

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: HB4270 by Howard, Charlie (Relating to the computation of cost of goods sold for purposes of the franchise tax by certain affiliated taxable entities.), **As Engrossed**

Depending upon the extent of the use of certain transactions among affiliates, there would be an indeterminate revenue loss to the Property Tax Relief Fund.

Any loss to the Property Tax Relief Fund will have to be made up with General Revenue to fund property tax relief.

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, in regard to certain transactions among members of an affiliated group.

Under current law a payment made by one member of an affiliated group to another member of the group not included in the combined group could be subtracted as a cost of goods sold only if the transaction is made at arm's length. The bill would allow, in a situation where the transaction was not made at arm's length, the purchasing member to subtract as a cost of goods sold an amount not to exceed the market value of the transaction. The bill would also allow in that situation, the selling member to include in gross receipts an amount not to exceed the market value of the transaction.

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

The fiscal impact of the bill depends on the extent and nature of non-arm's length transactions occurring among affiliates. No information on such transactions is currently available and, therefore, the fiscal impact cannot be determined.

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