LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 26, 2011

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

IN RE: **HB1358** by Howard, Charlie (Relating to the exclusion of certain flow-through funds by qualified courier and logistics companies in determining total revenue for purposes of the franchise tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1358, As Introduced: an impact of $0 through the biennium ending August 31, 2013.

The bill will have a direct impact of a revenue loss of ($1,471,000) from the Property Tax Relief Fund during the 2012-13 biennium. The loss would be required to be made up with an equal amount of General Revenue to fund the Foundation School Program.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	$0
2013	$0
2014	$0
2015	$0
2016	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304
2012	($725,000)
2013	($746,000)
2014	($761,000)
2015	($763,000)
2016	($769,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by adding provisions related to the exclusion from total revenue of certain funds by certain taxpayers. The provisions would apply to a taxable entity that is a qualified courier and logistics company. Such a taxable entity would exclude from total revenue the subcontracting payments made by the taxable entity to nonemployee agents for the performance of delivery services on behalf of the taxable entity.

The bill would define "qualified courier and logistic company" by specifying the types of services that produce at least 80 percent of the entity's total revenue and also services the entity does not provide. The definition would require the entity to be registered as a motor carrier under the Transportation

Code; maintain automobile liability insurance and cargo insurance; maintain a permanent office; have at least five full-time employees; and not own more than 20 percent of the equipment used to directly provide courier and logistics services.

The bill would take effect on January 1, 2012, and apply to a report due on or after that date.

Methodology

Under current law, payments made by a taxable entity to a nonemployee agent could be excluded from total revenue only in specifically enumerated circumstances. This bill would add payments made by a qualified courier and logistics company to a subcontracting delivery service. The estimate assumes the business revenue test contained in the bill would exclude express delivery service companies. The estimate is based on information from the Comptroller's franchise tax data files for companies classified as local messengers and local delivery services.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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