# LEGISLATIVE BUDGET BOARD
## Austin, Texas

## FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

**April 16, 2013**

**TO:** Honorable Dan Patrick, Chair, Senate Committee on Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **SB23** by Patrick (relating to the establishment of the Texas Equal Opportunity Scholarship Program.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB23, Committee Report 1st House, Substituted: a positive impact of $32,931,500 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

### General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|---|---|
| 2014 | ($378,000) |
| 2015 | $33,309,500 |
| 2016 | $208,920,438 |
| 2017 | $101,542,172 |
| 2018 | $106,627,230 |

### All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue (Loss) from *General Revenue Fund* 1 | Probable Revenue (Loss) from *Foundation School Fund* 193 | Probable Revenue (Loss) from *Property Tax Relief Fund* 304 | Probable Savings/(Cost) from *Foundation School Fund* 193 |
|---|---|---|---|---|
| 2014 | $0 | $0 | $0 | $0 |
| 2015 | ($15,000,000) | ($5,000,000) | ($80,000,000) | $53,437,500 |
| 2016 | ($15,750,000) | ($5,250,000) | ($84,000,000) | $230,048,438 |
| 2017 | ($16,538,000) | ($5,513,000) | ($88,200,000) | $123,721,172 |
| 2018 | ($17,364,000) | ($5,788,000) | ($92,610,000) | $129,907,230 |

| Fiscal Year | Probable Savings/(Cost) from *General Revenue Fund* 1 | Change in Number of State Employees from FY 2013 |
|---|---|---|
| 2014 | ($378,000) | 2.0 |
| 2015 | ($128,000) | 2.0 |
| 2016 | ($128,000) | 2.0 |
| 2017 | ($128,000) | 2.0 |
| 2018 | ($128,000) | 2.0 |

## Fiscal Analysis

The bill would create the Texas Equal Opportunity Scholarship Program. Under the program, the Comptroller of Public Accounts (CPA) would select up to three eligible organizations to administer the program. Organizations could receive donations for the purpose of funding opportunity scholarships under the provisions of the bill. Organizations would be required to distribute no less than 95 percent of the funds donated as opportunity scholarships and would be permitted to use no more than 5 percent for operating expenses. The organizations would be required to allocate at least 90 percent of funds available for opportunity scholarships to eligible students to attend qualified non-public schools and no more than 10 percent of funds to eligible students to attend tuition-supported public prekindergarten programs or for opportunity scholarship recipients to attend educational after-school programs.

Eligibility for opportunity scholarships would be limited to students who attended a public school in Texas for the majority of the prior year or will be attending school for the first time and meets both the statutory definition of at risk and resides in a household with household income no greater than 200 percent of the income eligibility threshold for the federal free and reduced price lunch program. Scholarships would be awarded first to prior year participants and their siblings who are applying to continue in the subsequent year, then to eligible applicants attending a campus assigned an unacceptable performance rating in the state accountability system, and then to all other eligible applicants.

The amount of the scholarship is limited to 80 percent of the statewide average state and local funding provided to school districts through the Foundation School Program (FSP) for maintenance and operations per student in average daily attendance (ADA). Scholarships for after-school programs would be limited to $1,000 per year.

The bill would make an entity subject to the state premium tax eligible for a credit against its tax liability equal to the lesser of the amount of donations made to a certified Texas Equal Opportunity Scholarship Program administering organization or 100% of the entity's premium tax liability. The bill would make an entity subject to the state franchise tax eligible for a credit against its tax liability equal to the lesser of the amount of donations made to a certified Texas Equal Opportunity Scholarship Program administering organization or 100% percent of franchise tax liability. For the 2014 state fiscal year the combined total of premium and franchise tax credits would be limited to $100 million. For subsequent years the total amount of combined credits that could be claimed would equal the lesser of 105 percent of the previous year's amount or one percent of the total expenditures by public schools in the preceding state fiscal year.

