LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 5, 2009

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

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

IN RE: **HB2459** by Solomons (Relating to tax credits for business development in low-income communities.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2459, As Introduced: a positive impact of $100,000 through the biennium ending August 31, 2011.

The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of $35,000,000 in 2013 and $75,000,000 in 2014. 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	$50,000
2011	$50,000
2012	$50,000
2013	($35,000,000)
2014	($75,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Foundation School Fund* 193	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304
2010	$50,000	$0	$0
2011	$50,000	$0	$0
2012	$50,000	$0	$0
2013	($26,250,000)	($8,750,000)	($35,000,000)
2014	($56,250,000)	($18,750,000)	($75,000,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code and add Chapter 231 of the Insurance Code.

The bill would add language to each code providing a tax credit for business development in low-income communities. The credit provisions in the two codes would share many of the features and definitions currently utilized by the federal program known as the new markets credits, administered by the U.S. Department of Treasury's Community Development Financial Institutions Fund. The purpose of the new markets credit, shared by this bill, is to spur private investment in low-income urban and rural communities. The mechanism for achieving the investment under the bill's provisions would be the offering of tax credits to taxpayers who make qualified equity investments in qualified community development entities (CDEs). The CDEs would be required to use the proceeds from the investments to assist qualified active low-income community businesses (as defined in the bill and in federal law) in the form of equity investments or loans. The maximum investment in any one qualified active low-income community business from all CDEs would be set at $10 million from the proceeds made available by the bill's provisions.

Investing taxpayers would earn tax credits based on the cash dollar amount of the investments made in the CDEs. The bill would set a limit to the total amount of credit for both the franchise and insurance taxes that a taxable entity could claim during a fiscal year at $40 million, not including carryforward amounts. The amount of annual credit a taxable entity could claim would be set by a schedule of percentages of the original investment covering a seven year period beginning with the date of the original investment and including the following six anniversary dates. The bill would specify the percentages as zero percent for the first two periods, 7 percent for the third period, and 8 percent for the remaining four periods. The credit could be claimed for either the franchise tax or insurance tax. The amount of credit would be limited to the tax owed on both affected taxes. Credit not used because of the limitation could be carried forward for not more than five consecutive tax reports. Assignment of the credit would be prohibited.

Prior to accepting a qualified equity investment from a taxpayer a CDE would be required to apply to the Comptroller on a form provided by the Comptroller. The application would include, among other items, a description of the proposed amount, structure, and purchaser of the investment and information regarding the proposed use of proceeds from the investment. The application would be required to be accompanied by a nonrefundable fee of $5,000. The Comptroller would have 15 days after receiving the application and fee to grant or deny the application in full or in part. If the application were considered complete, the Comptroller would certify the proposed qualified equity investment as eligible for tax credits subject to the overall limitation on credit.

The bill would specify conditions and procedures for the recapture of credits and would require CDEs to keep books and records that allow direct tracing of the investment proceeds into qualified low-income community investments in qualified active low-income community businesses in this state.

The credit provisions would expire on December 31, 2013. The expiration would not affect a credit established prior to the expiration date.

The bill would take effect on January 1, 2010, and apply to reports due on or after that date.

Methodology

By the provisions of the bill, no credits could be claimed in 2010 through 2012, because the credit percentage for the first two years of a qualified equity investment is zero. The first positive credit earned on an investment made in 2010 would occur in 2012 and be claimed on a report due in 2013. The fiscal impact after 2012 assumes that $1 billion per year in qualified equity investments are made in 2010 through 2013 when the provisions expire. The investments are assumed to be made such that no taxable entity exceeds the $40 million annual limit contained in the bill. The estimate also assumes that application fees are collected on ten applications per year with the revenue credited to General Revenue Fund 0001. For illustration purposes half of the credits taken are assumed to be from franchise tax and half from the insurance premium tax.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JOB, MN, SD, SM