

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 13, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB317** by Otto (Relating to the classification of certain entities as primarily engaged in retail trade for purposes of the franchise tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB317, As Introduced: an impact of \$0 through the biennium ending August 31, 2015.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of (\$5,411,000) for the 2014-15 biennium. Any loss to the Property Tax Relief Fund must 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
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from Property Tax Relief Fund
	304
2014	(\$2,700,000)
2015	(\$2,711,000)
2016	(\$2,762,000)
2017	(\$2,713,000)
2018	(\$2,691,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by adding a

provision to the definition of "retail trade" in Section 171.0001. The added provision would expand the definition to include "rental-purchase agreement activities regulated by Chapter 92, Business and Commerce Code." Chapter 92 of the Business and Commerce Code, titled "Rental-Purchase Agreements," contains provisions specifying certain requirements for rental-purchase agreements between merchants and consumers.

The bill would take effect January 1, 2014, and apply to reports due on or after that date.

Methodology

Under current law a taxable entity primarily engaged in renting personal property to consumers is considered to not be engaged in retail trade, and the entity would calculate franchise tax liability based on a tax rate of 1 percent. The bill would allow those entities to calculate franchise tax liability based on a 0.5 percent tax rate. The estimated fiscal impact is based on data in the Comptroller's franchise tax files and research on companies engaged in rental-purchase activities with consumers.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD