SENATE AMENDMENTS

2nd Printing

By: Bonnen of Brazoria, Murphy, Parker, Oliveira, Simmons, et al. H.B. No. 32

A BILL TO BE ENTITLED

AN ACT

relating to the computation and rates of the franchise tax; decreasing tax rates; amending provisions subject to a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 171.002(a) and (b), Tax Code, are amended to read as follows:

(a) Subject to Sections 171.003, 171.004, 171.007, and 171.1016 and except as provided by Subsection (b), the rate of the franchise tax is 0.75 [~~one~~] percent of taxable margin.

(b) Subject to Sections 171.003, 171.004, 171.007, and 171.1016, the rate of the franchise tax is 0.375 [~~0.5~~] percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

SECTION 2. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.004 to read as follows:

Sec. 171.004. ADJUSTMENT OF TAX RATES. (a) Beginning in 2018, on January 1 of each even numbered year for which the comptroller's most recent certification estimate projects state tax collections not dedicated by the constitution will exceed the limit on appropriations in effect for the current biennium under Section 22(a), Article VIII, Texas Constitution:

(1) the rate of the franchise tax under Section 171.002(a) is adjusted by subtracting 0.15 from the rate in effect

on December 31 of the previous year;

(2) the rate of the franchise tax under Section 171.002(b) is adjusted by subtracting 0.075 from the rate in effect on December 31 of the previous year; and

(3) the rate of the franchise tax under Section 171.1016(b)(3) is adjusted by subtracting 0.0662 from the rate in effect on December 31 of the previous year.

(b) The tax rates determined under Subsection (a) apply to a report originally due on or after the date the determination is made.

(c) Notwithstanding Subsection (a), if an adjustment otherwise required by Subsection (a) would reduce a rate of the franchise tax to less than zero, the rate is instead reduced to zero.

(d) Notwithstanding any other law, if the rates of the franchise tax are reduced to zero under Subsection (a) or (c), a taxable entity does not owe any tax and is not required to file a report that would otherwise be originally due on or after the date the rates are reduced to zero.

(e) The comptroller shall make the determination required by Subsection (a) and may adopt rules related to making that determination. The comptroller shall publish the franchise tax rates determined under this section in the Texas Register and on the comptroller's Internet website not later than January 15 of each year.

(f) A determination by the comptroller under this section is final and may not be appealed.

SECTION 3. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.007 to read as follows:

Sec. 171.007. COMPTROLLER TAX RATE ADJUSTMENT. (a) On the date the comptroller makes the transfer of any unencumbered positive balance of general revenues from a preceding biennium to the economic stabilization fund as described by Section 49-g(b), Article III, Texas Constitution, the comptroller shall:

(1) identify an amount of money equal to 25 percent of those unencumbered general revenues that are not transferred under that subsection;

(2) estimate the amount of revenue attributable to the tax imposed under this chapter that would be received by the comptroller during the current state fiscal biennium if the tax were imposed at the rates under Sections 171.002(a) and (b) and Section 171.1016 in effect on the date the estimate is made; and

(3) subtract the amount of money identified under Subdivision (1) from the amount of revenue estimated under Subdivision (2).

(b) If the amount of money determined under Subsection (a)(3) is greater than zero, the comptroller shall determine the rates for purposes of Sections 171.002(a) and (b) and Section 171.1016 that, if applied beginning January 1 of the current state fiscal biennium, are estimated to generate the amount of money determined by the comptroller under Subsection (a)(3) for that biennium. In determining the rates under this subsection, the comptroller shall proportionally reduce the rates under Sections 171.002(a) and (b) and Section 171.1016 that are in effect on the date the comptroller makes the determination.

(c) Not later than December 15 of each odd-numbered year, the comptroller shall:

(1) adopt the adjusted tax rates determined under Subsection (b);

(2) publish notice of the adjusted tax rates in the Texas Register; and

(3) provide any other notice relating to the adjusted tax rates that the comptroller considers appropriate.

(d) The adjusted tax rates adopted by the comptroller under this section apply to a report originally due on or after January 1 of the even-numbered year following the date the rates are adopted.

(e) In the state fiscal year in which the amount of money determined under Subsection (a)(3) is zero or less:

(1) this chapter expires as provided by Section 171.975; and

(2) not later than December 15 of that year the comptroller shall:

(A) publish notice in the Texas Register that an entity previously subject to the tax imposed under this chapter is no longer required to file a report or pay the tax; and

(B) provide any other notice relating to the expiration of the tax that the comptroller considers appropriate.

(f) An action taken by the comptroller under this section is final and may not be appealed.

(g) The comptroller shall adopt rules to implement this section.

