LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 27, 2007

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

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

IN RE: **HB512** by Farabee (Relating to a franchise tax credit for enterprise projects for capital investments.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB512, Committee Report 1st House, Substituted: an impact of $0 through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	$0
2009	$0
2010	$0
2011	$0
2012	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304
2008	($5,371,000)
2009	($4,297,000)
2010	($3,437,000)
2011	($2,750,000)
2012	($2,200,000)

Fiscal Analysis

The bill would amend the Government Code and the Tax Code to provide franchise tax credits to certain taxable entities for capital investment activities in enterprise zones. The bill would amend Section 2303.504 of the Government Code by adding references to franchise tax credits for enterprise projects.

The bill would amend Chapter 171 of the Tax Code by adding a subchapter for a capital investment tax credit. To be eligible for the credit, a taxable entity would have to have been designated as an enterprise project on or after September 1, 2001 and before January 1, 2005. The requirements for designation as an enterprise project are in the Government Code. An enterprise project would not be eligible for the credit if the enterprise project had claimed a credit under Subchapter Q, before the repeal of that subchapter on January 1, 2008.

To claim the credit, the taxable entity, other than a combined group, would have to have been subject to the franchise tax on May 1, 2006. A combined group could claim the credit only for members of the group that were subject to the franchise tax on May 1, 2006.

The franchise tax credit for capital investment would be based on qualified capital investment made by the enterprise project and first placed in service in an enterprise zone. "Qualified capital investment" would be defined as tangible personal property described in Section 1245(a) of the Internal Revenue Code and subject to depreciation. Qualified capital investment would not include real property or buildings and their structural components. The amount of credit would be equal to 7.5 percent of the qualified capital investment made on or after January 1, 2005 and before January 1, 2007. The credit could be claimed on a franchise tax report originally due on or after January 1, 2008 and before January 1, 2009. The amount of credit that could be used to reduce franchise tax liability on a report would be limited to 50 percent of the tax due on that report. Credit that could not be used to reduce tax liability because of the limitation could be carried forward for not more than five consecutive reports.

The Comptroller would provide a form to be submitted by the enterprise project claiming credit for documenting the eligibility of the entity for the credit. The credit earned by an enterprise project could not be transferred to another entity unless all of the assets of the enterprise were transferred in the same transaction.

The Comptroller would have to report on various aspects of the capital investment credit before the beginning of each regular session. The final report issued before the expiration of the credit provision would have to include historical information on the credits. The reports could not contain information confidential by law. The Comptroller could require enterprise projects claiming a credit to submit information on a form provided by the Comptroller necessary for preparation of the report.

The bill would take effect January 1, 2008. The Comptroller, by rule, would prescribe the manner in which a taxable entity could claim a credit for or qualified capital investments made on or after January 1, 2005 and before January 1, 2007. The provisions of the bill would expire on December 31, 2009. The expiration of the provisions would not affect the carryforward of a credit earned before the expiration date.

Methodology

The estimate is based on information provided by the Economic Development Bank on enterprise projects designated after September 1, 2001 and before January 1, 2005. The information includes the anticipated dollar amount of new investment. Enterprise projects potentially eligible for the credit were identified. The estimate also used information on the utilization investment credits by corporations under the credit provisions of the existing franchise tax.

Note: House Bill 2, 79th Legislature, Third Called Session (2006) dedicates to the Property Tax Relief Fund 0304 all revenues collected under Chapter 171 in excess of the amount that would have been collected under the chapter as it existed on August 31, 2007. The fiscal impact table reflects that dedication. The General Revenue Fund will be obliged to compensate for that portion of property tax relief not funded by the revenues in the Property Tax Relief Fund.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, SM