

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

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 10, 2021**

**TO:** Honorable Morgan Meyer, Chair, House Committee on Ways & Means

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB211** by Thierry (Relating to sales and use taxes on e-cigarette vapor products to benefit the child health plan program; imposing taxes.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB211, As Introduced : a positive impact of \$9,457,500 through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	\$4,172,000
2023	\$5,285,500
2024	\$5,374,500
2025	\$5,454,500
2026	\$5,534,500

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<i>Probable Revenue Gain/(Loss) from General Revenue Fund 1</i>	<i>Probable Revenue Gain/(Loss) from General Revenue Fund for Appropriation to the Health and Human Services Commission 1</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$72,000)	\$5,510,000	(\$1,266,000)	4.0
2023	(\$78,000)	\$5,590,000	(\$226,500)	4.0
2024	(\$79,000)	\$5,680,000	(\$226,500)	4.0
2025	(\$79,000)	\$5,760,000	(\$226,500)	4.0
2026	(\$79,000)	\$5,840,000	(\$226,500)	4.0

**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 the state 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 of the Tax Code. The new sales and use tax

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 revenue generated from the new tax could only be appropriated to the Health and Human Services Commission for the purpose of providing health benefits coverage under the state child health plan program established under Chapter 62 of the Health and Safety Code.

**Note:** This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature. Although this bill would not make an appropriation, it would establish the basis for an appropriation.

### **Methodology**

This analysis is based in part on e-cigarette tax collections in North Carolina, the first state to implement a five 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, as well as negligible sales tax collection declines for local governments.

The Comptroller's office anticipates administrative costs of \$1,266,000 in fiscal year 2022 and \$226,500 in each subsequent year. The Comptroller's office anticipates needing to hire three Taxpayer Compliance Officer IIs and one Accounts Examiner III to implement the provisions of the bill. Staffing related costs are anticipated to be \$226,500 annually.

### **Technology**

There would be a one-time technology cost of \$1,039,500 for an estimated 6,930 hours to build a system for taxpayers to register and report sales and use taxes on electronic nicotine delivery system vapor products. The estimated programming hours are necessary to address all functions required to implement the provisions of the bill, 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:** JMc, KK, SD, BRI