LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION
Revision 1

May 1, 2013

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

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.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB500, Committee Report 1st House, Substituted: 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 ($396,768,000) 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	($197,880,000)
2015	($198,888,000)
2016	($202,626,000)
2017	($199,272,000)
2018	($197,822,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by changing various aspects of the way the tax is applied. The bill would provide that taxable entities primarily engaged in miscellaneous equipment rental or automotive repair services would be considered engaged in retail or wholesale trade.

The bill would provide that a taxable entity that does not subtract cost of goods sold or compensation to compute margin for the franchise tax would calculate margin as 65 percent of total margin rather than 70 percent of total margin.

The bill would provide that a taxable entity primarily engaged in transporting aggregates would exclude from total revenue subcontracting payments made by the taxable entity to nonemployee agents for the performance of delivery services. The bill would provide that landlords of commercial property would exclude from total revenue ad valorem taxes and any tax or excise imposed on rents. The bill would require taxable entities to exclude from total revenue subcontracting payments made to individuals for certain services related to petroleum or mineral interests. The bill would require that a taxable entity that is a physician practice exclude from total revenue the actual cost paid by the taxable entity for a vaccine. The bill would provide that a taxable entity primarily engaged in the business of transporting commodities by waterways that does not subtract cost of goods sold exclude from total revenue certain costs. The bill would provide that a taxable entity providing agricultural aircraft services exclude from total revenue the cost of labor, equipment, fuel, and materials used in providing those services. The bill would provide that a taxable entity that is a registered motor carrier exclude from its total revenue flow-through revenue derived from taxes and fees. The bill would provide that a taxable entity primarily engaged in the business of harvesting trees for wood may subtract as cost of goods sold certain costs regardless of whether the entity owns the land from which trees are harvested, the timber, or the resulting wood.

The bill would provide that a receipt from Internet hosting is a receipt from business done in this state only if the customer is located in this state.

The bill would provide that a taxable entity with total revenue of no more than $1 million, as adjusted each biennium by the percent change in the consumer price index, would owe no franchise tax. The bill would repeal provisions of current law that would set the total revenue amount at which a taxable entity would owe no tax to not more than $600,000 for reports due on or after January 1, 2014, and provisions that are not relevant with a $1 million total revenue threshold.

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

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 bills provisions.

Section 2 of the bill appears to attempt to place firms classified under sic-code 735 as retailers, for franchise tax purposes. This analysis reflects such a change; however, the bill's language may not be effective.

Technology

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

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