

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: HB1865 by Anderson, Rodney (Relating to a franchise tax exclusion for contractual flow-through funds paid to certain performing artists.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1865, 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 (\$1,927,000) 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 <i>Property Tax Relief Fund</i> 304
2012	(\$950,000)
2013	(\$977,000)
2014	(\$1,000,000)
2015	(\$1,003,000)
2016	(\$1,011,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax.

The bill would provide that a qualified live event promotion company would exclude from total revenue a payment made to an artist in connection with the provision of a live entertainment event or live event promotion services. The bill would add definitions of "artist," "live entertainment event," "live event promotion services," and "qualified live event promotion company."

The bill would require a taxable entity that makes a payment to an artist to withhold an amount from that payment under certain conditions. The conditions would include that the artist was a taxable entity and that the payment was for a performance at a live entertainment event in this state. The

amount withheld would equal the maximum franchise tax rate multiplied by the payment. The taxable entity that withholds such an amount would be required to remit that amount to the Comptroller's Office with the taxable entity's annual report.

The bill would specify procedures and liability for refunds, failure to withhold, and failure to remit the amount withheld to the Comptroller's Office. The bill would provide that a taxable entity would not be required to withhold if the artist provides a written statement from the Comptroller's Office stating the artist is not subject to the franchise tax.

The bill would require the Comptroller's Office to adopt rules related to the withholding provisions added by the bill by December 1, 2011.

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

Methodology

The withholding provisions in this bill would have no effect on the estimated fiscal impact of the bill. Withholding and remitting to the Comptroller's Office from another taxable entity would not change the total amount of tax liability.

The estimated fiscal impact of the bill is based on 2010 franchise tax report information from taxable entities in the business of promoting performing arts events.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, KK, SD