LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 2, 2007

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

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

IN RE: **HB1198** by Homer (Relating to franchise tax incentives for recycling.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1198, 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 *Property Tax Relief Fund* 304
2008	($8,032,000)
2009	($9,252,000)
2010	($10,732,000)
2011	($12,238,000)
2012	($13,692,000)

Fiscal Analysis

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

The bill would add definitions of the terms "recycled product" and "solid waste" by reference to provisions in the Health and Safety Code.

The bill would provide an exclusion from "total revenue" for franchise tax purposes for any revenue received from the sales of recycled products manufactured by a taxable entity. To be eligible for the exclusion, a taxable entity could not be primarily engaged in the business of manufacturing and selling recycled products. In addition, an eligible taxable entity would have to demonstrate to the Comptroller that the recycled products were manufactured using waste that the entity otherwise would have disposed of as solid waste.

The bill would allow an eligible taxable entity to exclude receipts from the sale of recycled products manufactured by the entity from its apportionment calculation. If a taxable entity chose to exclude such receipts, it would have to exclude them from both Texas gross receipts and gross receipts everywhere. To be eligible for the exclusion, a taxable entity could not be primarily engaged in the business of manufacturing and selling recycled products. In addition, an eligible taxable entity would have to demonstrate to the Comptroller that the recycled products were manufactured using waste that the entity otherwise would have disposed of as solid waste.

The bill would establish a credit for capital expenditures for certain recycling equipment. "Recycling equipment" would be defined as equipment necessary to assist an entity in recycling waste and used predominantly for that purpose. To be eligible for the credit, a taxable entity could not be primarily engaged in the business of manufacturing and selling recycled products. In addition, an eligible entity would have to demonstrate to the Comptroller that the recycling equipment was used to recycle waste that the entity otherwise would have disposed of as solid waste. The credit would be equal to the lesser of $50,000 or the total amount of capital expenditure made during the period. The credit would be claimed in five equal installments over five consecutive reports.

The bill would take effect January 1, 2008, 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, 2008.

Methodology

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

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

The bill would allow the exclusion from total revenue of amounts derived from the sale of recycled products by eligible taxable entities. Information from the Texas Commission on Environmental Quality (TCEQ) on recycling activity in Texas and franchise tax data on industries most involved in recycling provided the base data for the estimate. An adjustment was made for the requirements applicable to eligible entities.

The tax benefit of a credit for recycling equipment was estimated using data from TCEQ and data on franchise tax investment credits earned in industries most involved in recycling. An adjustment was made for the requirements applicable to eligible entities. The credit was allocated over a five-year period, in accordance with the bill's provisions. This part of the bill would have no fiscal impact in 2008 because the accounting year on which the fiscal 2008 tax report is based would be concluded before the bill's effective date.

Note: HB 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 the 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