# LEGISLATIVE BUDGET BOARD
## Austin, Texas

## FISCAL NOTE, 82nd LEGISLATURE 1st CALLED SESSION - 2011

**June 27, 2011**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE:** **SB1** by Duncan (Relating to certain state fiscal matters; providing penalties. ), **Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1, Conference Committee Report: a positive impact of $7,327,438,898 through the biennium ending August 31, 2013.

**The bill would also result in a $148,480,500 loss to the Property Tax Relief Fund 304 for the biennium ending August 31, 2013. Therefore the bill would have a net positive impact of $7,178,958,398 to General Revenue Funds for the biennium.**

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 |
|---|---|
| 2012 | $2,134,013,628 |
| 2013 | $5,193,425,270 |
| 2014 | $1,444,221,405 |
| 2015 | $2,167,489,833 |
| 2016 | $1,636,290,958 |

## 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 Revenue Gain/(Loss) from *Available School Fund* 2 | Probable Savings/ (Cost) from *Foundation School Fund* 193 |
|---|---|---|---|---|
| 2012 | $2,043,459,817 | $101,144,107 | $0 | ($10,590,296) |
| 2013 | $2,043,531,885 | $981,225,696 | ($134,338,000) | $2,301,217,689 |
| 2014 | $2,035,706,885 | ($727,102,054) | $134,338,000 | $1,278,574 |
| 2015 | $2,035,731,885 | $130,415,446 | $0 | $1,342,502 |
| 2016 | $1,501,006,885 | $133,874,446 | $0 | $1,409,627 |

| Fiscal Year | Probable Revenue Gain/(Loss) from *Foundation School Fund* 193 | Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304 | Probable Savings/ (Cost) from *Oil-field Cleanup Acct* 145 | Probable Revenue Gain/(Loss) from *Oil-field Cleanup Acct* 145 |
|---|---|---|---|---|
| 2012 | $0 | ($75,084,750) | $27,500,000 | ($55,201,000) |
| 2013 | $1,788,000 | ($73,395,750) | $27,500,000 | ($25,111,000) |
| 2014 | $0 | $2,157,250 | $27,500,000 | ($25,268,000) |
| 2015 | $0 | $2,327,250 | $27,500,000 | ($25,483,000) |
| 2016 | $0 | $1,911,000 | $27,500,000 | ($25,696,000) |

| Fiscal Year | Probable Revenue Gain/(Loss) from *Tx Preservation Trust Acc* 664 | Probable Revenue Gain/(Loss) from *Tobacco Education/Enforce* 5044 | Probable Revenue Gain/(Loss) from *Children & Public Health* 5045 | Probable Revenue Gain/(Loss) from *Ems & Trauma Care Account* 5046 |
|---|---|---|---|---|
| 2012 | $10,089,461 | $10,562,519 | $5,281,258 | $5,281,258 |
| 2013 | $0 | $28,481,408 | $14,240,704 | $14,240,704 |
| 2014 | $0 | $0 | $0 | $0 |
| 2015 | $0 | $0 | $0 | $0 |
| 2016 | $0 | $0 | $0 | $0 |

| Fiscal Year | Probable Revenue Gain/(Loss) from *DIR Clearing Fund Account - AR* 8122 | Probable Revenue Gain/(Loss) from *Telecommunications Revolving - AR* 8123 | Probable Revenue Gain/(Loss) from *DIR Clearing Fund Account - IAC* 8124 | Probable Revenue Gain/(Loss) from *Telecommunications Revolving - IAC* 8125 |
|---|---|---|---|---|
| 2012 | $272,351 | $226,863 | $116,722 | $1,550,119 |
| 2013 | $256,572 | $221,938 | $109,960 | $1,506,890 |
| 2014 | $0 | $0 | $0 | $0 |
| 2015 | $0 | $0 | $0 | $0 |
| 2016 | $0 | $0 | $0 | $0 |

| Fiscal Year | Probable Revenue Gain/(Loss) from *Statewide Technology Account - IAC* 8126 | Probable Savings/ (Cost) from *New General Revenue Dedicated Oil & Gas Acct* | Probable Revenue Gain/(Loss) from *New General Revenue Dedicated Oil & Gas Acct* | Probable Revenue Gain/(Loss) from *New General Revenue Dedicated Jud Ed Acct* |
|---|---|---|---|---|
| 2012 | $365,729 | ($48,897,500) | $79,097,500 | $11,716,000 |
| 2013 | $344,541 | ($48,897,500) | $48,897,500 | $10,660,000 |
| 2014 | $0 | ($48,897,500) | $48,897,500 | $10,660,000 |
| 2015 | $0 | ($48,897,500) | $48,897,500 | $10,660,000 |
| 2016 | $0 | ($48,897,500) | $48,897,500 | $10,660,000 |

| Fiscal Year | Probable Revenue Gain/(Loss) from *Texas Mobility Fund* 365 | Probable Revenue Gain/(Loss) from *Jud & Court Training Fd* 540 | Probable Revenue Gain/(Loss) from *State Highway Fund* 6 | Probable Revenue Gain/(Loss) from *Cities* |
|---|---|---|---|---|
| 2012 | $0 | ($11,716,000) | $0 | $15,825,000 |
| 2013 | $1,432,595 | ($10,660,000) | ($403,016,000) | $16,525,000 |
| 2014 | $1,461,247 | ($10,660,000) | $403,016,000 | $16,925,000 |
| 2015 | $1,490,467 | ($10,660,000) | $0 | $17,525,000 |
| 2016 | $1,520,278 | ($10,660,000) | $0 | $18,125,000 |

| Fiscal Year | Probable Revenue Gain/(Loss) from *Transit Authorities* | Probable Revenue Gain/(Loss) from *Counties & Sp Dist* |
|---|---|---|
| 2012 | $4,975,000 | $2,750,000 |
| 2013 | $5,175,000 | $2,850,000 |
| 2014 | $5,275,000 | $2,950,000 |
| 2015 | $5,475,000 | $3,050,000 |
| 2016 | $5,675,000 | $3,150,000 |

| Fiscal Year | Change in Number of State Employees from FY 2011 |
|---|---|
| 2012 | 10.0 |
| 2013 | 10.0 |
| 2014 | 10.0 |
| 2015 | 10.0 |
| 2016 | 10.0 |