SECTION 4. Sections 171.1016(a), (b), and (e), Tax Code, are amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a taxable entity whose total revenue from its entire business is not more than $20 [~~$10~~] million may elect to pay the tax imposed under this chapter in the amount computed and at the rate provided by this section rather than in the amount computed and at the tax rate provided by Section 171.002.

(b) Subject to Section 171.004, the [~~The~~] amount of the tax for which a taxable entity that elects to pay the tax as provided by this section is liable is computed by:

(1) determining the taxable entity's total revenue from its entire business, as determined under Section 171.1011;

(2) apportioning the amount computed under Subdivision (1) to this state, as provided by Section 171.106, to determine the taxable entity's apportioned total revenue; and

(3) multiplying the amount computed under Subdivision (2) by the rate of 0.331 [~~0.575~~] percent or, if applicable, the adjusted tax rate adopted by the comptroller under Section 171.007.

(e) A reference in this chapter or other law to the rate of the franchise tax means, as appropriate:

(1) [~~,~~] the rate under Section 171.002 or, for a taxable entity that elects to pay the tax as provided by this section, the rate under this section; or

(2) the adjusted rates under Section 171.007.

SECTION 5. Chapter 171, Tax Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. EXPIRATION

Sec. 171.975. EXPIRATION. This chapter expires on December 31 of the year in which the amount of money determined by the comptroller under Section 171.007(a)(3) is zero or less.

SECTION 6. (a) Chapter 171, Tax Code, and Subtitle B, Title 2, Tax Code, continue to apply to audits, deficiencies, redeterminations, and refunds of any tax due or collected under Chapter 171 until barred by limitations.

(b) The expiration of Chapter 171, Tax Code, does not affect:

(1) the status of a taxable entity that has had its corporate privileges, certificate of authority, certificate of organization, certificate of limited partnership, corporate charter, or registration revoked, suit filed against it, or a receiver appointed under Subchapter F, G, or H of that chapter;

(2) the ability of the comptroller of public accounts, secretary of state, or attorney general to take action against a taxable entity under Subchapter F, G, or H of that chapter for actions that took place before the chapter expired; or

(3) the right of a taxable entity to contest a forfeiture, revocation, lawsuit, or appointment of a receiver under Subchapter F, G, or H of that chapter.

SECTION 7. The comptroller of public accounts shall study and report to the legislature on the impact of this Act on the rate of the franchise tax and what further reductions in the rate of that tax may be made following a review of existing exemptions and credits from the franchise tax. The comptroller shall provide the report to the legislature not later than December 31, 2016.

SECTION 8. This Act applies only to a report originally due on or after the effective date of this Act.

SECTION 9. This Act takes effect January 1, 2016.

ADOPTED

MAY 24 2015

Patsy Spaw
Secretary of the Senate

By: Nelson H.B. No. 32

Substitute the following for H.B. No. 32:

By: Nelson C.S.H.B. No. 32

A BILL TO BE ENTITLED

AN ACT

relating to the computation and rates of the franchise tax; decreasing tax rates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) TITLE. This Act shall be known as the Franchise Tax Repeal Act of 2015.

(b) PURPOSE AND FINDINGS. The legislature finds that the tax imposed by Texas Tax Code Chapter 171 has not provided sufficient reliability for property tax relief. It is the intent of the legislature to promote economic growth by repealing the franchise tax.

SECTION 2. Sections 171.002(a) and (b), Tax Code, are amended to read as follows:

(a) Subject to Sections 171.003 and 171.1016 and except as provided by Subsection (b), the rate of the franchise tax is 0.75 [~~one~~] percent of taxable margin.

(b) Subject to Sections 171.003 and 171.1016, the rate of the franchise tax is 0.375 [~~0.5~~] percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

SECTION 3. Sections 171.1016(a) and (b), Tax Code, are amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a taxable entity whose total revenue from its entire business is not more than $20 [~~$10~~] million may elect to pay the tax imposed under this chapter in the amount computed and at the rate provided by this section rather than in the amount computed and at the tax rate provided by Section 171.002.

(b) The amount of the tax for which a taxable entity that elects to pay the tax as provided by this section is liable is computed by:

(1) determining the taxable entity's total revenue from its entire business, as determined under Section 171.1011;

(2) apportioning the amount computed under Subdivision (1) to this state, as provided by Section 171.106, to determine the taxable entity's apportioned total revenue; and

(3) multiplying the amount computed under Subdivision (2) by the rate of 0.331 [~~0.575~~] percent.

SECTION 4. This Act applies only to a report originally due on or after the effective date of this Act.

