

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

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 29, 2013**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2488** by Taylor, Van (Relating to the establishment of an independent agency to function as a tax tribunal.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds for HB2488, As Introduced:** a negative impact of (\$894,000,000) through the biennium ending August 31, 2015.

**Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of (\$154,000,000) for the 2014-15 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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	(\$400,000,000)
2015	(\$494,000,000)
2016	(\$593,000,000)
2017	(\$698,000,000)
2018	(\$811,000,000)

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

<b>Fiscal Year</b>	<b>Probable Revenue (Loss) from <i>General Revenue Fund</i></b>	<b>Probable Revenue (Loss) from <i>Property Tax Relief Fund</i></b>	<b>Probable Revenue (Loss) from <i>Economic Stabilization Fund</i></b>	<b>Probable Revenue (Loss) from <i>Cities</i></b>
2014	(\$400,000,000)	(\$70,000,000)	\$0	(\$80,000,000)
2015	(\$494,000,000)	(\$84,000,000)	(\$53,000,000)	(\$96,000,000)
2016	(\$593,000,000)	(\$100,000,000)	(\$63,000,000)	(\$120,000,000)
2017	(\$698,000,000)	(\$118,000,000)	(\$74,000,000)	(\$140,000,000)
2018	(\$811,000,000)	(\$137,000,000)	(\$86,000,000)	(\$164,000,000)

<b>Fiscal Year</b>	<b>Probable Revenue (Loss) from <i>Counties and Special Districts</i></b>	<b>Probable Revenue (Loss) from <i>Transit Authorities</i></b>
2014	(\$14,000,000)	(\$27,000,000)
2015	(\$17,000,000)	(\$33,000,000)
2016	(\$21,000,000)	(\$41,000,000)
2017	(\$24,000,000)	(\$48,000,000)
2018	(\$28,000,000)	(\$56,000,000)

## Fiscal Analysis

This bill would amend Tax Code, Title 2, by adding a new Chapter 114, removing the contested case hearings of the Tax Division at the State Office of Administrative Hearings and the establishment of an independent agency to function as a tax tribunal.

The bill would allow the Tax Tribunal to hear taxpayer appeals related to taxes and fees administered by the Comptroller of Public Accounts (CPA). The Tax Tribunal would consist of at least one judge that would be appointed by the Governor for a six-year term. Under the provisions of the bill, payment of the tax, penalty, or interest identified in a deficiency determination under Section 111.008 of the Tax Code would not be required to initiate a proceeding with the tribunal. A taxpayer could initiate a proceeding by petitioning within 60 days following the date of the comptroller's deficiency determination, denial of a refund claim, or other notice or demand assessing a tax, fee, penalty, interest, or other amount. The comptroller would be required to file its answer with the tribunal no later than 30 days after service of the petition. Filing of a petition for tribunal proceeding would not prejudice a taxpayer's right to file suit.

The bill would require hearings before the tribunal to be de novo, confidential and not open to the public, conducted according to the Texas Rules of Civil Procedure governing nonjury civil cases, and subject to the rules of evidence as applied in a nonjury civil case except that evidence inadmissible under those rules would be admissible at the discretion of the judge.

Under the provisions of the bill, the tribunal would be required to adhere to the principle of stare decisis and the tribunal's interpretation of a tax statute subject to contest in one case would be followed in subsequent cases involving the same statute, and its application of a statute to the facts of one case would be followed in subsequent cases involving similar facts unless the tribunal's interpretation or application conflicts with that of a district or appellate court or the tribunal provides satisfactory reasons for departing from prior precedent. The decisions of a Tax Tribunal judge would finally decide the matters in controversy unless the taxpayer appealed the decision to a Travis County district court as provided by Chapter 112 of the Tax Code.

The bill would allow the taxpayer to appeal a final decision of the tribunal to the district courts of Travis County but would not allow the comptroller to file an appeal.

The bill would repeal Subchapter D, Chapter 2003, Government Code.

The bill would take effect September 1, 2013.

## **Methodology**

This analysis is based on information provided by the CPA and the Comptroller's Biennial Revenue Estimate. The CPA assumes that implementing the provisions of the bill would have a reduction in the estimate of revenue available for appropriation in the forthcoming biennium as well as anticipated reductions in subsequent years. This includes amounts reflected in the tables. The CPA also assumes it would be necessary to create a reserve for the payment of refunds as well as to anticipate the declines in tax collections that will occur subsequent to rulings that the state cannot appeal would result in a revenue loss of \$894 million General Revenue and General Revenue related funds, \$154 million to the Property Tax Relief Fund, and \$53 million to the Economic Stabilization fund in the 2014-15 biennium.

Although the bill would abolish the Tax Division at the State Office of Administrative Hearings (SOAH) this analysis assumes that savings from the reduction at SOAH would be used to fund the new Tax Tribunal with \$543,840 each year and 5.0 FTEs, which would include appointed positions and support staff. These amounts are not reflected in the table above because they would not result in any additional cost to the state.

As a result of the bill's passage, it is assumed that the District Courts' could realize a cost increase for additional Judges that would be needed to implement the provisions of the bill. The costs are estimated to be \$147,631 per judge and would be split between General Revenue (\$75,292) and Judicial Fund No. 573 (\$72,339). However, costs associated with this are not included in the table above because the number of additional Judges that would be needed and would be subsequently appointed cannot be determined.

## **Local Government Impact**

Based on the analysis provided by the Comptroller of Public Accounts, there would be \$176 million in losses to the cities, \$60 million in losses to Transit Authorities, and \$31 million in losses to counties and Special Districts in the 2014-15 biennium with increased losses continuing in subsequent years. These revenue losses are included in the table above.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings

**LBB Staff:** UP, KK, MW, CWS, SD, JP, LXH