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

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 21, 2023**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

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

**IN RE:** **HB2071** by Jetton (Relating to certain public facilities used to provide affordable housing.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2071, As Passed 2nd House : a negative impact of ($246,794) through the biennium ending August 31, 2025.

According to the Comptroller of Public Accounts (CPA), the new requirements added by the bill could limit the amount of property that would qualify for future property tax exemptions, creating an indeterminate revenue gain to the state through the school funding formula.

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:

| *Fiscal Year* | **Probable Net Positive/(Negative) Impact to** ***General Revenue Related Funds*** |
|---|---|
| 2024 | ($83,098) |
| 2025 | ($163,696) |
| 2026 | ($161,196) |
| 2027 | ($244,294) |
| 2028 | ($241,794) |

## All Funds, Five-Year Impact:

| *Fiscal Year* | **Probable Savings/(Cost) from** ***General Revenue Fund*** **1** | *Change in Number of State Employees from FY 2023* |
|---|---|---|
| 2024 | ($83,098) | 1.0 |
| 2025 | ($163,696) | 2.0 |
| 2026 | ($161,196) | 2.0 |
| 2027 | ($244,294) | 3.0 |
| 2028 | ($241,794) | 3.0 |

## Fiscal Analysis

The bill would amend Chapters 303 and 392 of the Local Government Code, regarding public facility corporations and housing authorities established by municipalities and counties, respectively.

The bill would specify that the current property tax exemption for leaseholds or other possessory interest in a public facility applies to a public facility used to provide multifamily housing only if the public facility user meets specified low-income housing occupancy requirements.

The bill would exempt from all sales and use taxes materials used by a person receiving a current property tax exemption for leaseholds or other possessory interest in a public facility to improve the real property of the public facility.

The bill would require the Texas Department of Housing and Community Affairs (TDHCA) to conduct annual audits of each public facility user of certain multifamily residential developments claiming such tax exemptions and to complete and publish annual reports regarding the audit findings.

The bill would require the Legislative Budget Board to conduct a study to assess the long-term effects of tax exemptions for certain multifamily developments.

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, 2023.

## Methodology

According to TDCHA, a compliance monitor reviews between 55 to 65 developments annually. In order to monitor an estimated 60 additional public facility corporation (PFC) multifamily developments, the agency anticipates the need for an additional full-time equivalent (FTE) employee at the Auditor II classification in fiscal year 2024 with an additional FTE in fiscal year 2025, which is the first year the agency anticipates monitoring both acquired and new developments, and every two years thereafter due to anticipated growth in the number of PFC multifamily developments that would require monitoring. The FTEs would be compensated at $60,000, which is the average salary of current Auditor II in TDHCA's Compliance Division, plus benefits, and would require computers, software, and annual office supplies.

According to CPA, the exemption from sales and use taxes of certain materials used for the improvement of the real property of a public facility corporation would not be expected to have significant fiscal implications, as it is assumed most, if not all, public facility corporations would fall under the definition of a sales tax exempt governmental entity or of an exempted 501(c) entity. In that case, there is an existing sales tax exemption for tangible personal property incorporated into the realty of such entities.

## Technology

TDHCA anticipates a one-time technology cost of $2,500 in fiscal year 2024 for a computer and software for one anticipated FTE and an additional one-time cost of $2,500 in fiscal years 2025 and 2027 for the same purpose for the anticipated FTEs that would be added those years.

## Local Government Impact

According to the CPA, the bill could limit the amount of property qualifying for future property tax exemptions, which could create an indeterminate revenue gain to local taxing units through the school funding formula.

**Source Agencies:** 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

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