

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 8, 2015

TO: Honorable Troy Fraser, Chair, Senate Committee on Natural Resources & Economic Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB590 by Elkins (Relating to the creation of research technology corporations for the development and commercialization of technologies owned by institutions of higher education or by certain medical centers with members that are institutions of higher education; providing for tax exemptions; providing a penalty.), **As Engrossed**

Depending upon the number of special-purpose corporations that might be formed and the extent their business activities, there could be an indeterminate fiscal impact on the state and units of local government.

This bill would amend Subtitle H (research in higher education) of Title 3 of the Education Code to add Chapter 157, regarding university research technology corporations.

The bill would allow certain specified persons to create a special-purpose corporation for the exclusive purpose of developing and commercializing one or more technologies owned wholly or partly by an institution of higher education. A person who was eligible as an "organizer" under Sec. 3.004 Business Organizations Code would be eligible to create such a special purpose corporation. A qualified "organizer" also could create a special purpose corporation for the exclusive purpose of developing and commercializing technology owned wholly or partly by a qualified medical center.

The bill would require the principal offices of the special-purpose corporation be in Texas, and the majority of goods and services of the special purpose corporation be produced or performed in Texas. In accordance with, and limited to the specifications of the bill, the special-purpose corporation would be exempt from the following: ad valorem taxes, sales and use taxes, and franchise taxes. The special-purpose corporation would be limited in duration to 15 years, after which time it could file a restated and amended certificate of formation to become a for-profit corporation.

A special-purpose corporation that filed a restated and amended certificate of formation at the expiration of the 15 year period would no longer be exempted from the franchise tax on the expiration of the 15 year period. Unless the corporation was otherwise exempted from the franchise tax, the date of the expiration of that period would be considered the corporation's beginning date for purposes of determining the corporation's privilege periods.

A special-purpose corporation, including a corporation that files a restated and amended certificate of formation that ceased to comply with the Texas location requirements of the bill, would be liable to the state for a penalty equal to any taxes for which the corporation received an

exemption under the bill for the four calendar years preceding the noncompliance. Penalty amounts received would be deposited to the General Revenue Fund.

The bill would take effect January 1, 2016, except that Section 157.008(b) of the Education Code and Section 11.232 of the Tax Code, as added by the bill, and Sections 11.42(d) and 26.113 of the Tax Code, as amended by the bill, would take effect only if voters approve the related constitutional amendment. If voters do not approve the related constitutional amendment, those four Sections would have no effect.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

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