

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: HB4267 by Howard, Charlie (Relating to the determination of ownership of goods for the purpose of deducting the cost of goods sold under the franchise tax.), **As Introduced**

The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of \$23,978,000 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 <i>Property Tax Relief Fund</i> 304
2010	(\$11,841,000)
2011	(\$12,137,000)
2012	(\$12,562,000)
2013	(\$13,065,000)
2014	(\$14,587,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code (franchise tax) by adding language regarding ownership of the goods in relation to subtracting cost of goods sold for purposes of calculating the franchise tax. The added language would allow a taxable entity to be considered the owner of goods sold if as a result of selling the goods the entity reports gross revenue and a separate cost of sales on the entity's financial statements regardless of whether the entity at any point has legal title to the goods. Under current law, a taxable entity could make a subtraction for cost of goods sold only if the entity owns the goods, with certain exceptions set out in the law.

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

Methodology

The bill would allow some taxable entities to subtract cost of goods sold to determine franchise tax who cannot do so under current law. Contract manufacturers are one group that could be affected. Consignment stores in the trade sector could also be affected. The estimate is based on franchise tax return data for 2008 for entities in the manufacturing and trade industries who did not take any cost of goods sold deductions.

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