## Fiscal Analysis

Article 1 would defer the Foundation School Program (FSP) payment to school districts scheduled for August of fiscal year 2013 to not earlier than September 5th of the following fiscal year. Article 1 would amend Government Code Section 466.355 to require the comptroller to estimate the amount to be transferred to the foundation school fund on or before September 15th and transfer the amount to the FSP before August 25.

Article 2 would implement a recommendation in the report, "End the Use of General Revenue Funds to Pay for Insurance Company Examinations," in the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011, by repealing insurance premium tax credits for examination fees. This provision would apply to examination fees or evaluations paid in calendar year 2012 or 2013 and the provision would expire on January 1, 2014.

Article 3 would partially implement recommendations from the report, "Phase out Economic Development Tax Refunds," in the Legislative Budget Board's (LBB) Government Effectiveness and Efficiency Report submitted to the Eighty-Second Legislature, 2011. This bill would repeal Subchapter F of Chapter 111 of the Tax Code, regarding tax refunds for certain ad valorem taxpayers in reinvestment zones. This article would take effect October 1, 2011.

Article 4, relating to tax records, would amend the Occupations Code and the Tax Code to extend the amount of time that taxpayers must keep records such as electronically stored images of documents. Specifically, Section 111.0041 of the Tax Code would be amended to extend the time to at least four years that taxpayers would be required to maintain records to substantiate and verify a claim regarding the taxes, penalties, and interest.  Conforming changes would be made elsewhere in the Tax Code and the Occupations Code. This Article would take effect immediately if the bill receives the requisite two-thirds vote of each chamber, otherwise it would take effect October 1, 2011.

Article 5 as amended would implement the recommendation in the report, "Reduce the Unclaimed Property Dormancy Period for Certain Property Types" in the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Legislature, 2011. It would decrease the unclaimed property dormancy period for utility deposits from 18 months to one year.

Article 6 of the bill would change the classification of the Judicial and Court Personnel Training Fund No. 540 from Other Funds to a dedicated account within the General Revenue Fund.

Article 7 would amend Government Code to authorize the Office of Court Administration to collect process server fees. Fees collected shall be sent to the Comptroller for deposit into the General Revenue Fund. The bill would allow fees collected to be appropriated for the support of regulatory programs for process servers, guardians, and court reporters.

Article 9 would impact the collection of certain motor fuel taxes. The bill would amend various chapters of the Tax Code to require tax remittances on motor fuel taxes and delay the transfer of motor fuels taxes from general revenue to the State Highway Fund and Fund 002 that would normally occur in August 2013. The revenue would be deposited in September 2013. This article would take effect October 1, 2011.

Article 10 would impact collections of mixed beverage taxes and takes and fees on certain alcoholic beverages. The bill would amend various chapters of the Alcoholic Beverage Code to require tax remittances for the month of September to be paid in August for certain taxes in odd-numbered years.

Article 11 would reduce the cigarette tax distributors' discount from three percent to two and a half percent.

Article 12 would amend Tax Code to redefine sale for resale. This provision would take effect immediately if the bill received the requisite two-thirds vote of each chamber; otherwise, it would take effect October 1, 2011.

Article 13 would amend Chapter 151 of the Tax Code relating to tax due dates and report dates to provide for a 25 percent prepayment of the sales and use tax in August 2013 and an offsetting credit in September 2013. The prepayment would be required of taxpayers who pay by electronic funds transfer and who do not prepay as provided by Section 151.424.

Article 14, relating to the penalties for failure to report or remit certain taxes or fees, would amend the Tax Code and the Health and Safety Code to add a penalty of $50 for a person who fails to file certain reports required under the codes. The penalty would be in addition to any other authorized penalties, and without regard to whether the person subsequently files the report or whether any taxes or fees were due. The bill's provisions would apply to several taxes including the sales and use tax and motor vehicle rental and seller financed taxes. This article would take effect October 1, 2011.

Article 19 would create the Oil and Gas Regulation and Cleanup (OGRC) Fund as an account in the General Revenue Fund. The OGRC would replace the existing General Revenue-Dedicated Oil Field Cleanup (OFCU) Account No. 145, with all balances in that account transferring to the OGRC Fund, and all current revenue streams to the OFCU Account No. 145, except penalties, accruing to the OGRC Fund. Penalties would be deposited to the credit of the General Revenue Fund. The bill would authorize surcharges on the agency's existing fees to provide that the OGRC Fund cover all of the Railroad Commission's (RRC) costs related to the regulation of oil and gas development. The bill would provide a specific methodology for the RRC to determine the amount of such surcharges. The amount of such surcharges shall not exceed an amount equal to 185 percent of the fee on which they are imposed. In addition, the bill would require that the Comptroller notify the RRC when the OGRC Fund has an unexpended balance of $20.0 million or greater, at which point the agency would cease collecting oil field cleanup regulatory fees, until the unexpended balance of the OGRC Fund falls to$10.0 million.

