LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 15, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: **HB1036** by Paxton (Relating to the method of computing the franchise tax and the rates of the tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1036, As Introduced: a negative impact of ($2,284,827,000) through the biennium ending August 31, 2011.

The bill will also have a direct impact of a revenue loss to the Property Tax Relief Fund of $3,615,872,000 for the 2010-11 biennium. Any loss to the Property Tax Relief Fund will have to be made up with General Revenue of the same amount to fund property tax relief.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	($1,121,300,000)
2011	($1,163,527,000)
2012	($1,236,394,000)
2013	($1,296,527,000)
2014	($1,340,156,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304
2010	($1,108,886,000)	($12,414,000)	($1,788,414,000)
2011	($1,162,987,000)	($540,000)	($1,827,458,000)
2012	($1,235,854,000)	($540,000)	($1,846,713,000)
2013	($1,295,987,000)	($540,000)	($1,915,238,000)
2014	($1,339,616,000)	($540,000)	($2,006,468,000)

Fiscal Analysis

The bill would amend Chapters 171 (franchise tax) and 313 (Texas Economic Development Act) of the Tax Code.

The bill would re-establish nearly all the provisions of the franchise tax as it existed prior to the changes that became effective on January 1, 2008, returning to a tax based on a corporation's capital and earned surplus. The bill would set the tax rates at 0.125 percent on capital and 2.25 percent on earned surplus, which would be one half the rates that applied for the franchise tax as it existed prior to January 1, 2008.

Under the bill, the tax would be imposed on corporations, including banking corporations and limited liability companies. Business entities such as limited partnerships and trusts would not be subject to the tax.

The bill would amend or repeal sections of the franchise tax law related to computation and enforcement of the tax based on taxable margin. All revenue from the tax would be deposited in the General Revenue Fund 0001.

The bill would allow corporations that have unused credits established under the provisions for the temporary credit on taxable margin to continue to claim those credits.

The bill would amend Chapter 313 to limit the provisions of that chapter to corporations and limited liability companies subject to Chapter 171.

The bill would take effect on January 1, 2010.

Methodology

The estimated fiscal impact of the bill was based on the Comptroller's estimates of revenues from the current margins based franchise tax and the previous capital and earned surplus based tax. Adjustments were made to reflect the continuation of the temporary credit for prior business losses.

Technology

This administrative cost estimate reflects the funds that would be necessary to notify taxpayers via mail There would be a one-time technology cost to the Comptrollers Office of $5,625,000 in fiscal 2010 for programming/project management.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SM