LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 13, 2013

TO: Honorable Tommy Williams, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB500** by Hilderbran (Relating to the computation of the franchise tax, including certain exclusions from the tax.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB500, As Engrossed: a negative impact of ($1,485,218) 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 ($648,569,000) 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	($843,109)
2015	($642,109)
2016	($643,109)
2017	($642,109)
2018	($643,109)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304	Probable (Cost) from *General Revenue Fund* 1	Change in Number of State Employees from FY 2013
2014	($308,684,000)	($843,109)	7.5
2015	($339,885,000)	($642,109)	7.5
2016	($378,300,000)	($643,109)	7.5
2017	($406,763,000)	($642,109)	7.5
2018	($414,469,000)	($643,109)	7.5

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by making several changes to the way taxable entities calculate franchise tax liability.

The bill would include auto repair services and certain rental activities in retail and wholesale trade which would require affected entities to calculate franchise tax liability using a tax rate of 0.5 percent.
The bill would amend the calculation of margin by providing a taxable entity the additional option of determining margin as total revenue less $1 million.

The bill would amend the determination of cost of goods sold for taxable entities in certain industries and allow taxable entities with total revenue of not more than $5 million to use cost of goods sold as reported on an IRS tax form for the calculation of margin for the franchise tax.

The bill would provide exclusions or subtractions from total revenue for taxable entities in certain industries.

The bill would allow taxable entities to deduct as compensation payments to employees outside the United States and reported on a form other than a W-2 Form.

The bill would change the method for apportioning margin for taxable entities engaged in internet hosting or broadcasting.

The bill would provide a deduction from apportioned margin for moving expenses to taxable entities that relocate their principal place of business to Texas.

The bill, effective January 1, 2016, would provide jobs creation and capital investment franchise tax credits to taxable entities that meet certain conditions.

The bill would provide transferable franchise tax credits to entities who incur qualified expenses for rehabilitation of historic structures.

The bill would provide for the transfer or sale of unexpired jobs creation or capital investment franchise credits established under prior law.

The bill would provide that a taxable entity with total revenue of no more than $1 million for a report period would continue to have no franchise tax liability for that period.

The bill would require the Sunset Commission to review exemptions from the franchise tax. The Commission would be required to periodically evaluate each exemption provided by Chapters 171 of the Tax Code. The reviews would be conducted according to a schedule adopted by the Commission on or before January 1, 2014. The schedule must provide for the Commission to evaluate each tax exemption at an interval not to exceed six years.

Except as provided in the bill, the bill would take effect on January 1, 2014.

Methodology

The estimated fiscal impact is based on information from the Comptroller's franchise tax databases and from research on the various industries impacted by the bill's provisions.

Sections 32 and 33 appear to represent conflicting effective dates for the bill. This analysis assumes an effective date of January 1, 2014, unless a section has a different date stated in the bill.

The Comptroller of Public Accounts estimates it would be necessary to hire 5 FTEs including audit, legal, and accounting staff to handle the anticipated increased workload. There are also additional funds for programming and system support costs.

The Sunset Advisory Commission estimates they would need to hire 2.5 FTEs to complete the review of franchise tax exemptions required by the bill. The bill does not define "exemptions", therefore the costs could be higher if "exemptions" were interpreted to include credits, discounts, exclusions, deductions, and special accounting methods.

Technology

There would be a one-time technology cost of $200,000 in fiscal 2014 for programming and system support costs.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts

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