

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 11, 2019

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

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
 Legislative Budget Board

IN RE: SB1332 by Johnson (Relating to sales and use taxes on e-cigarette vapor products; imposing taxes; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1332, As Introduced: a positive impact of \$8,998,500 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
2020	\$3,940,500
2021	\$5,058,000
2022	\$5,148,000
2023	\$5,248,000
2024	\$5,338,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	\$4,880,000	(\$939,500)	6.0
2021	\$5,420,000	(\$362,000)	6.0
2022	\$5,510,000	(\$362,000)	6.0
2023	\$5,610,000	(\$362,000)	6.0
2024	\$5,700,000	(\$362,000)	6.0

Fiscal Analysis

The bill would add Chapter 164 to the Tax Code, regarding a tax on e-cigarette vapor products. The bill would impose a sales and use tax on all vapor products sold in Texas or purchased from a retailer for use in Texas. The rate of the tax would be five cents per milliliter or fractional part of a milliliter. The tax would be in addition to the sales and use taxes imposed by Chapter 151. The taxes imposed by Chapter 164 would be administered, imposed, collected, and enforced in the

same manner as the taxes under Chapter 151.

The bill would impose reporting and recordkeeping requirements. Revenue collected under Chapter 164 would be deposited to the General Revenue Fund.

The bill would provide the Comptroller the authority to suspend a sales tax permit or levy a fine when a business violates Chapter 161, Subchapter H, of the Health and Safety Code. The Comptroller would be required to establish by rule or policy minimum requirement for seller training programs. The Comptroller would be required to approve applying programs that meet those requirements and could also charge an application fee to defray the cost of processing the applications.

Methodology

The analysis is based in part on e-cigarette tax collections in North Carolina, the first state to implement a 5 cent per milliliter tax on vapor products. Because cigarettes and e-cigarettes are substitutes for one another, a ratio of the use of cigarettes to e-cigarettes in North Carolina was applied to the cigarette use in Texas to estimate what Texas should expect to collect in e-cigarette tax revenue. Being a volume-based tax, future collections are expected to follow population growth.

E-Cigarettes are currently subject to state and local sales taxes. Imposition of this additional tax will raise the price and would be expected to slightly decrease consumption, resulting in a modest decrease in state sales tax revenue allocable to the General Revenue Fund 0001, as well as negligible sales tax collection declines for local governments.

The potential fines for violations of Chapter 161, Subchapter H, of the Health and Safety Code, and the potential application fees for seller training programs could increase state revenue but the amounts cannot be determined.

The administrative cost estimate reflects the funds necessary to hire six FTEs to administer and enforce the new tax. The bill would add almost 20,000 new taxpayers, requiring two accounts examiner IIIs to process the new tax applications and handle phone calls and correspondence. Additionally, four taxpayer compliance officer IIs would be required to collect delinquent taxes and provide taxpayer services to promote compliance.

Technology

There would be a one-time technology cost of \$577,500 to build a new system for taxpayers to register and report sales and use taxes on electronic nicotine delivery system vapor products. An estimated 3850 hours of programming across seven different systems is required, encompassing all functions including reporting, remittance, collections, and auditing.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK, SD, SMad