

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 29, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB902 by Perry (Relating to the period during which a purchaser's successor liability for taxes owed by the seller of a business may be enforced.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB902, As Introduced : a negative impact of (\$34,900,000) through the biennium ending August 31, 2023.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of (\$10,400,000) for the 2022-23 biennium. Any loss to the Property Tax Relief Fund must be made up with an equal amount of General Revenue to fund the Foundation School Program.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	(\$17,100,000)
2023	(\$17,800,000)
2024	(\$18,500,000)
2025	(\$19,200,000)
2026	(\$20,000,000)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Revenue (Loss) from General Revenue Fund 1	Probable Revenue (Loss) from Property Tax Relief Fund 304	Probable Revenue (Loss) from Cities LOCAL-CITY	Probable Revenue (Loss) from Transit Authorities LOCAL-TRANSIT
2022	(\$17,100,000)	(\$5,100,000)	(\$3,100,000)	(\$1,100,000)
2023	(\$17,800,000)	(\$5,300,000)	(\$3,300,000)	(\$1,100,000)
2024	(\$18,500,000)	(\$5,500,000)	(\$3,400,000)	(\$1,100,000)
2025	(\$19,200,000)	(\$5,800,000)	(\$3,500,000)	(\$1,200,000)
2026	(\$20,000,000)	(\$6,000,000)	(\$3,700,000)	(\$1,200,000)

<i>Fiscal Year</i>	Probable Revenue (Loss) from Counties and Special Districts LOCAL-COUNTY
2022	(\$700,000)
2023	(\$700,000)
2024	(\$700,000)
2025	(\$800,000)
2026	(\$800,000)

Fiscal Analysis

The bill would amend Section 111.020 of the Tax Code by adding Subsection (e-1) to prohibit the enforcement of a purchaser's obligation after three years from the later of when the former owner sells the business or stock of goods or when a determination against the former owner is made.

This bill would take effect September 1, 2021.

Methodology

Added Subsection (e-1) would provide a three year period of limitation that is “notwithstanding Section 111.201 or another period of limitation” under Title II. This would preclude agreements to extend period of limitation under Sec. 111.203, exceptions to assessment limitation due to filing of a false or fraudulent report, failure to file a report, or filing a report that contains gross error under Sec. 111.205, assessment when refund claimed under Sec. 111.2051, exception to limitation arising from administrative and judicial proceedings under Sec. 111.206, and tolling of limitation period for contested tax determinations and for bankruptcy cases under Sec.111.207.

It is common for periods examined in audit to extend three or more years back before the commencement of an audit, for a change of ownership of a business to be discovered in the course of an audit, and for the four year statute of limitations provided by Sec. 111.201 to be significantly extended pursuant to one or more of the sections indicated above.

The frequency of sales of businesses in consequence of merger and acquisition activity or bankruptcy reorganizations, including sales of large businesses subject to complex audits, redeterminations, and extended periods for contest of redeterminations in administrative hearings and court proceedings, ensures prohibition of purchaser's obligation beyond three years after the sale of the business or a determination against a former owner would significantly impair the ability to collect amounts otherwise ultimately due.

Local Government Impact

There would be a corresponding revenue loss from units of local government estimated in the above tables.

Source Agencies: 304 Comptroller of Public Accounts

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