LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 15, 2003

TO: Honorable Ron Wilson, Chair, House Committee on Ways & Means

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB2113** by Homer (Relating to franchise tax incentives for recycling.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2113, As Introduced: a negative impact of ($6,300,000) through the biennium ending August 31, 2005.

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
2004	($2,500,000)
2005	($3,800,000)
2006	($5,300,000)
2007	($6,900,000)
2008	($8,600,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1
2004	($2,500,000)
2005	($3,800,000)
2006	($5,300,000)
2007	($6,900,000)
2008	($8,600,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code to authorize certain franchise tax incentives for recycling.

Sales of recycled products manufactured by a corporation would be excluded from Texas gross receipts and total gross receipts for both the taxable capital and earned surplus components. Such sales also would be subtracted from a corporation's reportable federal taxable income in determining taxable earned surplus. The term "recycled product" would be defined, by reference, as a product meeting the requirements for recycled material content.

The bill would establish a credit for capital expenditures for certain recycling equipment. "Recycling equipment" would be defined as equipment necessary to assist a corporation in recycling waste and used predominantly for that purpose. The credit would be equal to the lesser of $50,000 or the total amount of capital expenditure made during the period, not to exceed the amount of franchise tax due after other applicable credits. The credit would be claimed in five equal installments over five consecutive reports.

The bill would take effect January 1, 2004, and it would apply to a report due on or after that date. For purposes of claiming the credit, the bill would apply to a qualifying expenditure made on or after January 1, 2004.

Methodology

This fiscal note is based on analyses provided by the Comptroller's Office.

The provisions that would permit a company to exclude sales of recycled manufactured products from its Texas gross receipts and its total gross receipts for taxable capital and earned surplus purposes would not change the apportionment factor and would have no fiscal impact.

The bill would allow for "any amount" derived from the sale of recycled products to be subtracted from reportable federal taxable income in determining the earned surplus tax base. To establish the fiscal impact of the deduction from the earned surplus tax base, a sample of companies from a list of qualified sellers that manufacture recycled products was compared to Comptroller tax files and adjusted to reflect all corporations that could be affected by the bill's provisions.

The tax benefit of a credit for pollution control equipment was estimated using data on pollution control investment by manufacturers and data from Comptroller franchise tax records. A share was assumed to be related to recycling and allocated over a five-year period, in accordance with the bill's provisions. This part of the bill would have no fiscal impact in 2004, because the corporate accounting year on which the fiscal 2004 tax report is based would be concluded before the bill's effective date.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts
LBB Staff: JK, SD, WP, CT