SECTION 5. The comptroller of public accounts shall conduct a comprehensive study, no later than September 30th, 2016, to identify the effects of economic growth on future state revenues. The results of the study shall be reported to the governor and the Legislative Budget Board. The report should identify revenue growth allocation options to promote efficiency and sustainability in meeting the revenue needs of this state, including revenues allocated by Tax Code 171.4011, upon repeal of the franchise tax.

SECTION 6. This Act takes effect January 1, 2016.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 25, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB32** by Bonnen, Dennis (Relating to the computation and rates of the franchise tax; decreasing tax rates.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB32, As Passed 2nd House: a negative impact of ($160,000) through the biennium ending August 31, 2017.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($2,559,867,000) for the 2016-17 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
2016	($160,000)
2017	$0
2018	$0
2019	$0
2020	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304	Probable (Cost) from *General Revenue Fund* 1
2016	($1,268,483,000)	($160,000)
2017	($1,291,384,000)	$0
2018	($1,286,313,000)	$0
2019	($1,310,256,000)	$0
2020	($1,328,712,000)	$0

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to permanently change tax rates applicable in determining franchise tax liability and the amount of total revenue at or below which a taxable entity may elect to use the EZ computation to determine tax liability. The bill would set a tax rate of 0.75 percent for taxable entities not primarily engaged in retail or wholesale trade; the rate under current law is 1.0 percent. The bill would set a rate of 0.375 percent for taxable entities primarily engaged in retail or wholesale trade; the rate under current law is 0.5 percent. The bill would set a tax rate of 0.331 percent for taxable entities electing the EZ computation; the rate under current law is 0.575 percent. The bill would provide that a taxable entity could elect the EZ computation if its total revenue were no more than $20 million; under current law the amount is no more than $10 million.

The bill would direct the Comptroller to conduct a study to identify the effects of economic growth on future state revenues. The report would identify revenue growth allocation options to promote efficiency and sustainability in meeting revenue needs of this state, including revenues currently allocated to the Property Tax Relief Fund from franchise tax revenue, upon the repeal of the franchise tax. The report would be due by September 30, 2016.

The bill would take effect on January 1, 2016, and apply to tax reports due on or after that date.

Methodology

The estimated fiscal impact is based on the Comptroller's franchise return databases and the 2016-2017 *Biennial Revenue Estimate*.

The administrative cost estimate reflects the funds that would be necessary to hire contract staff to conduct a comprehensive study on the effects of economic growth on future state revenues and to identify revenue growth allocation options to promote efficiency and sustainability in meeting the revenue needs of this state.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 21, 2015

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB32** by Bonnen, Dennis (relating to the computation of, decreasing the rates of, and allocation of the revenue from the franchise tax.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB32, Committee Report 2nd House, Substituted: a negative impact of ($160,000) through the biennium ending August 31, 2017.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($2,559,867,000) for the 2016-17 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
2016	($160,000)
2017	$0
2018	$0
2019	$0
2020	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304	Probable (Cost) from *General Revenue Fund* 1
2016	($1,268,483,000)	($160,000)
2017	($1,291,384,000)	$0
2018	($1,286,313,000)	$0
2019	($1,310,256,000)	$0
2020	($1,328,712,000)	$0

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to permanently change tax rates applicable in determining franchise tax liability and the amount of total revenue at or below which a taxable entity may elect to use the EZ computation to determine tax liability. The bill would set a tax rate of 0.75 percent for taxable entities not primarily engaged in retail or wholesale trade; the rate under current law is 1.0 percent. The bill would set a rate of 0.375 percent for taxable entities primarily engaged in retail or wholesale trade; the rate under current law is 0.5 percent. The bill would set a tax rate of 0.331 percent for taxable entities electing the EZ computation; the rate under current law is 0.575 percent. The bill would provide that a taxable entity could elect the EZ computation if its total revenue were no more than $20 million; under current law the amount is no more than $10 million.

The bill would direct the Comptroller to conduct a study to identify the effects of economic growth on future state revenues. The report would identify revenue growth allocation options to promote efficiency and sustainability in meeting revenue needs of this state, including revenues currently allocated to the Property Tax Relief Fund from franchise tax revenue, upon the repeal of the franchise tax. The report would be due by September 30, 2016.

The bill would take effect on January 1, 2016, and apply to tax reports due on or after that date.

Methodology

The estimated fiscal impact is based on the Comptroller's franchise return databases and the 2016-2017 *Biennial Revenue Estimate*.

