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: **HB414** by Button (Relating to a franchise tax credit for certain research and development activities.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB414, 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 ($71,644,000) 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	$0
2015	($71,644,000)
2016	($143,147,000)
2017	($186,690,000)
2018	($216,300,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to add new Subchapter M providing a tax credit for research and development activities.

The bill would define "qualified research" and "qualified research expense" as in Section 41 of the Internal Revenue Code. The tax credit would be calculated in one of two ways: as 10 percent of the difference between qualified research expenses incurred by the taxable entity in this state during the period on which the franchise tax report is based and 50 percent of the average amount of qualified research expenses incurred in this state during the three tax years preceding the period on which the report is based; or the amount of sales and use taxes imposed during the period on the sale, lease, or rental to or use by the taxable entity of a taxable item that is used in performing qualified research. A taxable entity may select either calculation method for the credit on each tax report.

The total credit claimed for a report is limited to no more than 50 percent of the amount of tax due for the report before any other credits. A taxable entity that is eligible for credit in excess of the limitation may carry the unused credit forward for not more than 20 consecutive reports. The credit may not be separately conveyed, assigned, or transferred to another taxable entity. The Comptroller is directed to adopt rules necessary to implement the credit.

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

Methodology

The estimated amount of credit earned from purchases of taxable items under Chapter 151 of the Tax Code was estimated based on data from the National Science Foundation on funds spent for business research and development by companies in Texas and on the distribution of such expenditures. The amount was reduced by the portion expected to be exempt under other provisions of the sales tax code and extrapolated though 2018.

The estimated amount of credit earn from qualified research expenditures is based on the prior research and development tax credit that existed from 2001 to 2007. Adjustments were made for the growth of the economy and the provisions of the revised franchise tax.

The effect of a taxable entity's choice between using sales tax paid or qualified research expenditures as a base for the credit reflects the much greater amount available to most taxable entities from sales tax paid. Taxable entities that have substantial amounts of purchases exempt from sales tax under other provisions of the sales code would be expected to use qualified research expenditures to calculate credit.

The estimated fiscal impact reflects the limitation and carry-forward provisions contained in the bill.

There would be no fiscal impact in 2014 because research and development activities occurring on or after the effective date of the bill would be reported on a return originally due in 2015 or later.

Technology

The Comptroller indicates there would be a one-time technology cost in fiscal year 2014 for programming and project management.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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