Article 19 would also require the RRC to establish specific performance goals for oil and gas regulation through the appropriations process for: the number of orphaned wells plugged with the use of state funds; the number of abandoned sites to be investigated, assessed, or cleaned up; and the number of surface locations to be remediated. The RRC would also be required to submit quarterly reports to the Legislative Budget Board on OGRC Fund revenues and expenditures and progress towards the performance goals. Annually, the RRC would be required to report to the Legislature a review of the effectiveness of money provided in the OGRC Fund at enabling the agency to better protect the environment. Article 19 would also expand the applicability of the pipeline safety fee to include gas utility regulatory functions at the RRC and allow the RRC to use funds other than the oil and gas regulation cleanup fund for regulation and cleanup if appropriated.

Article 20 would eliminate the publication and distribution of bound copies of the General and Special Laws of Texas (referred to as session law) by the Secretary of State following each session of the legislation, replacing such information with an electronic version on the agency's website.

Article 21 would authorize the Attorney General to charge a reasonable fee for electonic filing of documents. This article would take effect immediately if it receives a two-thirds vote of each chamber; otherwise, this article would take effect 91 days after the last day of the session.

Article 22 would authorize money in the Preservation Trust Fund to be used for operation expenses of the Texas Historical Commission.

Article 23 would continue the operation of DIR for two years, until September 1, 2013. The bill would clarify the appropriate expenditure of revenue derived from the collection of fees imposed by the Department of Information Resources.  The bill would exempt a database or network managed by the Department of Agriculture from the Statewide Technology Center, or data center consolidation project, managed by DIR.

Article 24 would direct the State Bar to credit an attorney with meeting the minimum continuing legal education requirements while employed full-time with the Office of the Attorney General, with the exception of requirements for ethics and professional responsibility courses. The bill requires the OAG to provide OAG attorneys with continuing legal requirement opportunities. These provisions would expire January 1, 2014.

Article 25 would increase lobby registration fees by 50 percent and add lobbyists for 501(c)(6) organizations to the new $150 fee category.

Article 28 would expand the use of three tobacco settlement funds to pay the principal or interest on a bond issued on behalf of the Cancer Prevention and Research Institute of Texas, including: the Permanent Fund for Health and Tobacco Education and Enforcement; the Permanent Fund for Children and Public Health; and the Permanent Fund for Emergency medical Services and Trauma Care.

Article 29 of the bill would restructure the process used to dispose of state surplus or salvage property to improve the efficiency of the program.

Article 30 relates to the collection and allocation of certain sales and use tax. The bill would amend Section 151.008(b) to provide that the terms "seller" and "retailer" include a person who by agreement with an owner of tangible personal property has been entrusted with possession of and authority to sell, lease, or rent the property without additional action on the part of the owner. This article takes effect January 1, 2012.

The bill would amend Section 151.107 to provide that a "retailer engaged in business in this state" includes a retailer that (1) holds a substantial ownership in, or is owned in whole or substantial part by, a person who maintains a business location in this state if the retailer sells substantially the same product line and does so under substantially the same business name as the related retailer or if the facilities or employees of the related person in this state are used to advertise, promote, or facilitate sales by the retailer or are used to maintain a marketplace in this state for the retailer, exchanging returned merchandise; or (2) holds a substantial ownership in, or is owned in whole or substantial part by, a person that maintains a distribution center, warehouse, or similar location in this state that delivers property sold by the retailer.

Article 31 extends the eligibility period for which businesses can take tax credits that had accrued under the old franchise tax through to December 31, 2016.

Article 32 would allow the Comptroller to enter into contracts with procurement specialists to more effectively and inexpensively procure items purchased and used by state agencies. The specialist would be paid from the cost savings generated.

Article 34 would amend several sections of the Government Code related to the development of state budgets and the publication of related documentation, including: requiring the Legislative Budget Board (LBB) to hold public hearings each state fiscal year to hear a report from the comptroller on the financial condition of the state and receive public testimony; requiring the LBB to hold public hearings on interim budget reduction requests from state agencies; requiring the Comptroller of Public Accounts to publish data related to revenue from fees; and amending procedures related to the Cash Management Committee. Article 34 would also require the LBB place information on its internet website showing additional program level detail for appropriations.

Article 35 of the bill would amend the Government Code relating to the Texas Back to Work Initiative would allow the Governor to transfer appropriations  from the Texas Enterprise Fund (TEF) to the Texas Back To Work initiative administered by the Texas Workforce Commission.

Article 36 would provide a homestead exemption for surviving veteran spouses. This article would take effect January 1, 2012.

Article 37 extends the small business franchise tax exemption at $1,000,000 until 2014.

Article 39 relates to fiscal matters concerning process servers and entitles a person appointed to the process server review board to reimbursement for actual and necessary expenses incurred in traveling and performing official board duties and requires the office to establish a certification division. The Article would also require OCA to establish a certification division to oversee regulatory programs and would enable fees collected under Section 51.008, Government Code, to be appropriated to the office to support the certification division. This support includes the restoration of salaries and operating costs that were cut from OCA's appropriations during the regular session, and adds funding for travel costs for members of the Process Server Review Board.

Article 40 relates to fiscal matters regarding reimbursement of jurors and entitles a person who reports for jury service to receive reimbursement for travel and other expenses.

Article 41 of the bill would amend the Code of Criminal Procedure to require counties with a population of 50,000 or greater to participate in the Collection Improvement Program unless granted a waiver.

Article 42 would amend Government Code, Chapter 501, to decrease the number of public members appointed to the Correctional Managed Health Care Committee, and require the committee to take certain actions relating to contracts.

Article 43 would allow for the transfer of appropriated funds from the Texas Enterprise Fund to the Texas Department of Housing and Community Affairs to fund the Texas homeless housing and services program.

Article 45 expands certain franchise tax exemptions to live event promotion companies, courier services. This article would take effect January 1, 2012.

Article 46 would amend Chapter 23 of the Tax Code to add beekeeping for the purpose of pollination, food production, or production of other commercial products to the list of activities that could qualify land for the reduced agricultural use property tax appraisal if the activity is at the degree of intensity generally accepted in the area and meets other existing requirements. The bill would provide that land used for these purposes could not be less than five acres but not more than 20 acres.

Article 47 would allow the Comptroller to collect data for unclaimed property search every five years, instead of every year.

Article 48 would amend Chapter 11 of the Tax Code, regarding property taxation and exemptions, to change the definition of "goods-in-transit" to require that the personal property be stored under a contract of bailment by a public warehouse operator at one or more public warehouses that are not in any way owned or controlled by the owner of the personal property. Certain provisions of this article would take effect January 1, 2012; others would take effect October 1, 2011.

Article 49 would implement the recommendation in the report, "Limit Advanced Placement Incentive Program Exam Fee Subsidies and End Campus Awards," in the Legislative Budget Board’s Government Effectiveness and Efficiency Report submitted to the Eighty-Second Texas Legislature, 2011 by funding the cost of examinations for students who demonstrate financial need in accordance with adopted guidelines.

Article 50 would limit eligibility for Educational Aide tuition exemptions to persons seeking certification in subject areas experiencing teacher shortages in public schools as determined by the Texas Education Agency. This article would apply beginning with tuition and fees charged for the 2012 fall semester.

Article 51 would amend Chapter 171 of the Tax Code, regarding the franchise tax, by revising the definition of "retail trade." The bill would add apparel rental activities to the definition of retail trade.

The bill would take effect on January 1, 2012, and apply only to reports due on or after that date.

Article 52 would authorize certain school districts to retain additional state aid and would expire September 1, 2013.

Article 53 would amend Chapter 42 of the Education code to reduce a district's additional state aid for tax relief in proportion to the degree to which its adopted maintenance and operations tax rates is below its compressed tax rate, applying beginning with tax rates adopted for the 2009 tax year.

Article 54 would remove the CPA from the Texas Guarantee Student Loan Board, authorize the Governor to appoint an additional member to the Board and authorize the Governor to appoint the Board of the Chair.

Article 55 redefines the disposition of mineral proceeds for Texas A&M University System, Texas State University System, Texas Tech University and Texas A&M Kingsville.
Article 56 relates to the Foundation School Program financing and reporting. This section would expire September 1, 2013.

Article 57 of the bill would make structural changes in the Foundation School Program that would result in significant state savings in fiscal year 2012 and continuing thereafter.

Article 61 would repeal the state virtual school network allotment in the Foundation School Program (FSP), including the commissioner's authority to grant allotments for courses that exceed a normal course load. The bill would allow school districts to count students enrolled in courses through the VSN in the calculation of students in average daily attendance (ADA) for purposes of determining FSP entitlement.

Article 62 would abolish the Texas Department of Rural Affairs (TDRA) and creates the Office of Rural Affairs within the Texas Department of Agriculture (TDA). This article would transfer all of the appropriations, powers, duties, FTEs, and performance measures from TDRA to the new office within TDA. The bill would establish a Rural Health and Economic Development Advisory Council and require the council to review rural policies and allocations of CDBG funds.

Article 63 would require judicial status reviews at least every six months for children age 18 or older in extended foster care placements.  This would satisfy case plan requirements for Title IV-E reimbursement under the U.S. Fostering Connections to Success and Increasing Adoptions Act of 2008.  It would also allow the Department of Family and Protective Services (DFPS) to use federal matching funds in lieu of state funds to pay for extended foster care maintenance costs.

Article 64 would re-allocate the revenue collected from fees authorized by Sections 419.026(a) and 419.033 (b) of this code to be deposited to the credit of a special account in General Revenue Fund 0001 (i.e. GR Account—Fire Protection) in a portion of the fees not to exceed the amount appropriated to the TCFP for the biennium, less any other amount appropriated from a source other than the fees. The remainder of the fees would continue to be deposited to Fund 0001.

Article 65 as amended would amend the Government Code to add provisions regarding TDCJ policies designed to manage inmate population based on similar health conditions, to require inmates to pay an annual $100 health care services fee, and to require TDCJ to provide certain over-the-counter medications to offenders through commissary operations and do so at no cost if the inmate is indigent. Article 65 would also implement recommendations in the report "Eliminate Statutory Barriers to Contain Costs in Correctional Managed Health Care" in the LBB's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011.The bill would require TDCJ, UTMB, and TTUHSC to develop and implement a training program for corrections medication aides similar to the one currently offered by DADS which certifies medication aides who work in nursing homes. The bill would provide an exemption from end stage renal disease licensing requirements for clinics and hospitals operated on behalf of the state that provide dialysis to individuals receiving services in the correctional managed health care program.

Article 66 would change certain practices and procedures for guardianships that are transferred from one jurisdiction to another.

Article 67 would amend the Government Code to allow the Comptroller to develop a habitat conservation plan (or to enter into an interagency contract with another agency for this purpose) to promote compliance with federal laws protecting endangered species. The bill would also establish the Habitat Protection Fund as a fund outside of the Treasury and allow the Comptroller to impose a mitigation fee to support the development and coordination of the habitat conservation plan.

Article 68 would remove the population brackets relating to the registration of golf carts on U.S. Corp of Engineers property.

Article 69 would repeal a 15-cent state court cost associated with the offense of failing to secure a child passenger in a motor vehicle. To the extent the repeal of the court cost may result in decreased state revenue, the fiscal implication to the state is not anticipated to be significant.

Article70 would exempt Smith Country from certain Juvenile Justice Adult Education Program requirements.

Article 71 would direct the Health and Human Services Commission (HHSC), if feasible and cost effective, to apply for a waiver from the federal government to maximize the federal Medicaid matching funds by providing Medicaid benefits to individuals with chronic health conditions who meet certain income and other eligibility requirements .

Article 72 would require the Department of Public Safety (DPS) to designate certain driver's license offices as temporary visitor stations employing at least two staff who have completed certain specialized training. The bill would amend the Transportation Code to establish expiration dates for driver's licenses issued to people who are not citizens, nationals, or legal permanent residents of the United States or a refugee or asylee lawfully admitted into the United States. The bill would also establish fee amounts for various issuances of the license or personal identification certificate issued to applicants who are not citizens of the United States.

Article 73 would change various aspects of the equalization surcharge.

Article 75 allows the Governor to designate a single agency to administer the community development block grant (CDBG) program; however, the amendment does not designate a specific agency. The bill would also repeal the Texas Department of Rural Affairs authority over CDBG funds.

Article 76 would amend the Election Code to make additions to the list of information that must be included on campaign finance reports filed with the Texas Ethics Commission (Commission), and changes the reporting threshold for political contributions from $50 to $100.

Article 79a would exempt travel vouchers and supporting documentation of certain peace officers from public disclosure for 18 months following the date of travel. Agencies that pay such vouchers would be required to prepare a quarterly report summarizing amounts paid for these vouchers. This provision would apply to expenses incurred or paid after the date of this Act.

Except as otherwise noted, the provisions of this bill take effect September 1, 2011, if it receives a vote of two-thirds of each chamber. If this bill does not receive the vote necessary for effect on September 1, 2011, this Act takes effect on the 91st day after the last day of the legislative session.

## Methodology

For Article 1 of the bill, the effect of deferring the August FSP payment in fiscal year 2013 to September of the following fiscal year is that a total of 23 monthly FSP payments would be dispersed during the 2012-13 biennium. Under current law funding of the FSP, this deferral would result in a one-time savings of $2.3 billion in fiscal year 2013. However, any statutory reduction to school districts' FSP entitlements would decrease the savings gained from this deferral. Funding levels in Conference Committee Report House Bill 1 (CCRHB 1) would produce a savings of $2.3 billion.

Article 2 would result in a revenue gain of $7.1 in General Revenue Related Funds in fiscal year 2013. To estimate the provisions of Article 2, data from TDI and the Comptroller were used to calculate the amount of examination fee and overhead assessment credits that would be available, the proportion of available examination fee credits that would be applied towards premium tax liability under current law, and the extent to which the repeal of these credits would increase the use of other types of premium tax credits.

Article 3 of the bill would result in a gain of $10 million in General Revenue Related funds in the2012-13 biennium. The Comptroller estimated fiscal impact from the proposed repeal based on refunds that have been made under the provisions of Subchapter F. There is no estimated fiscal impact for 2012 as the current statute and provisions of the bill would result in refunds being made through fiscal 2012. State savings would begin in fiscal 2013.

The Comptroller estimates that Article 4 relating to tax record maintenance requirements would result in gain of $11 million in General Revenue Funds for the 2012-13 biennium.

For Article 5, there would be a one-time gain of $300,000 in fiscal year 2013 from reducing the unclaimed property dormancy period for utility deposits.

For Article 6, this analysis projects probable revenue gain to the General Revenue Fund from the reclassification of the Judicial and Court Personnel Training Fund No. 540 from Other Funds to General Revenue account of $11.7 million in fiscal year 2012 and $10,660,000 in each fiscal year thereafter. Projected revenues to the Judicial and Court Personnel Training Fund are based on amounts included in the Comptroller's 2012–13 Biennial Revenue Estimate, or $10.6 million in fiscal year 2012 and $10.7 million in fiscal year 2013. Additionally, this estimate assumes $1,128,000 in unexpended balances available in the Judicial and Court Personnel Training Fund at the end of fiscal year 2011.

Article 7 of the bill would result in cost of $150,000 to the General Revenue Fund in the 2012-13 biennium to establish a system to collect over 6,000 certification fees, as well as maintaining administrative information associated with these certificates. The CPA could not estimate the potential revenue gain.

Article 9, relating to the motor fuels tax speed-up would result in a revenue gain of $67.1 million in General Revenue Funds for the 2012-13 biennium. Article 9 would also delay the motor fuels tax transfer to Fund 6  and 2 and this provision would result in a net revenue gain of $403 million in General Revenue Related Funds.

Article 10 relating to the alcohol tax speed up would result in a gain of $17.6 million in General Revenue funds in the 2012-13 biennium. The fiscal impacts of Articles 10 and 11 were based on the Comptroller's 2012-13 Biennial Revenue Estimate. The provisions of this bill would impact revenue collections only in fiscal year 2013 and 2014.