The administrative cost estimate reflects the funds that would be necessary to hire contract staff to conduct a comprehensive study on the effects of economic growth on future state revenues and to identify revenue growth allocation options to promote efficiency and sustainability in meeting the revenue needs of this state.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 11, 2015

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB32** by Bonnen, Dennis (Relating to the computation and rates of the franchise tax; decreasing tax rates; amending provisions subject to a criminal penalty.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB32, As Engrossed: a negative impact of ($160,000) through the biennium ending August 31, 2017.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($2,559,867,000) for the 2016-17 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.

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable (Cost) from *General Revenue Fund* 1
2016	($1,268,483,000)	$0	($160,000)
2017	($1,291,384,000)	$0	$0
2018	($1,896,859,000)	($104,015,000)	$0
2019	($1,922,661,000)	($115,460,000)	$0
2020	($1,947,059,000)	($119,771,000)	$0

The above table assumes that the franchise tax rates are further reduced in fiscal year 2018 because the *2018-19 Certification Revenue Estimate* projects that state tax revenues not dedicated by the Constitution exceeded the Article VIII limit on appropriations of state tax revenues not dedicated by the Constitution. The table below assumes no further franchise tax rate reductions.

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304	Probable (Cost) from *General Revenue Fund* 1
2016	($1,268,483,000)	($160,000)
2017	($1,291,384,000)	$0
2018	($1,286,313,000)	$0
2019	($1,310,256,000)	$0
2020	($1,328,712,000)	$0

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to permanently change tax rates applicable in determining franchise tax liability and the amount of total revenue at or below which a taxable entity may elect to use the EZ computation to determine tax liability. The bill would set a tax rate of 0.75 percent for taxable entities not primarily engaged in retail or wholesale trade; the rate under current law is 1.0 percent. The bill would set a rate of 0.375 percent for taxable entities primarily engaged in retail or wholesale trade; the rate under current law is 0.5 percent. The bill would set a tax rate of 0.331 percent for taxable entities electing the EZ computation; the rate under current law is 0.575 percent. The bill would provide that a taxable entity could elect the EZ computation if its total revenue were no more than $20 million; under current law the amount is no more than $10 million.

The bill would provide for adjustment of the tax rates for calculating franchise tax under certain circumstances. Beginning in 2018, on January 1st of each even-numbered year for which the Comptroller's most recent certification estimate projects state tax collections not dedicated by the constitution to exceed the limit on appropriations for the current biennium as provided by the constitution, the tax rates for calculating franchise tax liability would be reduced from the rates in effect on December 31st of the previous year. The amount of the rate reduction would be: 0.15 for the rate applicable to taxable entities not primarily engaged in retail or wholesale trade; 0.075 for taxable entities primarily engaged in retail and wholesale trade; and 0.0662 for taxable entities electing the EZ calculation. If the rates of the franchise tax are reduced to zero, a taxable entity would not owe any tax and would not be required to file a report that would otherwise be due. The Comptroller would make the determination regarding the rate reduction and may adopt rules related to the determination. The Comptroller would publish the rates determined in the Texas Register and on the Comptroller's website not later than January 15th of each year.

The bill would provide for lowering the tax rates used in determining franchise tax liability if the Comptroller makes a transfer of any unencumbered balance of positive general revenues from a preceding biennium to the Economic Stabilization Fund (ESF). The Comptroller would identify an amount of money equal to 25 percent of those unencumbered general revenues that are not transferred to the ESF. The Comptroller would estimate the amount of franchise revenue for the current biennium that would be received at current franchise tax rates. The Comptroller would subtract from that estimated amount the amount of money identified from the unencumbered general revenues. If the result were greater than zero, the Comptroller would determine rates for the franchise tax that if applied beginning January 1st of the current state biennium would generate the amount of revenue resulting from the subtraction. The Comptroller would reduce franchise tax rates proportionally and, not later than December 15th of each odd-numbered year, adopt the rates, publish the reduced rates in the Texas Register and provide any other notice the Comptroller considers appropriate. The rates would apply to reports due on or after January 1st of the year following the adoption of the adjusted rates.

The bill would provide that in the state fiscal year in which the subtraction results in an amount equal to zero or less, Chapter 171 of the Tax Code would expire. Not later than December 15th of that year the Comptroller would publish notice in the Texas Register that entities previously subject to the tax are no longer required to file a report or pay the tax. The bill would provide that action taken by the Comptroller would be final and could not be appealed. The Comptroller would adopt rules to implement this provision.

The bill would provide that the expiration of Chapter 171 of the Tax Code would not affect audits, deficiencies, redeterminations, and refunds of any tax due or collected until barred by limitations. The bill would provide that the expiration of Chapter 171 would not affect the status of an entity that has been subject to Comptroller action prior to the expiration or bar action against an entity for actions that took place before the chapter expired or the rights of an entity to contest actions.

