

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 1, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3386 by Hilderbran (Relating to the transferability of certain unused credits under the Texas Franchise Tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3386, 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 (\$25,000,000) 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	(\$25,000,000)
2016	(\$25,000,000)
2017	\$0
2018	\$0

Fiscal Analysis

The bill would amend subsections of Section 18, Chapter 1 (H. B. 3) Acts of the 79th Legislature, 3rd Called Session, 2006. The amended subsections relate to the credits for jobs creation and

capital investment that were repealed by H. B. 3. Current law allows taxable entities to apply jobs creation and capital investment credits that would not have expired under the provisions of the repealed law toward franchise tax liability until the credits had been exhausted or would have expired under the repealed law. Current law relating to this use of franchise tax credits expires December 31, 2016. This bill would allow taxable entities to transfer the unused credits to other entities under certain conditions. To make a transfer a taxable entity would have to request a certificate of transferability of credit from the Comptroller for the unexpired amount of credit not previously claimed. The certificate could then be transferred or sold to another Texas taxpayer. Taxable entities making a transfer would be required to notify the Comptroller within 30 days of the transfer on a form prescribed the Comptroller. The transfer of the credit does not extend time in which the credit could be used.

The bill would take effect on January 1, 2014.

Methodology

The estimated fiscal impact assumes that any franchise tax credits transferred to other taxpayers would be used to offset franchise tax liability of the taxable entities acquiring the certificate of transferability.

There would be no fiscal impact in 2014 because credit transfers occurring after the effective date of the act could only be applied to franchise tax liability in 2015 or later.

The estimate is based on available unexpired jobs creation and capital investment credits as reflected in the 2012 franchise reports. Estimates were made for the amount of credit that would be used in 2013 and 2014 and the amount of credit that would expire. The fiscal impact in 2015 and 2016 is the estimated difference between the amount of credit that would be used by existing owners of the credits and the total amount of unexpired credit available.

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