

**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: HB4611** by Oliveira (Relating to treatment of the sale of loans or securities for apportionment purposes.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4611, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of \$234,451,000 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	(\$115,778,000)
2011	(\$118,673,000)
2012	(\$122,828,000)
2013	(\$127,742,000)
2014	(\$132,853,000)

**Fiscal Analysis**

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, in relation to determining receipts arising from the sale of a loan or security for the purpose of apportioning margin.

Under current law, if a loan or security is treated as inventory by the seller for federal income tax purposes, the gross proceeds of the sale of that loan or security are considered gross receipts for apportioning margin. Otherwise, gross receipts would be the gross proceeds from the sale minus the basis of the loan or security. This bill would provide for using gross proceeds of the sale if the loan security were treated as inventory by the seller for federal income tax purposes or generally accepted accounting (GAAP) principles.

The bill would take effect on September 1, 2009.

### **Methodology**

The difference between federal income tax accounting and GAAP accounting in the treatment of the sale of a loan or security is that under GAAP rules a business that holds a loan or security in a "for trading" or an "available for sale" account can use gross proceeds from the sale of these assets for apportionment. This would allow taxpayers outside the financial industry to increase receipts for their total business relative to their receipts in this state, resulting in a lower apportionment of margin to this state. The estimated cost is based on a 10 percent decrease in the apportionment factor for taxable entities outside the financial industry with at least \$10 billion in total revenue and an apportionment factor of less than 80 percent.

### **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