The bill would provide that the Comptroller would study and report on the impact of the bill on the rate of the franchise tax and what further reductions in the rate may be made following a review of exemptions and credits from the franchise tax. The Comptroller would provide the report to the Legislature not later than December 31, 2016.

The bill would take effect January 1, 2016 and apply to reports due on or after that date.

Methodology

The estimated fiscal impact is based on the Comptrollers franchise tax return databases and the *2016-17 Biennial Revenue Estimate*. Estimates are shown for both the case of a 2018 rate reduction based on estimated revenue exceeding the spending limit and the case of no reduction in 2018.

In some circumstances, the bill would require the Comptroller to set franchise tax rates at an amount that would result in less revenue collected over the biennium than was appropriated. Reductions in franchise tax rates would be triggered any time the Comptroller determines, in an even-numbered year starting in 2018, that tax revenues not dedicated by the constitution exceed the limit on appropriations. Such rate reductions could result in revenue for the biennium insufficient to cover the appropriations for that biennium.

The administrative cost estimate reflects the funds that would be necessary to hire contract staff to conduct a study on the impact of the franchise tax rate reduction as well as to conduct a review of what further reductions in the rate of that tax may be made following a review of existing exemptions and credits from the franchise tax.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 21, 2015

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB32** by Bonnen, Dennis (relating to the computation and rates of the franchise tax; decreasing tax rates; amending provisions subject to a criminal penalty.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB32, Committee Report 1st House, Substituted: an impact of $0 through the biennium ending August 31, 2017.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($2,559,867,000) for the 2016-17 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
2016	$0
2017	$0
2018	$0
2019	$0
2020	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304
2016	($1,268,483,000)
2017	($1,291,384,000)
2018	($1,286,313,000)
2019	($1,310,256,000)
2020	($1,328,712,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to permanently change tax rates applicable in determining franchise tax liability and the amount of total revenue at or below which a taxable entity may elect to use the EZ computation to determine tax liability. The bill would set a tax rate of 0.75 percent for taxable entities not primarily engaged in retail or wholesale trade; the rate under current law is 1.0 percent. The bill would set a rate of 0.375 percent for taxable entities primarily engaged in retail or wholesale trade; the rate under current law is 0.5 percent. The bill would set a tax rate of 0.331 percent for taxable entities electing the EZ computation; the rate under current law is 0.575 percent. The bill would provide that a taxable entity could elect the EZ computation if its total revenue were no more than $20 million; under current law the amount is no more than $10 million.

The bill would take effect on January 1, 2016, and apply to tax reports due on or after that date.

Methodology

The estimated fiscal impact is based on the Comptroller's franchise return databases and the 2016-2017 *Biennial Revenue Estimate*.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 10, 2015

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB32** by Bonnen, Dennis (Relating to decreasing the rates of the franchise tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB32, As Introduced: an impact of $0 through the biennium ending August 31, 2017.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($445,963,000) for the 2016-17 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
2016	$0
2017	$0
2018	$0
2019	$0
2020	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304
2016	($220,997,000)
2017	($224,966,000)
2018	($224,083,000)
2019	($228,254,000)
2020	($231,469,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to permanently change two tax rates applicable in determining franchise tax liability. The bill would set a tax rate of 0.95 percent for taxable entities not primarily engaged in retail or wholesale trade; the rate under current law is 1.0 percent. The bill would set a rate of 0.475 percent for taxable entities primarily engaged in retail or wholesale trade; the rate under current law is 0.5 percent.

The bill would take effect on January 1, 2016, and apply to tax reports due on or after that date.

Methodology

The estimated fiscal impact is based on the Comptroller's franchise return databases and the 2016-2017 *Biennial Revenue Estimate*.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

84TH LEGISLATIVE REGULAR SESSION

April 21, 2015

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB32** by Bonnen, Dennis (relating to the computation and rates of the franchise tax; decreasing tax rates; amending provisions subject to a criminal penalty.), **Committee Report 1st House, Substituted**

Summary of Elements: HB 32, Committee Report 1st House, Substituted

(CSHB 32)

This analysis is for taxes effective in fiscal year 2017.

Revenue Changes

- The bill would permanently lower the franchise tax rate from 1 percent to 0.75 percent for taxable entities not primarily engaged in retail or wholesale trade.
- The bill would permanently lower the franchise tax rate from 0.5 percent to 0.375 percent for taxable entities primarily engaged in retail or wholesale trade.
- The bill would permanently lower the franchise tax rate from 0.575 to 0.331 percent for entities electing to use the EZ computation to determine franchise tax liability. The bill would increase the maximum total revenue threshold at which entities are eligible to elect the EZ computation from $10 million to $20 million.