The Comptroller would be required to prescribe procedures to allocate credits and would be required to provide that the allocation of credits would be made on a first-come first-served basis by date of contribution. The bill would take effect January 1, 2014, and would authorize credits to be claimed only for donations made on or after that date.

The Comptroller would be directed to contract with researchers to conduct a study of the Texas Equal Opportunity Scholarship Program. The Comptroller would be authorized to solicit and accept grants to pay for the study and would be required to provide a final copy of the study to the legislature. Provisions related to the study would expire June 1, 2022.

## Methodology

Under the bill's provisions, the Comptroller anticipates no revenue loss in 2014 because credits based on donations made on or after January 1, 2014 would be taken on reports due in 2015 or later.

The estimated fiscal impact assumes that one or more organizations would be certified by the Comptroller in 2014. The estimate also assumes that certified organizations would receive contributions from franchise and insurance premium tax payers to reach the maximum amounts set out in the bill of $100 million in fiscal year 2014 and $105 million in fiscal year 2015, increasing to $121.6 million by fiscal year 2018. The limit on tax credits would continue to grow by 5 percent each year thereafter until reaching a total equivalent to 1 percent of total school district expenditures, an amount that would currently be about $525,000,000 assuming the inclusion of expenditures for capital outlay and debt service.

For the purpose of this estimate it is assumed that 5 percent of available funding would be retained by the organizations for operations with 90 percent of the remaining donations distributed as scholarships and 10 percent for prekindergarten tuition and after school program expenses. Assuming a statewide average FSP M&O entitlement per student of $7,500 providing for a maximum scholarship amount of $6,000, that level of funding would provide scholarships to approximately 14,250 students in FY2014 and 14,963 students in FY2015, increasing to 17,321 students by FY2018. Since donations qualifying for tax credit would not be allowed to be made until after January 1, 2014, it is assumed that the first scholarships awarded would be for the second semester of the 2013-14 school year.

Statutory provisions in Chapter 42 of the Education Code stipulate that the basis for payments of state aid in the FSP are estimates of student enrollment provided to the legislature by the TEA on October 1 and March 1. Statute further provides for a process by which the state settles up with school districts based on actual enrollment in the subsequent school year. As such, for purposes of this estimate, it is assumed that for the 2014-15 biennium, districts would continue to be paid based on the estimates of student counts the TEA submitted to the Legislative Budget Board in March 2013. As a result, the savings accrued for the second semester of the 2013-14 school year would be realized in FY2015 through the settle-up process, and the savings accrued in the 2014-15 school year would be realized in FY2016. Beginning with the 2015-16 school year, payments would be based on student estimates provided in March 2015 that would take into account the reduced attendance associated with the scholarship program. As such, the savings for the 2015-16 school year would be realized in FY2016. Because both the school year 2014-15 FSP savings and the 2015-16 school year savings would be realized in FY2016, savings for that year would be substantially larger than the other years. For the 2016-17 school year and 2017-18 school year, savings would continue be realized in FY 2017 and FY 2018 respectively.

The net savings to the FSP associated with scholarship recipients exiting the public school system during the second semester of the 2013-14 school year is estimated to be $53.4 million and $112.2 million for those exiting for the 2014-15 school year, increasing to $129.9 million by the 2017-18 school year. In keeping with the payment and settle-up structure described above, net savings to the FSP would be realized beginning in FY2015 in the amount of $53.4 million, increasing to

$129.9 million by FY2018.

The Comptroller estimates costs of $128,000 per year associated with 2.0 FTEs to process the anticipated increase in tax credit applications under the bill, and technology costs as described below. These amounts are included in the tables above.

## Technology

The Comptroller estimates one-time technology costs of $250,000 in fiscal year 2014 for programming and system support.

## Local Government Impact

The fiscal impact to school districts would vary from school district to school district. Districts would lose state aid through the Foundation School Program resulting from decreased enrollment. Some districts might experience difficulties in realizing sufficient cost reductions due to the reduced enrollment and could suffer some financial hardship.

**Source Agencies:** 304 Comptroller of Public Accounts, 701 Central Education Agency

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