LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 8, 2007

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: **HB3928** by Keffer, Jim (Relating to technical changes to the revised franchise tax.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3928, As Engrossed: 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	($3,502,000)
2009	$3,595,000
2010	($4,998,000)
2011	$6,568,000
2012	($3,005,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code relating to the franchise tax.

The bill would increase to $600,000 the amount of total revenue a taxable entity could have and not owe tax. Under current law, the threshold will be $300,000.

The bill would shift forward by one year to 2010 the initial date to begin inflation-indexing the receipts amount and the compensation limit amount. The index would be updated in even-numbered years.

The bill would require taxable partnerships to include gross rental income instead of net rental income for determining total revenue.

The bill would provide that the gross proceeds from the sale of a loan or security treated as inventory of the seller for federal income tax purposes would be considered gross receipts for apportionment.

The bill would amend the temporary credit provisions to base the credit on business loss carryforwards that existed before January 1, 2008. The bill would specify the maximum amount of usable business loss carryforwards available in any year. The bill would make the maximum credit available to a taxable entity the annual available business loss carryforwards multiplied by 4.5 percent. The credit amount would be limited to the liability of the taxable entity claiming the credit.

The bill would reduce the amount of control required for inclusion of a related entity in a combined group to "more than 50 percent," from 80 percent.

The bill would expand the definition of "client company" to include a client of a temporary employment service.

The bill would provide that a retail electric provider that does not provide and is not affiliated with an entity that provides transmission and distribution utility services is primarily engaged in retail or wholesale trade.

The bill would provide a tax credit for certain taxable entities making donations of art to qualified art museums in Texas.

With one exception, the bill would take effect January 1, 2008. SECTION 30, which would clarify the reporting responsibility of a newly taxable entity, would take effect immediately upon enactment, assuming that the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, SECTION 30 would take effect September 1, 2007.

Methodology

The fiscal implications of increasing the threshold amount for an entity owing margin tax to $600,000 from $300,000 and of changing the first date for indexing the amount were estimated using data from the Internal Revenue Service. The fiscal implication of the change in the ownership requirement for inclusion in a combined group and of designating certain retail electricity providers as being engaged in wholesale or retail trade were estimated using data from the Internal Revenue Service. The effect of including partnership gross rental income rather than net rental income for calculating total revenue was estimated using Internal Revenue Service data on partnerships. The effect of apportioning certain loans and securities based on gross proceeds was estimated using Comptroller franchise tax files. The effect of changing the calculation of the temporary credit provisions was estimated using Comptroller franchise tax files.

Note: The bill's net fiscal implication for the 2008-09 biennium would be revenue neutral.

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