Article 11 would result in a revenue gain of $11.63 million in General Revenue Related funds in the 2012-13 biennium. The fiscal impact of Articles 11 was based on the Comptroller's 2012-13 Biennial Revenue Estimate. The proposed cigarette stamping allowance change would increase the revenue from each stamp by roughly one-half of one percent. First year revenue collections were adjusted for collection lags.

Article 12 would result in gain of $150 million in General Revenue Related funds in the 2012-13 biennium. Article 12 relates to a recent court decision that expanded the interpretation of items that may be purchased as a nontaxable sale for resale to include items purchased by contractors for use or consumption in performing services under federal contract. The bill would preclude the court decision from being further expanded to apply to contracts with exempt entities other than the federal government. The Comptroller used data on refund claims pursuant to the court decision to estimate the annual state sales tax reduction to be expected were the decision applied to contracts with exempt entities other than the federal government, and the implications for units of local government were estimated proportionally. The tables shown above assume an effective date of September 1, 2011.

For the 2012-13 biennium, Article 13 would result in a revenue gain of $231.2 million in General Revenue funds. The fiscal impact of Article 13 was based on the Comptroller's 2012-13 Biennial Revenue Estimate. The provisions of this bill would impact revenue collections only in fiscal year 2013 and 2014. The analysis for this article assumes a one-time payment would apply only to state sales taxes.

Article 14, relating to the penalties for failure to report or remit certain taxes or fees would result in gain of $13.2 million in General Revenue Funds in the 2012-13 biennium.

Article 19 relating to oil and gas regulation would result in a net positive impact of $56.4 million to General Revenue and General Revenue-Dedicated Funds. For Article 19 regarding the creation of the OGRC Fund, this estimate assumes that all balances in the OFCU Account No. 145 as of August 31, 2011 as reported in the Comptroller's Biennial Revenue Estimate (BRE) for 2012-13 of $30.2 million would transfer to the new OGRC Fund (a General Revenue-Dedicated Account), with the General Revenue Fund experiencing an equal loss. Current revenues to the OFCU Account No. 145, estimated at approximately $25 million per year based on the Comptroller's BRE, less an estimated $2.5 million in penalties, or $22.5 million per year, would begin to accrue to the new OGRC Fund, and is shown in the table above as a revenue gain, while a loss of $25.0 million per fiscal year is shown to the OFCU Account No. 145. The $2.5 million per year in penalty revenues is shown in the table above as a gain to the General Revenue Fund.

Article 19 would also require the RRC to cover all costs of oil and gas-related activities. Currently in the 2010-11 biennium, $18.9 million in annual expenditures for oil- and gas-related strategies are being paid out of the General Revenue Fund, along with an estimated $3.9 million in associated employee benefits, for a total of $22.8 million. This amount is shown as a savings to the General Revenue Fund in the table above. Based on the agency's 2012-13 Legislative Appropriations Request, the Railroad Commission's costs in 2010-11 out of the OFCU No. 145 of $27.5 million exceed revenues by $2.5 million, including benefits costs. Upon passage of the bill, $2.5 million in penalties would no longer be available, increasing that deficit to $5.0 million per year. This estimate assumes that the agency would have to set fees sufficient to cover that deficit, along with the $22.8 million amount to replace current General Revenue appropriations. It is therefore estimated that the RRC would have to set surcharges sufficient to raise $27.8 million in new revenue per fiscal year. Because the agency would spend all of the new revenue stream plus amounts covered by revenues to the OFCU Account No. 145 ($22.5 million per fiscal year that would transfer to the new OGRC Fund), the OGRC would have total annual estimated costs of $50.3 million. As shown in the table above, this estimate assumes that revenue to the new OGRC Fund would be equal to total costs out of the Fund. The bill's provision relating to the 185 percent on surcharges is expected to reduce the revenue estimate for the new OGRC Fund by approximately $1.4 million per fiscal year and is included in the above table. For purposes of this analysis, it is assumed that available balances in the new OGRC fund would support costs in excess of the new Fund's annual revenue stream through the forecast period.

The Secretary of State estimates that implementing the provisions contained in Article 20 of the bill would result in General Revenue savings of $75,000 in each even-numbered year.

The Office of the Attorney General (OAG) estimates that the bill's Article 21 provisions would result in increased General Revenue fee collections of $3.9 million in the 2012-13 biennium.

This analysis assumes the bill's provisions contained in Article 22 would result in a one-time gain to General Revenue-Dedicated funds of $10 million in fiscal year 2012 from transfer of the agency's investments managed by the Comptroller through the Safekeeping Trust Company. The value of related Safekeeping Trust assets, as of February 28, 2011, was $10.6 million, offset by anticipated regular distributions of $212,000 into the Preservation Trust Fund during the remainder of fiscal year 2011 and a projected loss of $303,000 from the transition of the investments to cash in preparation for transfer into the Preservation Trust Fund. This analysis assumes no further changes would be made with regard to the fund's fair market value.

The provisions contained in Article 23 would result in a $5.0 million gain to the respective technology accounts during the 2012-13 biennium, as shown in the tables above. Certain contractual obligations related to the Texas Department of Agriculture's (TDA) participating in the data center consolidation project may remain in the 2012-13 biennium. However, it is assumed these costs could be absorbed within existing resources.

The Office of the Attorney General (OAG) estimates that Article 24 provisions regarding continuing legal education for the OAG would result in a biennial General Revenue savings of $430,543.

The Texas Ethics Commission estimates that Article 25 regarding lobby registration fees would result in a revenue gain of $486,000 in General Revenue during the 2012-13 biennium.

