performance of an oil well service taxable under Chapter 191 (the oil well service tax).

Section 151.338 would be amended to clarify that the exemption of certain environment and conservation services is of the amount charged for labor and does not apply to tangible personal property transferred by the service provider to the purchaser as part of the service if the charge for labor is separately itemized. For certain health care facilities, 65 percent of the amount of a lump-sum charge for labor and tangible personal property would be exempt if the charge for labor is not separately itemized.

This 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.

Methodology

The amendment of Section 151.006(c) is not a clarification of current law but rather a substantive change to law that would provide an exemption from tax for certain items used in certain coin-operated amusement machines that currently are subject to tax. This amendment, in conjunction with the assertion in the bill that the amendments made by the Act are a clarification of existing law and do not imply that existing law may be construed as inconsistent with the law as amended by the Act, would constitute a basis for refund claims. The estimates, based on prior audit experience with respect to coin-operated amusement machines, include anticipated refunds to be paid in fiscal year 2019 after refund claims have been submitted and verified.

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 local taxing jurisdictions. Estimates of those losses are displayed in the above tables.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD