LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 26, 2009

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

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

IN RE: **HB2103** by Geren (Relating to a franchise tax credit for certain research and development activities.), **As Introduced**

The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of $18,936,000 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	$0
2011	$0
2012	$0
2013	$0
2014	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304
2010	$0
2011	($18,936,000)
2012	($22,868,000)
2013	($27,562,000)
2014	($20,766,000)

Fiscal Analysis

The bill would add new Subchapter O-1 to Chapter 171 (franchise tax) of the Tax Code, regarding tax credits for certain research and development activities.

The bill would provide definitions for "base amount," "basic research payment," "qualified research expense," and "strategic investment area." The bill would specify the calculation of the credit as 5 percent of the sum of (1) excess of qualified research expenses in this state over the base amount for this state; and (2) the basic research payments for this state during the period on which the tax is based. An alternative incremental calculation of qualified research expenses would be available for certain taxpayers, consistent with federal specifications. In computing the credit, qualified research expenses and basic research payments made in a strategic investment area could be doubled. The amount of credit that could be claimed on a report for research and development, including credit carried over from the prior credit provisions, would be limited to 50 percent of the tax due for the report. If the eligible credit exceeds the limit, unused credit could be carried forward for not more than

20 consecutive reports. Assignment of the credit by a taxable entity would be prohibited.
The bill would direct the Comptroller to adopt rules to administer this subchapter. The Comptroller would determine and publish a list and map of the strategic investment area by October 1 of each year, a designation that would be effective for the following calendar year. The Comptroller would prepare a report to be delivered before the beginning of each regular session providing information about the credits taken and the impact on the state.

The bill would amend Chapter 403 of the Government Code and Chapter 228 of the Insurance Code to conform to the provisions of this bill.

The bill would amend Section 313.051(a) of Chapter 313 of the Tax Code (Texas Economic Development Act) to link that chapter's definition of "rural" school district to the strategic investment areas created in the bill. School districts not considered rural (subject to subchapter B of Chapter 313) under current law would have reduced property tax value limitation amounts for having territory in a strategic investment area.

The provisions of this subchapter would expire on December 31, 2013. The expiration would not affect the carry forward of credits accrued before the expiration.

The bill would take effect on January 1, 2010, and affect franchise tax reports due on or after that date.

Methodology

The bill would restore research and development credit provisions that were repealed by HB 3, 79th Legislature, Third Called Session (2006). Information in the Comptroller's tax files related to the research and development credits under prior provisions was used to estimate the amount of credit likely to be used under the existing franchise tax.

There would be no fiscal impact in 2010. The first year that qualified research and development expenditures could be made would be 2010. Credit for those expenditures would be earned on a report due in 2011.

Existing Chapter 313 program data were analyzed to estimate probable school district levy loss due to reduced property tax value limitation amounts for school districts with territory in strategic investment areas. Designation of strategic investment areas for 2010 would only initially affect school district levy losses for projects approved in tax year 2010 (beginning in tax year 2011). Levy losses associated with those projects beginning in tax year 2011 appear first in fiscal year 2014.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SM, JRO, SD