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

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

**May 2, 2023**

**TO:** Honorable Paul Bettencourt, Chair, Senate Committee on Local Government

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

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

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2071, As Engrossed : a positive impact of $3,852,902 through the biennium ending August 31, 2025.

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

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.

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

| *Fiscal Year* | **Probable Net Positive/(Negative) Impact to *General Revenue Related Funds*** |
|---|---|
| 2024 | $1,764,902 |
| 2025 | $2,088,000 |
| 2026 | $2,328,000 |
| 2027 | $2,568,000 |
| 2028 | $2,808,000 |

## All Funds, Five-Year Impact:

| *Fiscal Year* | **Probable Savings/(Cost) from *General Revenue Fund* 1** | **Probable Revenue Gain/(Loss) from *General Revenue Fund* 1** | **Probable Savings/(Cost) from *Appropriated Receipts* 666** | *Change in Number of State Employees from FY 2023* |
|---|---|---|---|---|
| 2024 | ($83,098) | $1,848,000 | $0 | 1.0 |
| 2025 | $0 | $2,088,000 | ($163,696) | 2.0 |
| 2026 | $0 | $2,328,000 | ($161,196) | 2.0 |
| 2027 | $0 | $2,568,000 | ($244,294) | 3.0 |
| 2028 | $0 | $2,808,000 | ($241,794) | 3.0 |

## Fiscal Analysis

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 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 from all sales and use taxes.

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 authorize TDHCA to collect a $40 per housing unit fee from the public facility users who would be audited.

## Methodology

TDHCA estimates that approximately 154 public facility corporation (PFC) multifamily developments would require auditing beginning in fiscal year 2024. To accomplish this, TDHCA anticipates the need for one additional full-time employee (FTE), at a cost of $80,598 per fiscal year. Because the TDHCA fee revenue the bill would authorize would not be realized before the FTE is needed, the FTE cost in fiscal year 2024 would be to General Revenue.

TDHCA estimates 20 additional PFC multifamily developments would require monitoring each fiscal year, and that the average development size is 300 housing units. Due to this anticipated growth, TDHCA anticipates the need for an additional FTE in fiscal year 2025, and in fiscal year 2027 and every two years thereafter. Each FTE would cost an estimated $80,598 per fiscal year to Appropriated Receipts.

Given TDHCA's above assumptions, the audit fees the bill would authorize would result in a revenue gain to General Revenue of $1,848,000 in fiscal year 2024; $2,088,000 in fiscal year 2025; $2,328,000 in fiscal year 2026; $2,568,000 in fiscal year 2027; and $2,808,000 in fiscal year 2028.

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 estimates technology costs of $2,500 in each of fiscal years 2024 through 2027, and every two fiscal years thereafter for computers and software for the additional FTEs. The technology costs in fiscal year 2024 would be to General Revenue, while subsequent fiscal year technology costs would be to Appropriated Receipts.

## Local Government Impact

According to the 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 local taxing units through the school funding formula.

**Source Agencies:** 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs, 352 Bond Review Board

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