

SENATE AMENDMENTS

2nd Printing

By: Parker, Fallon

H.B. No. 2896

A BILL TO BE ENTITLED

AN ACT

relating to apportionment of certain receipts of a broadcaster under the franchise tax.

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

SECTION 1. Section 171.106, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) A taxable entity that is a broadcaster shall include in the numerator of the broadcaster's apportionment factor receipts arising from licensing income from broadcasting or otherwise distributing film programming by any means only if the legal domicile of the broadcaster's customer is in this state. In this subsection:

(1) "Broadcaster" means a taxable entity, not including a cable service provider or a direct broadcast satellite service, that is a:

(A) television station licensed by the Federal Communications Commission;

(B) television broadcast network;

(C) cable television network; or

(D) television distribution company.

(2) "Customer" means a person, including a licensee, that has a direct connection or contractual relationship with a broadcaster under which the broadcaster derives revenue.

(3) "Film programming" means all or part of a live or

1 recorded performance, event, or production intended to be
2 distributed for visual and auditory perception by an audience.

3 (4) "Programming" includes news, entertainment,
4 sporting events, plays, stories, or other literary, commercial,
5 educational, or artistic works.

6 SECTION 2. This Act applies only to a report originally due
7 on or after the effective date of this Act.

8 SECTION 3. This Act takes effect January 1, 2017.

ADOPTED

MAY 26 2015

Lotay Spaw
Secretary of the Senate

By: *Paul Bellercom*

H.B. No. 2896

Substitute the following for H.B. No. 2896:

By: *[Signature]*

C.S.H.B. No. 2896

A BILL TO BE ENTITLED

AN ACT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

relating to apportionment of certain receipts of a broadcaster under the franchise tax.

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

SECTION 1. Section 171.106, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) A taxable entity that is a broadcaster shall include in the numerator of the broadcaster's apportionment factor receipts arising from licensing income from broadcasting or otherwise distributing film programming by any means only if the legal domicile of the broadcaster's customer is in this state. In this subsection:

(1) "Broadcaster" means a taxable entity, not including a cable service provider or a direct broadcast satellite service, that is a:

(A) television station licensed by the Federal Communications Commission;

(B) television broadcast network;

(C) cable television network; or

(D) television distribution company.

(2) "Customer" means a person, including a licensee, that has a direct connection or contractual relationship with a broadcaster under which the broadcaster derives revenue.

(3) "Film programming" means all or part of a live or

1 recorded performance, event, or production intended to be
2 distributed for visual and auditory perception by an audience.

3 (4) "Programming" includes news, entertainment,
4 sporting events, plays, stories, or other literary, commercial,
5 educational, or artistic works.

6 SECTION 2. This Act applies only to a report originally due
7 on or after the effective date of this Act.

8 SECTION 3. This Act takes effect January 1, 2018.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 27, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2896 by Parker (Relating to apportionment of certain receipts of a broadcaster under the franchise tax.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2896, As Passed 2nd House: 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 (\$6,211,000) beginning in the 2018-19 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	\$0
2017	\$0
2018	(\$3,077,000)
2019	(\$3,134,000)
2020	(\$3,179,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to specify receipts to be included in the numerator of the apportionment factor for certain taxable entities. A

taxable entity that is a broadcaster would include in the numerator receipts arising from licensing income from broadcasting or otherwise distributing film programming by any means only if the legal domicile of the broadcaster's customer is in this state.

The bill would define "broadcaster," "customer," "film programming" and "programming."

The bill would take effect on January 1, 2018, and apply to a report due on or after that date.

Methodology

Under current law, the receipt from a license to use a copyright is a receipt in this state if the copyrighted material is used in this state. For broadcasting the use of the copyright for the broadcast is treated as occurring where the consumer views, hears, or otherwise benefits from the broadcast. This bill would source the receipt based on the legal domicile of the customer who, by the definition in the bill, has a direct connection or contractual relationship with the broadcaster. The legal domicile of a corporation or limited liability company is the state of formation. The legal domicile of a partnership, trust, or joint venture is the principal place of business of the partnership, trust, or joint venture. The principal place of business of a partnership, trust, or joint venture is the location of its day-to-day operations.

The estimated fiscal impact is based on information from the Comptroller's franchise tax data files on broadcaster and information provided by the Motion Picture Association of America.

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 22, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2896 by Parker (relating to apportionment of certain receipts of a broadcaster under the franchise tax.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2896, Committee Report 2nd 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 (\$6,211,000) beginning in the 2018-19 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	\$0
2017	\$0
2018	(\$3,077,000)
2019	(\$3,134,000)
2020	(\$3,179,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to specify receipts to be included in the numerator of the apportionment factor for certain taxable entities. A

taxable entity that is a broadcaster would include in the numerator receipts arising from licensing income from broadcasting or otherwise distributing film programming by any means only if the legal domicile of the broadcaster's customer is in this state.

The bill would define "broadcaster," "customer," "film programming" and "programming."

The bill would take effect on January 1, 2018, and apply to a report due on or after that date.

