

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 5, 2009

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

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

IN RE: HB2391 by England (Relating to a franchise tax exclusion for contractual flow-through funds paid to certain performing artists.), **Committee Report 1st House, Substituted**

The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of \$1,823,000 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 <i>Property Tax Relief Fund</i> 304
2010	(\$900,000)
2011	(\$923,000)
2012	(\$955,000)
2013	(\$993,000)
2014	(\$1,033,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax.

The bill would provide that a qualified live event promotion company would exclude from total revenue a payment made to an artist in connection with the provision of a live entertainment event or live event promotion services. The bill would add definitions of "artist," "live entertainment event," "live event promotion services," and "qualified live event promotion company."

The bill would require a taxable entity that makes a payment to an artist to withhold an amount from that payment under certain conditions. The conditions would include that the artist was a taxable entity and that the payment was for a performance at a live entertainment event in this state. The amount withheld would equal the maximum franchise tax rate multiplied by the payment. The taxable entity

that withholds such an amount would be required to remit that amount to the Comptroller with the taxable entity's annual report.

The bill would specify procedures and liability for refunds, failure to withhold, and failure to remit the amount withheld to the Comptroller. The bill would provide that a taxable entity would not be required to withhold if the artist provides a written statement from the Comptroller stating the artist is not subject to the franchise tax.

The bill would require the Comptroller to adopt rules related to the withholding provisions added by the bill by December 1, 2009.

The bill's provisions would apply to a report due on or after January 1, 2010.

Methodology

The estimated fiscal impact of the bill is based on 2008 franchise tax report information from taxable entities in the business of promoting performing arts events.

This analysis assumes the artist, if a taxable entity, is currently remitting the appropriate amount of tax. As such the withholding provisions in this bill would have no effect on the estimated fiscal impact of the bill.

The bill would take effect on September 1, 2009.

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