LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 6, 2009

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

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

IN RE: **SB475** by Wentworth (Relating to the exemption from ad valorem taxation of property owned by certain organizations engaged primarily in performing charitable functions or in providing services to aid in economic development.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB475, As Engrossed: a negative impact of ($2,585,000) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	($2,585,000)
2012	($3,066,000)
2013	($3,336,000)
2014	($3,630,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *Foundation School Fund* 193	Probable Revenue Gain/(Loss) from *School Districts - Net Impact*	Probable Revenue Gain/(Loss) from *Counties*	Probable Revenue Gain/(Loss) from *Cities*
2010	$0	$0	$0	$0
2011	($2,585,000)	($860,000)	($1,057,000)	($951,000)
2012	($3,066,000)	($688,000)	($1,142,000)	($1,026,000)
2013	($3,336,000)	($776,000)	($1,240,000)	($1,112,000)
2014	($3,630,000)	($877,000)	($1,348,000)	($1,207,000)

Fiscal Analysis

The bill would amend Chapter 11 of the Tax Code, regarding taxable property and exemptions.

The bill would make an ad valorem taxation exemption for qualified charitable organizations mandatory, if certain conditions are met. Section 11.184(b) of the Tax Code, which currently makes this exemption optional, would be repealed.

The bill would extend an exemption from ad valorem taxation to property owned by a corporation that is not a qualified charitable organization, if certain conditions were met. The required conditions include (1) qualifying as a 501(c)(2) organization under federal tax law; (2) holding title to the property, collecting income from the property, and turning the income less expenses over to a qualified charitable organization; and (3) the property would be exempt from ad valorem taxation if it was owned by the qualified charitable organization. The qualified charitable organization would be required to get a determination letter from the Comptroller's Office.

The bill would exempt from ad valorem taxation property used by certain nonprofit community business organizations providing services to support the economic development of local communities. The bill would require organizations receiving this exemption to have been in existence for at least five years, maintained a dues-paying membership of at least 50 members for at least the past three years, been organized and registered as a nonprofit corporation, not been a statewide organization, and other factors indicating public support and purpose. The bill would make the exemption effective for the applicable portion of the tax year if the owner qualified after January 1 of that tax year.

The bill would take effect January 1, 2010.

Methodology

The bill's requirement of mandatory exemptions for qualifying charitable organizations would create a cost to cities, counties, school districts, and the state through the operation of the school finance formulas. Currently, some taxing units grant the exemption and some do not. The cost was estimated based on a survey of large appraisal districts to determine the value of currently nonexempt property that would be exempted under the bill. The appropriate tax rates were applied to the value losses to estimate the tax revenue losses. Because of the operation of the hold harmless provisions of HB 1, 79th Legislature, Third Called Session (2006), the school district cost related to the compressed rate would be transferred to the state. Portions of the enrichment cost and the school district debt (facilities) cost would also be transferred to the state after a one-year lag because of the operation of the enrichment and facilities funding formulas. All costs were estimated over the five year projection period.

The bill's requirement for mandatory exemptions for qualifying nonprofit community business organization property would create a cost to cities, counties, school districts, and the state through the operation of the school finance formulas. The bill would be effective on January 1, 2010, so the fiscal costs would appear in fiscal 2011. School districts would receive a one-time gain in fiscal 2013 and the state would suffer an equivalent loss in that fiscal year because of the one-year lag in the enrichment and facilities funding formulas.

The number of qualifying nonprofit community business organizations that own eligible property was estimated and multiplied by the estimated average value of the property to estimate potential value losses under the proposed bill. The appropriate trended tax rates were applied to the trended value losses to estimate the tax revenue losses. Because of the operation of the hold harmless provisions of HB 1, 79th Legislature, Third Called Session (2006), the school district cost related to the compressed rate would be transferred to the state. Portions of the enrichment cost and the school district debt (facilities) cost would also be transferred to the state after a one-year lag because of the operation of the enrichment and facilities funding formulas.

Note: The exemption for certain nonprofit community business organizations that would be provided by creating a new Section 11.231, Tax Code does not appear to be authorized by the Texas Constitution, and the bill is not accompanied by a joint resolution for a constitutional amendment that would authorize the exemption.

Note: The table above shows the fiscal effect of both the proposed requirement of mandatory exemptions for qualifying charitable organizations and the cost of the proposed new exemption for qualifying nonprofit community business organizations.

Local Government Impact

The estimated fiscal implication to units of local government is reflected in the table above.

Source Agencies: 304 Comptroller of Public Accounts
LBB Staff: JOB, MN, SD, SJS