Methodology

Under current law, the receipt from a license to use a copyright is a receipt in this state if the copyrighted material is used in this state. For broadcasting the use of the copyright for the broadcast is treated as occurring where the consumer views, hears, or otherwise benefits from the broadcast. This bill would source the receipt based on the legal domicile of the customer who, by the definition in the bill, has a direct connection or contractual relationship with the broadcaster. The legal domicile of a corporation or limited liability company is the state of formation. The legal domicile of a partnership, trust, or joint venture is the principal place of business of the partnership, trust, or joint venture. The principal place of business of a partnership, trust, or joint venture is the location of its day-to-day operations.

The estimated fiscal impact is based on information from the Comptroller's franchise tax data files on broadcaster and information provided by the Motion Picture Association of America.

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 14, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2896 by Parker (Relating to apportionment of certain receipts of a broadcaster under the franchise tax.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2896, As Engrossed: 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 (\$3,089,000) 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	\$0
2017	(\$3,089,000)
2018	(\$3,077,000)
2019	(\$3,134,000)
2020	(\$3,179,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to specify receipts to be included in the numerator of the apportionment factor for certain taxable entities. A

taxable entity that is a broadcaster would include in the numerator receipts arising from licensing income from broadcasting or otherwise distributing film programming by any means only if the legal domicile of the broadcaster's customer is in this state.

The bill would define "broadcaster," "customer," "film programming" and "programming."

The bill would take effect on January 1, 2017, and apply to a report due on or after that date.

Methodology

Under current law, the receipt from a license to use a copyright is a receipt in this state if the copyrighted material is used in this state. For broadcasting the use of the copyright for the broadcast is treated as occurring where the consumer views, hears, or otherwise benefits from the broadcast. This bill would source the receipt based on the legal domicile of the customer who, by the definition in the bill, has a direct connection or contractual relationship with the broadcaster. The legal domicile of a corporation or limited liability company is the state of formation. The legal domicile of a partnership, trust, or joint venture is the principal place of business of the partnership, trust, or joint venture. The principal place of business of a partnership, trust, or joint venture is the location of its day-to-day operations.

The estimated fiscal impact is based on information from the Comptroller's franchise tax data files on broadcaster and information provided by the Motion Picture Association of America.

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 27, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2896** by Parker (relating to apportionment of certain receipts of a broadcaster under the franchise tax.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2896, 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 (\$6,124,000) 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	(\$3,035,000)
2017	(\$3,089,000)
2018	(\$3,077,000)
2019	(\$3,134,000)
2020	(\$3,179,000)

Fiscal Analysis

This bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to specify receipts to be included in the numerator of the apportionment factor for certain taxable entities. A

taxable entity that is a broadcaster would include in the numerator receipts arising from licensing income from broadcasting or otherwise distributing film programming by any means only if the legal domicile of the broadcaster's customer is in this state.

The bill would define "broadcaster," "customer," "film programming" and "programming."

This bill would take effect on January 1, 2016, and apply to a report due on or after that date.

Methodology

Under current law, the receipt from a license to use a copyright is a receipt in this state if the copyrighted material is used in this state. For broadcasting the use of the copyright for the broadcast is treated as occurring where the consumer views, hears, or otherwise benefits from the broadcast. This bill would source the receipt based on the legal domicile of the customer who, by the definition in the bill, has a direct connection or contractual relationship with the broadcaster. The legal domicile of a corporation or limited liability company is the state of formation. The legal domicile of a partnership, trust, or joint venture is the principal place of business of the partnership, trust, or joint venture. The principal place of business of a partnership, trust, or joint venture is the location of its day-to-day operations.

The estimated fiscal impact is based on information from the Comptroller's franchise tax data files on broadcaster and information provided by the Motion Picture Association of America.

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 12, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2896 by Parker (Relating to apportionment of certain receipts of a broadcaster under the franchise tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2896, 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 (\$6,124,000) 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	(\$3,035,000)
2017	(\$3,089,000)
2018	(\$3,077,000)
2019	(\$3,134,000)
2020	(\$3,179,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to specify receipts to be included in the numerator of the apportionment factor for certain taxable entities. A

taxable entity that is a broadcaster would include in the numerator receipts arising from licensing income from broadcasting or otherwise distributing film programming by any means only if the legal domicile of the broadcaster's customer is in this state.

The bill would define "broadcaster," "customer," "film programming" and "programming."

This bill would take effect on January 1, 2016, and apply to a report due on or after that date.

Methodology

Under current law, the receipt from a license to use a copyright is a receipt in this state if the copyrighted material is used in this state. For broadcasting the use of the copyright for the broadcast is treated as occurring where the consumer views, hears, or otherwise benefits from the broadcast. This bill would source the receipt based on the legal domicile of the customer who, by the definition in the bill, has a direct connection or contractual relationship with the broadcaster. The legal domicile of a corporation or limited liability company is the state of formation. The legal domicile of a partnership, trust, or joint venture is the principal place of business of the partnership, trust, or joint venture. The principal place of business of a partnership, trust, or joint venture is the location of its day-to-day operations.

The estimated fiscal impact is based on information from the Comptroller's franchise tax data files on broadcaster and information provided by the Motion Picture Association of America.

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 27, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2896 by Parker (relating to apportionment of certain receipts of a broadcaster under the franchise tax.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: UP, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

84TH LEGISLATIVE REGULAR SESSION

April 12, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2896 by Parker (Relating to apportionment of certain receipts of a broadcaster under the franchise tax.), **As Introduced**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: UP, KK