Dollar Value of Revenue Changes in Fiscal 2017

- $1,291.4 million business tax reduction
- $1,291.4 million net tax reduction

Initial Impact in Fiscal 2017

- A net decrease to business of $1,291.4 million

- A net change to households of $0.0 million

Major Industry Initial Impact in Fiscal 2017

- The largest dollar decrease: $385.0 to the All Other Services industry
- The largest percentage decrease: 5.23 percent to the All Other Services industry

Initial Tax Impact by Industry

CSHB 32 was analyzed using the LBB's multi-tax model to determine the initial impact of the proposed changes relative to current state and local tax law. The results of the analysis are shown in Table 1 below.

Table 1
Comparison of Initial Tax Impact under Current Law vs. CSHB 32 Fiscal Year 2017
Comparisons Include Property Tax, Sales and Excise Taxes and Taxes on Business

	Current Law Liability	Percent of Total	Proposed Law Liability	Percent of Total	Change in Liability	Percent of Total	Percent Change in Liability
	[$ Million]	[%]	[$ Million]	[%]	[$ Million]	[%]	[%]
Taxes Paid by Business:							
Agriculture, Forestry, Fishing &	1,124.0	2.0%	1,120.14	2.0%	-3.9	0.3%	-0.34%
Mining	10,212.1	18.0%	10,099.50	18.2%	-112.6	8.7%	-1.10%
Utilities & Transportation	6,752.3	11.9%	6,672.90	12.0%	-79.4	6.1%	-1.18%
Construction	2,893.3	5.1%	2,849.18	5.1%	-44.2	3.4%	-1.53%
Manufacturing	7,353.0	13.0%	7,127.06	12.9%	-226.0	17.5%	-3.07%
Wholesale & Retail Trade	5,138.6	9.1%	4,932.04	8.9%	-206.6	16.0%	-4.02%
Information	3,563.9	6.3%	3,427.05	6.2%	-136.9	10.6%	-3.84%
Finance, Insurance & Real Estate	12,297.5	21.7%	12,200.69	22.0%	-96.9	7.5%	-0.79%
All Other Services	7,365.9	13.0%	6,980.93	12.6%	-385.0	29.8%	-5.23%
Total Taxes on Business:	56,700.9	100.0%	55,409.48	100.0%	-1,291.384	100.0%	-2.28%
Taxes Paid by Households:							
Residential Owner-Occupied	27,033.02		27,033.02		0		0
Personal Consumption	24,875.50		24,875.50		0		0
Total Taxes on Households:	51,908.52		51,908.52		0		0
Total Taxes	108,609.38		107,318.00		-1,291.384		-1.19%

Tax Incidence by Income Group

Economists commonly distinguish between the initial "impact" of a tax and its "incidence." The initial impact of a tax falls on taxpayers legally liable to pay the tax, while the incidence refers to the ultimate payer of the tax. For example, the initial impact of a business tax falls on the firm incurring the tax liability. Over time, to varying degrees, the tax cost is shifted so that the ultimate burden of the tax falls either to consumers in different retail prices, to employees in changed wages, to owners of land and capital in different investment returns, or most likely, to some combination of all three. The degrees to which a tax can be shifted, and the amount of time that elapses before a tax can be shifted, depend on the type of tax and the competitiveness of capital, labor, input material and product markets.

The results of this analysis for tax law changes effective with this proposal are shown in Table 2 and Table 3.

Summary of Tax Incidence Findings

CSHB 32 would ultimately reduce the taxes of all households by $903.3 million, or 1.07 percent, for tax law changes effective in 2017. The difference between the initial reduction in revenue of $1,291.4 million in fiscal 2017 and the ultimate reduction of $903.3 million in tax incidence is primarily due to the exporting of some of the tax changes to non-Texas consumers and businesses, changes in federal tax liability, and the absorption of some of the tax changes by business profits, some of which are received by non-Texas shareholders and business owners.

Final Incidence of Changes Effective in Fiscal 2017

- Lowest income level (income range from $0 to $34,161):
  A decrease of $73.6 million.
- Middle income level (income range from $61,955 to $94,319):
  A decrease of $147.7 million.
- Highest income level (income range from $147,411 and above):
  A decrease of $362.4 million.

