

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 9, 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 and defense readjustment projects for job creation activities and capital investments.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB512, As Introduced: 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 <i>Property Tax Relief Fund</i> 304
2008	(\$135,525,000)
2009	(\$161,936,000)
2010	(\$187,690,000)
2011	(\$150,152,000)
2012	(\$120,121,000)

Fiscal Analysis

The bill would amend the Government Code and the Tax Code to provide franchise tax credits to certain taxable entities for job creation or capital investment activities in enterprise zones or defense readjustment zones. The bill would amend Section 2303.504 of the Government Code by adding references to franchise tax credits for enterprise projects. A similar change would be made to Section 2310.404 of the Government Code for defense readjustment projects.

The bill would amend Chapter 171 of the Tax Code by adding two subchapters for job creation tax credits and capital investment tax credits. To be eligible for either credit, a taxable entity would have to have been designated as an enterprise project or a defense readjustment project on or after September 1, 2001. The requirements for designation as an enterprise project or a defense readjustment project are in the Government Code.

The franchise tax credit for job creation activities would be based on wages paid by the enterprise or defense readjustment project for qualifying jobs. "Qualifying job" would be defined as a new,

permanent full-time job located in an enterprise or defense readjustment zone that was created by the enterprise or defense readjustment project. The amount of credit would be equal to 25 percent of the total wages and salaries paid on or after January 1, 2005, and before January 1, 2010, for qualifying jobs. The credit could be claimed on a franchise tax report originally due on or after September 1, 2007, and before January 1, 2011. 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 franchise tax credit for capital investment would be based on qualified capital investment made by the enterprise or defense readjustment project and first placed in service in an enterprise or readjustment project. "Qualified capital investment" would be defined as tangible personal property that is described in Section 1245(a), 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, 2010. The credit could be claimed on a franchise tax report originally due on or after September 1, 2007, and before January 1, 2011. 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. The total amount of credits for job creation and capital investment activities used to reduce tax owed on a report could not exceed the total 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.

For both the job creation and capital investment credit, the Comptroller would provide a form to be submitted by the enterprise or defense readjustment project claiming credit(s) for documenting the eligibility of the entity for the credit(s). The credits earned by an enterprise or defense readjustment project could not be transferred to another entity unless all of the assets of the enterprise or defense readjustment project were transferred in the same transaction.

For both the job creation and capital investment credits, the Comptroller would be required to report on various aspects of the credits prior to the beginning of each regular session. The final report issued before the expiration of the credit provision would be required to include historical information on the credits. The reports could not contain information confidential by law. The Comptroller could require enterprise or defense readjustment projects claiming a credit to submit information on a form provided by the Comptroller necessary for preparation of the report.

The provisions of the bill would take effect January 1, 2008. The Comptroller, by rule, would prescribe the manner in which a taxable entity may claim a credit for wages and salaries paid or qualified capital investments made on or after January 1, 2005, and before January 1, 2008. The provisions of the bill would expire on December 31, 2009.

Methodology

The estimate is based on information provided by the Economic Development Bank on enterprise and readjustment projects designated since September 1, 2001. The information includes the anticipated dollar amount of new investment and number of new jobs to be created. The estimate also used information on the utilization of jobs and 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