LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 15, 2009

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

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

IN RE: **HB4003** by Paxton (Relating to the rates and computation of the franchise tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4003, As Introduced: a negative impact of ($326,181,000) 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 $3,615,872,000 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	($175,180,000)
2011	($151,001,000)
2012	($201,012,000)
2013	($214,418,000)
2014	($208,396,000)

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	($175,180,000)	($1,788,414,000)
2011	($151,001,000)	($1,827,458,000)
2012	($201,012,000)	($1,846,713,000)
2013	($214,418,000)	($1,915,238,000)
2014	($208,396,000)	($2,006,468,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by making several changes to the way tax liability is calculated.

The bill would change the tax rates applied to taxable margin. The tax rate for taxable margin of $1 million or less would be zero. The tax rate on taxable margin over $1 million and less than $10 million would be 0.5 percent (0.25 percent for taxable entities primarily engaged on retail or wholesale trade). The tax rate for taxable margin that exceeds $10 million would be $45,000 plus 1 percent of the taxable margin that exceeds $10 million ($22,500 plus 0.5 percent for entities in retail or wholesale trade). The amount of tax computed for which a taxable entity would owe no tax would be raised from $1,000 to $5,000. The bill would strike the provision relieving taxable entities with less than $300,000 in total revenue from any tax liability.

The bill would provide that a taxable entity that had no reportable federal taxable income for a period would not owe any franchise tax for that period. This provision would not apply to a taxable entity that is a member of a combined group.

The bill would strike the provisions in current law for determining cost of goods sold. The bill would provide that a taxable entity electing to subtract cost of goods sold for calculating margin would determine cost of goods sold as the amount reportable on the Internal Revenue Service form appropriate for that type of taxable entity.

The bill would provide that a taxable entity electing to subtract compensation for determining margin could include any compensation paid to an independent contractor as reported on an Internal Revenue Service (IRS) Form 1099.

The bill would require that a combined group include in gross receipts for business done in this state for apportionment the gross receipts of each member of the combined group. Under current law only the gross receipts of members with nexus are included. This provision would become effective on January 1, 2011.

The bill would provide that the Comptroller could require a taxable entity that does not owe any tax because of the provision relieving tax for entities with federal taxable income of zero or less to file an information report.

The bill would repeal provisions related to discounts from tax, the E-Z calculation and reporting information on receipts subject to throwback law or regulation in another state.

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

Methodology

The estimate is based on information from the Comptroller's franchise tax files and from IRS information on amounts reported on Form 1099.

Note: The estimate assumes that the calculation of tax under this bill's provisions effectively classifies taxable entities into only one of three taxable margin groups: (1) taxable entities with taxable margin not more than $1 million; (2) taxable entities with taxable margin more than $1 million and not more than $10 million; and (3) taxable entities with taxable margin of $10 million or more.

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