Table 2

Tax Incidence by Income Quintile
Current Law vs. CSHB 32
Taxes Effective in Fiscal Year 2017
Comparisons Include Property Tax, Sales and Excise Taxes, and Taxes on Business

Quintile	Quintile Income: Lower Bound	Quintile Income: Upper Bound	Current Law Tax	Percent of Total	Proposed Law Tax	Percent of Total	Change in Tax	Percent of Reduction
	[$]	[$]	[$ Million]	[%]	[$ Million]	[%]	[$ Million]	[%]
1	0	34,161	6,806.7	8.1%	6,733.07	8.1%	-73.6	5.7%
2	34,161	61,955	9,645.6	11.5%	9,537.10	11.4%	-108.5	8.4%
3	61,955	94,319	13,243.5	15.7%	13,095.81	15.7%	-147.7	11.4%
4	94,319	147,411	19,203.8	22.8%	18,992.67	22.8%	-211.1	16.3%
5	147,411	and above	35,335.0	41.9%	34,972.59	42.0%	-362.4	28.1%
Total:			84,234.5		83,331.24		-903.3	69.9%
					Total Residents:		-903.3	69.9%
					Total Exported:		-388.1	30.1%

Summary of Effective Rate Findings

CSHB 32 would ultimately decrease the effective rate for all households by 0.09 percent for taxes effective in fiscal year 2017. The effective tax rate is the aggregate amount of tax in a given income class divided by the aggregate amount of personal income in that class.

Table 3
Effective Tax Rate by Income Quintile
Current Law vs. CSHB 32
Taxes Effective in Fiscal Year 2017
Comparisons Include Property Tax, Sales and Excise Taxes, and Taxes on Business

Quintile	Quintile Income: Lower Bound	Quintile Income: Upper Bound	Current Law Effective Rate	Proposed Law Effective Rate	Change in Effective Rate
	[$]	[$]	[%]	[%]	[%]
1	0	34,161	23.6%	23.3%	-0.25%
2	34,161	61,955	12.8%	12.6%	-0.14%
3	61,955	94,319	11.0%	10.9%	-0.12%
4	94,319	147,411	9.9%	9.8%	-0.11%
5	147,411	and above	6.4%	6.4%	-0.07%
		Total:	8.7%	8.6%	-0.09%

Source Agencies:

LBB Staff: UP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

84TH LEGISLATIVE REGULAR SESSION

April 21, 2015

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB32** by Bonnen, Dennis (Relating to decreasing the rates of the franchise tax.), **As Introduced**

Summary of Elements: HB 32, As Introduced

This analysis is for taxes effective in fiscal year 2017.

Revenue Changes

- The bill would permanently lower the franchise tax rate from 1 percent to 0.95 percent for taxable entities not primarily engaged in retail or wholesale trade.
- The bill would permanently lower the franchise tax rate from 0.5 percent to 0.475 percent for taxable entities primarily engaged in retail or wholesale trade.

Dollar Value of Revenue Changes in Fiscal 2017

- $224.9 million business tax reduction
- $224.9 million net tax reduction

Initial Impact in Fiscal 2017

- A net decrease to business of $224.9 million
- A net change to households of $0.0 million

Major Industry Initial Impact in Fiscal 2017

- The largest dollar decrease: $67.1 to the All Other Services industry
- The largest percentage decrease: 0.91 percent to the All Other Services industry

Initial Tax Impact by Industry

HB 32, As Introduced was analyzed using the LBB's multi-tax model to determine the initial impact of the proposed changes relative to current state and local tax law. The results of the analysis are shown in Table 1 below.

Table 1

Comparison of Initial Tax Impact under Current Law vs. HB 32, As Introduced Fiscal Year 2017

Comparisons Include Property Tax, Sales and Excise Taxes and Taxes on Business

	Current Law Liability	Percent of Total	Proposed Law Liability	Percent of Total	Change in Liability	Percent of Total	Percent Change in Liability
	[$ Million]	[%]	[$ Million]	[%]	[$ Million]	[%]	[%]
Taxes Paid by Business:							
Agriculture, Forestry, Fishing &	1,124.00	2.00%	1,123.34	2.00%	-0.7	0.30%	-0.06%
Mining	10,212.10	18.00%	10,192.49	18.00%	-19.6	8.70%	-0.19%
Utilities & Transportation	6,752.30	11.90%	6,738.47	11.90%	-13.8	6.10%	-0.20%
Construction	2,893.30	5.10%	2,885.65	5.10%	-7.7	3.40%	-0.27%
Manufacturing	7,353.00	13.00%	7,313.68	13.00%	-39.4	17.50%	-0.54%
Wholesale & Retail Trade	5,138.60	9.10%	5,102.65	9.00%	-36	16.00%	-0.70%
Information	3,563.90	6.30%	3,540.09	6.30%	-23.8	10.60%	-0.67%
Finance, Insurance & Real Estate	12,297.50	21.70%	12,280.67	21.70%	-16.9	7.50%	-0.14%
All Other Services	7,365.90	13.00%	7,298.86	12.90%	-67.1	29.80%	-0.91%
Total Taxes on Business:	56,700.90	100.00%	56,475.90	100.00%	-224.966	100.00%	-0.40%
Taxes Paid by Households:							
Residential Owner-Occupied	27,033.02		27,033.02		0		0
Personal Consumption	24,875.50		24,875.50		0		0
Total Taxes on Households:	51,908.52		51,908.52		0		0
Total Taxes	108,609.38		108,384.41		-224.966		-0.21%

