LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 19, 2009

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

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

IN RE: **HB3516** by Howard, Charlie (Relating to the rate and calculation of the franchise tax for certain oil and gas related entities.), **As Introduced**

The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of $123,351,000 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	($60,914,000)
2011	($62,437,000)
2012	($64,623,000)
2013	($67,208,000)
2014	($69,897,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code (franchise tax) by adding provisions relating to the rate and calculation of the franchise tax for certain oil and gas related entities.

The bill would expand the type of entities primarily engaged in retail or wholesale trade to include entities primarily engaged in gathering, transporting, or processing certain products. The products would be those described in the Standard Industrial Classification Manual under industry groups 132 (natural gas liquids), 461 (pipelines, except natural gas), and 492 (gas production and distribution).

The bill would add a provision relating to cost of goods sold that would allow a taxable entity that owns or operates a pipeline to subtract as costs of goods sold certain items. These would include costs related to processing, altering, improving, gathering, transporting, or storing oil, gas, natural gas liquids, refined petroleum products, the constituents of oil or gas, oil or gas products, chemicals, or carbon dioxide.

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

Methodology

The estimated fiscal impact is based on 2008 franchise tax reports for taxable entities in the industry groups affected by this bill. The estimate assumes that the scope of the impact of the portion of the bill addressing those firms to be considered in retail or wholesale trade would be those in Industry Groups 132, 461, and 492. The bill's language is somewhat ambiguous in relation to precisely what firms would qualify and if additional firms were able to take the one-half percent rate (e.g., firms manufacturing products using oil or natural gas feed stocks to make gasoline, plastics, etc,) the cost would be higher. The portion of the bill addressing cost of goods sold is assumed to affect Industry Groups 132, 461, and 492 and, in addition, those firms processing such materials into products will use a more expansive definition of cost of goods sold than under current law.

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