The provisions included in Article 28 related to expanding the use of three tobacco settlement funds to pay the principal or interest on a bond issued on behalf of the Cancer Prevention and Research Institute of Texas would result in a gain to General Revenue- Dedicated Funds of $78.1 in the 2012-13 biennium. The gain shown above is based on appropriated amounts for the 2012-13 biennium.

Article 29 relating to surplus and salvage property would have no significant fiscal impact in the 2012-13 biennium.

According to the CPA for Articles 30 and 31, the extension of certain franchise tax credits would result in a revenue loss of $6.8 million in General Revenue Funds in the 2012-13 biennium, and the provisions related to nexus are estimated to result in a revenue gain of $16 million in General Revenue Funds for the 2012-13 biennium.

The CPA estimates that Article 32 relating to procurement consultants would result in a General Revenue Fund savings of $16 million in the 2012-13 biennium.

It is estimated that implementation of Article 34 would have no significant fiscal impact in the 2012-13 biennium.

Article 35 relating to the Texas Back to Work Program would have no significant fiscal impact in the 2012-13 biennium.

Article 36 relating to ad valorem tax installment payments for surviving spouse of disabled veterans would have no significant fiscal impact in the 2012-13 biennium.

Article 37 relating to small business tax exemptions, would result in a revenue loss of $149.9 million in General Revenue Related Funds in the 2012-13 biennium.

Article 39 relating to the process server review board and certification division would result in a cost of $218,898 in General Revenue Funds in the 2012-13 biennium. Travel reimbursement costs for the Process Server Review Board are estimated to be $21,600 per year. OCA assumes the 9-member board would meet monthly, and provide reimbursement of approximately $200 per board member per meeting (9 board members x $200 per meeting x 12 meetings = $21,600 per year). According to OCA, costs related to functions of the certification division would be $87,849 per year (including $79,564 for the guardianship program and $8,285 for court reporters).

Article 40 relating to juror pay changes for fiscal year 2012 and 2013 would have no significant fiscal impact in the 2012-13 biennium.

Article 41 relating to the Collection Improvement Program (CIP) would result in a net revenue gain of $1.2 million in General Revenue Funds in the 2012-13 biennium. The gain results from county participation in the CIP and is net of additional FTEs at the Office of Court Administration.

Article 42 relating to correctional managed health care would have no significant fiscal impact in the 2012-13 biennium.

Article 43 relates to homeless housing and service programs and would have no significant fiscal impact in the 2012-13 biennium.

According to the CPA, Article 45 relating to franchise tax exemptions for courier service providers and live event promoters would result in a net revenue loss of $2.4 million in General Revenue Related Funds in the 2012-13 biennium.

The fiscal impact of Article 46 relating to ad valorem agricultural tax exemptions for beekeeping could not be determined.

Article 47 relating to data collection from unclaimed property searches would result in a General Revenue savings of $400,000 in the 2012-13 biennium.

The fiscal impact of Article 48 relating to goods in transit could not be determined.

Article 49 would limit AP/IB exam fee subsidies to students who are educationally disadvantaged as defined in Section 5.001(4), Education Code, which would save an estimated $6.1 million in General Revenue Funds for fiscal year 2012 and $6.2 million in General Revenue Funds for fiscal year 2013, increasing to $6.5 million by fiscal year 2016. This estimate is based on current appropriations of $8.4 million for exam fee subsidies and assumes a 4 percent increase in the total number of AP/IB exams taken and a 9 percent increase in the number of AP/IB exams taken by low income students that would be eligible for a subsidy each school year. Projected increases are based on historical data and growth in participation provided by TEA. The savings from the provision are assumed in CCRHB 1.

Article 50 limiting eligibility for Educational Aide tuition exemptions is estimated to reduce state costs for this program by $7.5 million in General Revenue related funds for the 2012-13 biennium. The savings from the provision are assumed in CCRHB 1.

Article 51 relating to the franchise tax and classification of entities as retail would result in a revenue loss of $200,000 in the 2012-13 biennium.

Article 52 relating to the retention of certain FSP payments would have no significant fiscal impact in the 2012-13 biennium.

Article 53 relating to the state compression percentage would have no significant fiscal impact in the 2012-13 biennium.

Article 54 relating to the TGSL Corporation Board of Director Membership, would have no significant fiscal impact in the 2012-13 biennium.

Article 55 relating to mineral funds outside of the treasury would have no significant fiscal impact in the 2012-13 biennium.

Regarding Article 56, according to data from the Texas Education Agency, districts affected by the bill would see the amount they owe the state, under the current school finance provisions of Chapter 41 and Chapter 42 of the Texas Education Code, decrease by an estimated $11.8 million entailing a one-time state cost to the Foundation School Program compared to current law of a like amount.

Regarding Article 57, a model of the bill’s changes to the calculation of Foundation School Program (FSP) formulas indicates that savings of approximately $2.0 billion each year would be achieved in the 2012-13 biennium. In fiscal year 2012 the $2.0 billion in reduction would be achieved through a proportional reduction to the FSP regular program. In fiscal year 2013 the reduction is achieved through a reduction to the regular program (25 percent of the reduction) and through a reduction to target revenue (75 percent of the reduction). In fiscal years 2014 and 2015 the regular program adjustment factor remains at 0.98, or a higher amount set by appropriation and not to exceed 1.00, and the reduction to target revenue is determined by the General Appropriations Act. The regular program adjustment factor is repealed in fiscal year 2016.

