

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 3, 2007

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

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

IN RE: HB2985 by Creighton (Relating to the exclusion of certain commercial lease revenue in determining a taxable entity's total revenue for purposes of the revised franchise tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2985, 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 | (\$7,645,000) |
| 2009 | (\$7,855,000) |
| 2010 | (\$8,310,000) |
| 2011 | (\$8,795,000) |
| 2012 | (\$9,225,000) |

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code to provide an exclusion of certain commercial lease revenue in determining total revenue for franchise tax purposes.

The exclusion would apply to payments received by a landlord from a commercial property tenant to reimburse the landlord for ad valorem taxes, franchise tax, any taxes on rent, assessments or other taxes, operating expenses, maintenance expenses, management expenses, and similar amounts generally expended for commercial real property.

The bill would take effect January 1, 2008, and it would apply only to reports due on or after that date.

Methodology

The bill would reduce the total revenue and taxable margin of corporate taxable entities that own and lease commercial properties to tenants. Under current law, the revenue exclusion is limited to flow-through funds that are mandated by law or fiduciary duty to be distributed to other entities. The bill would expand the exclusion to additional items of expense for lessors of commercial real property.

Note: Under current law, taxable entities that are partnerships include net rental income in total margin. Such entities would not be affected by the bill.

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 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