

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 1, 2013

TO: Honorable John Davis, Chair, House Committee on Economic & Small Business Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2390 by Menéndez (Relating to a franchise tax credit for certain research and development activities by taxable entities in the aerospace industry.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2390, 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 (\$460,000) 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	(\$460,000)
2016	(\$460,000)
2017	(\$460,000)
2018	(\$460,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to add a new Subchapter R providing a tax credit for research and development activities for certain taxable entities. The bill would define "base amount", "basic research payment", "qualified research" and "qualified research expense" by reference to Section 41 of the Internal Revenue code. The bill would define "defense base development authority" by reference to the Local Government Code and the Special District Local Laws Code.

To be eligible for the credit a taxable entity would be required to be primarily engaged in a business involved in the aerospace industry and perform qualified research in the territory of a defense base development authority. The amount of credit for a tax period would be based on five percent of the sum of the excess of qualified research expenses incurred in this state and the basic research payments in this state. A taxable entity could elect to compute the credit in a manner consistent with the alternative incremental credit contain in federal law if certain conditions were met. The total amount of credit that could be claimed on a report would be limited to 50 percent of the franchise tax due on the report before any other applicable tax credits. Eligible credit that could not be used because of the limitation could be carried forward for not more than 20 consecutive reports.

The bill would require the comptroller to submit a report prior to the beginning of each regular session of the legislature with information about credit. The final report prior to expiration of the credit provision would be required to include historical information on the credit.

The Comptroller of Public Accounts (CPA) would be required to adopt rules and forms necessary to implement the credit provisions.

A taxable entity could not transfer the credit to another entity.

The bill's provisions would expire on December 31, 2023. The expiration would not affect the carryforward of credit accrued before the expiration of the credit provisions.

The bill would take effect on January 1, 2014.

Methodology

There would be no fiscal impact in 2014 because research and development activities occurring after the effective date would be reported on a return due in 2015 or later. For later years, the estimated fiscal impact is based on research and development activities conducted by taxable entities in the aerospace industry under the prior research and development credit that was repealed in 2008. A portion of the research and development activity by the taxable entities was assumed to occur in the territory of a defense base development authority.

Technology

The CPA indicates there would be a \$776,000 cost that would be necessary for programming and system support. This amount is not reflected in the above table.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, RB, SD, KK