

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: HB3897 by Oliveira (Relating to the tax rate for certain retail electric providers.), **As Introduced**

No significant fiscal implication to the State is anticipated.

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

The bill would add a new section dealing with a tax rate for certain retail electric providers. A taxable entity that obtains more than 90 percent of its annual total revenue from activities in retail and wholesale trade, and that owns a retail electric provider as defined in the Utilities Code, would pay tax on the total revenue from retail and wholesale trade at a rate of 0.5 percent. The bill would require that for such a taxable entity providing retail or wholesale utilities would not preclude the entity from being considered primarily engaged in retail or wholesale trade. The bill would require that the total revenue generated from the retail electric provider owned by the taxable entity would be subject to a tax rate of 1 percent.

The bill would take effect on January 1, 2010.

The bill uses the term "total revenue" in describing the base subject to the two tax rates. This estimate assumes that the base is "taxable margin" as specified in Sections 171.002(a) and 171.002(b) of the Tax Code referenced in the bill.

No known taxable entities currently meeting the requirements for primarily being engaged in trade are calculating the tax based on one percent of taxable margin because the taxable entity also provides retail electricity. Therefore, there would be no fiscal impact currently. In the future, that situation could change and there could be an indeterminate loss to the state.

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