Tax Incidence by Income Group

Economists commonly distinguish between the initial "impact" of a tax and its "incidence." The initial impact of a tax falls on taxpayers legally liable to pay the tax, while the incidence refers to the ultimate payer of the tax. For example, the initial impact of a business tax falls on the firm incurring the tax liability. Over time, to varying degrees, the tax cost is shifted so that the ultimate burden of the tax falls either to consumers in different retail prices, to employees in changed wages, to owners of land and capital in different investment returns, or most likely, to some combination of all three. The degrees to which a tax can be shifted, and the amount of time that elapses before a tax can be shifted, depend on the type of tax and the competitiveness of capital, labor, input material and product markets.

The results of this analysis for tax law changes effective with this proposal are shown in Table 2 and Table 3.

Summary of Tax Incidence Findings

HB 32, As Introduced would ultimately reduce the taxes of all households by $157.0 million, or 0.19 percent, for tax law changes effective in 2017. The difference between the initial reduction in revenue of $224.9 million in fiscal 2017 and the ultimate reduction of $157.0 million in tax incidence is primarily due to the exporting of some of the tax changes to non-Texas consumers and businesses, changes in federal tax liability, and the absorption of some of the tax changes by business profits, some of which are received by non-Texas shareholders and business owners.

Final Incidence of Changes Effective in Fiscal 2017

- Lowest income level (income range from $0 to $34,161):
  A decrease of $12.6 million.
- Middle income level (income range from $61,955 to $94,319):
  A decrease of $25.6 million.
- Highest income level (income range from $147,411 and above):
  A decrease of $63.3 million.

Table 2
Tax Incidence by Income Quintile
Current Law vs. HB 32, As Introduced
Taxes Effective in Fiscal Year 2017
Comparisons Include Property Tax, Sales and Excise Taxes, and Taxes on Business

Quintile	Quintile Income: Lower Bound	Quintile Income: Upper Bound	Current Law Tax	Percent of Total	Proposed Law Tax	Percent of Total	Change in Tax	Percent of Reduction
	[$]	[$]	[$ Million]	[%]	[$ Million]	[%]	[$ Million]	[%]
1	0	34,161	6,806.7	8.1%	6,794.07	8.1%	-12.6	5.6%
2	34,161	61,955	9,645.6	11.5%	9,627.00	11.5%	-18.6	8.3%
3	61,955	94,319	13,243.5	15.7%	13,217.91	15.7%	-25.6	11.4%
4	94,319	147,411	19,203.8	22.8%	19,166.87	22.8%	-36.9	16.4%
5	147,411	and above	35,335.0	41.9%	35,271.69	42.0%	-63.3	28.1%
Total:			84,234.5		84,077.54		-157.0	69.8%
					Total Residents:		-157.0	69.8%
					Total Exported:		-68.0	30.2%

Summary of Effective Rate Findings

HB 32, As Introduced would ultimately decrease the effective rate for all households by 0.02 percent for taxes effective in fiscal year 2017. The effective tax rate is the aggregate amount of tax in a given income class divided by the aggregate amount of personal income in that class.

Table 3
Effective Tax Rate by Income Quintile
Current Law vs. HB 32, As Introduced
Taxes Effective in Fiscal Year 2017
Comparisons Include Property Tax, Sales and Excise Taxes, and Taxes on Business

Quintile	Quintile Income: Lower Bound	Quintile Income: Upper Bound	Current Law Effective Rate	Proposed Law Effective Rate	Change in Effective Rate
	[$]	[$]	[%]	[%]	[%]
1	0	34,161	23.6%	23.5%	-0.04%
2	34,161	61,955	12.8%	12.7%	-0.02%
3	61,955	94,319	11.0%	11.0%	-0.02%
4	94,319	147,411	9.9%	9.9%	-0.02%
5	147,411	and above	6.4%	6.4%	-0.01%
		Total:	8.7%	8.7%	-0.02%

Source Agencies:

LBB Staff: UP, KK, SD