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: **HB3287** by Ritter (Relating to a franchise tax credit for qualified low-income community investments.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3287, 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	$0
2009	($4,900,000)
2010	($6,800,000)
2011	($8,115,000)
2012	($9,070,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code by adding new Subchapter: Credit for Qualified Low-Income Community Investments, relating to the franchise tax. The proposed credit would be based on provisions for the federal New Markets Tax Credit contained in Section 45D of the Internal Revenue Code of 1986.

The bill would define the following terms: "credit allowance date," "long-term debt security," "qualified active low-income community business," "qualified community development entity," "qualified equity investment," and "qualified low-income community investment."

The bill would set a $15 million limit on the total amount of credit that could be claimed by taxable entities in a fiscal year. The Comptroller would prescribe, by rule, the procedure to allocate credits following provisions set out in the bill. Issuers of qualified equity investments would have to provide information to the Comptroller on the anticipated dollar amounts of investments to be made to assist in determining the amount of credits that could be claimed each year.

To qualify for the credit, a taxable entity would have to hold a qualified equity investment on a credit allowance date that occurred during the period on which the franchise tax report was based. A taxable entity could claim a credit for a qualified investment held for no more than seven consecutive reports, beginning with the report based on the period during which the taxable entity first held the investment.

The credit would be, in part, based on the adjusted purchase paid to the issuer of the qualified equity investment, defined as the amount paid to the issuer, multiplied by the amount of qualified low-income community investments held by the issuer in this state, and divided by the total dollar amount of such investments held by the issuer. The amount of annual credit would be calculated as 5 percent of the adjusted purchase price for the first three years the qualified equity investment was held by the taxable entity and six percent of the adjusted purchase price for the remaining four years of credit eligibility. The credit claimed could not exceed the amount of tax due after application of any other credits. Credits unused because of the limitation could be carried forward to subsequent consecutive reports.

A taxable entity would have to file a report, on a form provided by the Comptroller, demonstrating the taxable entity's eligibility for the credit. A taxable entity could not assign or transfer the credit to another entity, unless all of the assets of the taxable entity were transferred.

The Comptroller would be required to recapture a tax credit if any of the federal tax credit related to the qualified equity investment were recaptured or if the issuers were to redeem the investment or make any principal repayment with respect to the investment before the seventh anniversary of the date the investment was issued.

The bill would take effect on January 1, 2008, and it would apply to a report due on or after the effective date. A taxable entity could claim the credit only for a qualified equity investment on or after the effective date of the bill.

Methodology

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

The estimated fiscal impact is based on information about the New Markets Credit contained in Section 45D of the Internal Revenue Code. A share of the national amount of investment was assigned to Texas, and the credit provisions of the bill were applied to those amounts. There would no fiscal impact in 2008 because credits cannot be earned until after January 1, 2008, which would be reported in 2009.

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 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