For purposes of this estimate for Article 61, it is assumed that school districts are already claiming full attendance and therefore earning full FSP funding for students enrolled in courses through the VSN. Based on that assumption, no additional FSP cost would accrue by entitling school districts to FSP formula funding for students' enrollment in courses offered through the VSN for courses that are successfully completed. The repeal of the VSN allotment in the FSP would yield a savings estimated at $1,159,704 in fiscal year 2012 and $1,217,689 in fiscal year 2013, assumed to increase by 5 percent annually to $1,409,627 by fiscal year 2016. Additionally, since the bill repeals the statutory basis for the appropriation supporting allotments for courses in excess of a normal course load, the elimination of that appropriation is estimated to yield a savings of $3,023,680 (the estimated fiscal year 2011 funding level) in fiscal year 2012 and each year thereafter.

For this analysis, it is assumed that Article 62 would not reduce FTEs or appropriations, but transfers both from Texas Department of Rural Affairs to the Texas Department of Agriculture. As a result, Article 62 would have no fiscal impact in the 2012-13 biennium since the total funds and FTEs would stay the same.

Article 63 would have no significant fiscal impact in the 2012-13 biennium. DFPS estimates that 222 children (monthly FTEs) will be affected by the new method of finance in fiscal year 2012. It is assumed that the number of affected children will increase by 5 percent each fiscal year, and that 73 percent of the affected children will be eligible for Title IV-E benefits. This will result in a cost to the General Revenue Fund of $0.1 million per fiscal year due to state match requirements, and a savings in TANF Federal Funds that is offset by the cost of federal matching funds ($2.0 million in fiscal year 2012, rising to $2.5 million in fiscal year 2016). It is assumed that DFPS can absorb the cost to implement the provisions of the bill within available resources. The Office of Court Administration reports that no significant impact on the courts is anticipated.

The fiscal implications of the Article 64 could not be determined. According to the Comptroller of Public Accounts, the amount appropriated to the TCFP for the biennium, less any other amount appropriated from a source other than the fees, is unknown.

Article 65 as amended would result in a $9.9 million gain General Revenue Funds in the 2012-13 biennium. Article 65 would replace an inmate copayment of $3 for certain inmates with an annual inmate health care fee of $100 for all confined inmates. Currently only certain inmates who use medical services are required to pay the $3 copayment while the revision would require all inmates, regardless of the frequency in which they use health care services, to pay the annual fee. TDCJ reports that in fiscal year 2010, there were 77,058 offenders with annual trust deposits of $100 of more. However, deposits are not expected to remain constant in future years as a result of a variety of economic and other factors. Assuming the fiscal year 2011 amount for fiscal year 2012 and calculating 75 percent of the amount for subsequent years, it is estimated that the bill would produce $9.9 in revenue for the 2012-13 biennium. The other sections of Article 65 would have no significant fiscal impact in the 2012-13 biennium.

Articles 66 relating to the transfer of guardianships may have an impact on the court's time and resources, but it is assumed it would not be significant.

Article 67 would have no significant fiscal impact in the 2012-13 biennium.

Article 68 affects golf carts residing only on U.S. Corp of Engineers property and would therefore have no significant fiscal implication.

Regarding Article 69, to the extent the repeal of the court cost may result in decreased state revenue, the fiscal implication to the state is not anticipated to be significant.

Article 70 would have no significant fiscal impact in the 2012-13 biennium.

According to HHSC, Article 71 would have no significant fiscal impact in the 2012-13 biennium.

Article 72 requiring DPS to designate certain driver's license offices as temporary visitor stations could be implemented within existing resources. The provisions of the bill related to expiration dates and fee amounts for driver's licenses or personal identification certificates issued to applicants who are not citizens of the United States would result in a revenue gain to the Texas Mobility Fund. The Comptroller of Public Accounts (CPA) indicates the impact on revenue cannot be determined, but DPS estimates a gain to the Texas Mobility Fund for the 2012-13 biennium would be $1.4 million.

Article 73 would have no significant fiscal impact in the 2012-13 biennium.

Article 75 allows the Governor to designate an agency to administer the community development block grant (CDBG) program; however, the amendment does not designate a specific agency. The amendment strikes statute language restricting TDRA to be the only agency to administer CDBG. If the governor were to designate a different agency to administer the program, this analysis assumes the new agency would be required to provide the matching requirement for the CDBG funds which is currently funded through TDRA at approximately $3.6 million of General Revenue over the 2012-13 biennium. These amounts are not reflected in the tables above.

Article 76 would have no significant fiscal impact in the 2012-13 biennium.

This analysis assumes that agencies could prepare the reports required by Article 79a using existing resources.

## Local Government Impact

School districts would experience significant loss of revenue under the Article 57's provisions. In total, revenues available to school districts would decline by approximately $2.0 billion per year relative to current law in fiscal year 2012 and fiscal year 2013. Reductions in revenue would vary among districts depending on specific local circumstances. For school districts currently taxing at $1.17 for maintenance and operations, the bill would provide a temporary tier 2 yield to offset enrichment revenue reductions in fiscal year 2012. In addition, the bill would provide constant-level regular program allotment adjustments for school districts that receive no target revenue hold harmless aid to spread revenue reductions more evenly across fiscal years.

**Source Agencies:** 103 Legislative Council, 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 313 Department of Information Resources, 332 Department of Housing and Community Affairs, 357 Texas Department of Rural Affairs, 454 Department of Insurance, 529 Health and Human Services Commission, 551 Department of Agriculture, 696 Department of Criminal Justice, 781 Higher Education Coordinating Board

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