

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: HB3944 by Howard, Charlie (Relating to an exemption from the franchise tax for certain taxable entities during an initial period of operation.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3944, As Introduced: a negative impact of (\$420,132,000) through the biennium ending August 31, 2011.

The bill will also have a direct impact of a revenue loss to the Property Tax Relief Fund of \$2,879,984,000 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	(\$420,132,000)
2012	(\$479,567,000)
2013	(\$504,122,000)
2014	(\$503,692,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Property Tax Relief Fund 304
2010	\$0	(\$1,052,526,000)
2011	(\$420,132,000)	(\$1,827,458,000)
2012	(\$479,567,000)	(\$1,846,713,000)
2013	(\$504,122,000)	(\$1,915,238,000)
2014	(\$503,692,000)	(\$2,006,468,000)

Fiscal Analysis

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

The bill would amend the definition of "beginning date" for a taxable entity chartered or organized in this state to mean the second anniversary of the date on which the taxable entity's charter or organization took effect. For any other taxable entity "beginning date" would mean the later of the second anniversary of the date on which the taxable entity's charter or organization took effect or the date on which the taxable entity began doing business in this state.

The bill would provide that no franchise tax would be imposed on a taxable entity until the beginning

date, as defined in the bill.

The bill would amend the provision in law regarding the beginning date for a taxable entity that loses an exemption from the franchise tax because of the withdrawal by the Internal Revenue Service of exempt status. Under current law, the beginning date for such a taxable entity is the effective date of the withdrawal. The bill would make the beginning date the later of the withdrawal date or the second anniversary of the date of the entity's charter or organization.

The Comptroller could require a taxable entity affected by this bill to file an information report.

The bill would provide that a taxable entity that owed tax on a report due before the effective date of this bill could not claim a refund of tax because of the bill's provisions.

The bill would take effect on January 1, 2010, and apply to business done on or after that date regardless of the date the taxable entity's charter or organization took effect.

Methodology

The bill would provide an opportunity for elimination of tax liability for taxable entities that choose to reorganize. A taxable entity that receives a new charter would have no tax liability under this bill for two years. If the entity were to reorganize prior to the second anniversary of the entity's previous charter or organization change, no franchise tax would be due from the firm. It is assumed this could be continued indefinitely. For the purposes of this fiscal note, it was assumed 25 percent of franchise tax would be lost in the first year (Fiscal Year 2010) and 50 percent of total tax revenue in each year thereafter.

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