

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 24, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1735 by Hilderbran (Relating to the franchise tax of certain nonqualified affiliates.),
As Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to add a provision affecting combined reporting.

The bill would identify an affiliate in a combined group that provides retail or wholesale electric utilities. The bill would provide that if that affiliate produces less than 5 percent of the combined group's total revenue including that affiliate, and that without that affiliate the combined group would meet the requirement for being in retail or wholesale trade, the identified affiliate would be excluded from the combined group

The bill would provide that a nonqualified affiliate could not be included in a combined group if certain conditions were true. The conditions include: greater than 50 percent of the threshold amount is from activities in wholesale and retail trade; less than 50 percent of the threshold amount is from sale of products produced by any entity that is included in an affiliated group with such qualified affiliate; and less than 5 percent of the threshold is from providing retail or wholesale electric utilities.

It is assumed a combined group could have an affiliate that provides retail or wholesale electric utilities and the combined group be considered as primarily engaged in retail and wholesale trade, if the conditions set out in the bill were met. This analysis assumes that combined group would have a tax rate of one-half percent on taxable margin and the affiliate providing retail and wholesale electric utilities would have a tax rate of one percent on taxable margin.

The bill would take effect September 1, 2013, and apply to a report due on or after January 1, 2014.

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