

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**April 28, 2011**

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

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

**IN RE: SJR52** by Ogden (Proposing a constitutional amendment clarifying that a tax imposed on certain business entities is not subject to Section 24, Article VIII, Texas Constitution, and imposing certain limitations on the computation of a tax imposed on a business entity.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SJR52, As Introduced: an impact of \$0 through the biennium ending August 31, 2013.

**Beginning in fiscal year 2014, the State would lose all revenue currently collected from the franchise tax if an alternative business tax was not enacted.**

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$0
2013	\$0
2014	(\$2,971,737,139)
2015	(\$2,971,737,139)
2016	(\$2,971,737,139)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> <b>1</b>	Probable Revenue (Loss) from <i>Property Tax Relief Fund</i> <b>304</b>
2012	\$0	\$0
2013	\$0	\$0
2014	(\$2,971,737,139)	(\$1,528,262,861)
2015	(\$2,971,737,139)	(\$1,528,262,861)
2016	(\$2,971,737,139)	(\$1,528,262,861)

**Fiscal Analysis**

The resolution would propose an amendment to add new Subsection k to Section 24 of Article VIII of the Texas Constitution. Section 24 requires that any law enacted by the Legislature that imposes a tax on the net income of natural persons, including the net income of a person's share of partnership or unincorporated associated income, may not take effect until approved by a majority of voters voting in a statewide referendum. New Subsection k would except from the referendum requirement a tax imposed on a business entity that is organized under laws to provide liability protection for the owners from the debts and other obligations of the business entity.

The resolution would propose an amendment to add new Section 25 to Article VIII of the Texas Constitution, to prohibit a tax imposed on a business entity which is computed using the business entity's taxable margin as determined under the franchise tax as it existed on January 1, 2011. The resolution would propose a temporary section providing that the changes made by the resolution to Article VIII would apply only to a tax liability of a business entity due on or after January 1, 2014.

The proposed amendment would be submitted to voters at an election to be held November 8, 2011.

### **Methodology**

The proposed amendments, if adopted by the voters, would prohibit the imposition of the franchise tax as currently computed on business entities beginning January 1, 2014. Absent an alternative computation method for the franchise tax, the fiscal impact would be the loss of all revenue from the franchise tax. If no replacement for the business tax, as it is currently computed, is enacted then the state would lose approximately \$9.0 billion over the 2014-15 biennium (currently deposited to General Revenue and the Property Tax Relief Fund). If, in the alternative, a replacement tax were enacted, then the fiscal implications cannot be determined as the structure and rate of such a tax are unknown.

### **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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