

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 29, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2145** by Hilderbran (relating to apportionment of certain receipts of a broadcaster under the franchise tax.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2145, 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 (\$2,879,000) 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	(\$2,879,000)
2016	(\$2,933,000)
2017	(\$2,881,000)
2018	(\$2,857,000)

Fiscal Analysis

This bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to specify receipts to be included in the numerator of the apportionment factor for certain taxable entities. A

taxable entity that is a broadcaster would include in the numerator receipts arising from a broadcast or other distribution of film programming by any means only if the legal domicile of the broadcaster's customer is in this state. The provision would only apply to licensing income from distributing film programming.

The bill would define "broadcaster," "customer," "film programming" and "programming."

The bill would take effect on January 1, 2015, and apply to a report due on or after that date.

Methodology

Under current law the receipt from a license to use a copyright is a receipt in this state if the copyrighted material is used in this state. For broadcasting the use of the copyrights for the broadcast is treated as where the consumer views, hears, or otherwise benefits from the broadcast. This bill would source the receipt based on the legal domicile of the customer who, by the definition in the bill, has a direct connection or contractual relationship with the broadcaster. The legal domicile of a corporation or limited liability company is the state of formation. The legal domicile of a partnership, trust, or joint venture is the principal place of business of the partnership, trust, or joint venture. The principal place of business of a partnership, trust, or joint venture is the location of its day-to-day operations.

The estimated fiscal impact is based on information from the Comptroller's franchise tax data files on broadcaster and information provided by the Motion Picture Association of America and information from ongoing tax litigation.

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