LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 19, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB28** by Bonnen, Dennis (relating to the use of certain surplus state revenue, in certain circumstances, to adjust franchise tax rates to phase out the franchise tax and to the expiration of that tax.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB28, Committee Report 1st House, Substituted: an impact of $0 through the biennium ending August 31, 2019.

However, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund and the General Revenue Fund of up to ($3,500,000,000) for the 2020-21 and subsequent biennia. 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
2018	$0
2019	$0
2020	$0
2021	$0
2022	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304
2018	$0
2019	$0
2020	($755,110,434)
2021	($773,592,566)
2022	($792,951,179)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by adding provisions that would require the Comptroller to make determinations and calculations and take actions that would lead to the phase out and expiration of the franchise tax.

The bill would require the Comptroller after September 1, but before December 15 of each odd-numbered year, to determine the ending cash balance of General Revenue-Related funds available for certification for the preceding biennium. The Comptroller would be required to determine franchise tax rates that if applied beginning January 1 of the following year are estimated to yield an amount of revenue for the state fiscal biennium in which the determination is made equal to the lesser of the ending cash balance or $3.5 billion.

Not later than December 15 of each odd-numbered year the Comptroller would determine adjusted tax rates which would be equal to the rates from the prior biennium less the rates calculated to raise the amount of revenue described above. The Comptroller would adopt and publish the adjusted rates.

In the fiscal year in which the adjusted rates are less than 15 percent of the rates in effect on September 1, 2017, the franchise tax would expire on December 31 of that year. The Comptroller would publish notice that a taxable entity is not required to pay the tax or to file a report.

The provisions relating to audits, deficiencies, redeterminations and refunds of tax would remain in effect until barred by limitations. Sections of Chapter 171 related to confidentiality of records would continue to apply after the expiration of Chapter 171.

This bill would take effect on September 1, 2019, and apply to franchise tax reports due on or after January 1, 2020.

Methodology

The bill will have negative fiscal implications to the Property Tax Relief Fund and the General Revenue Fund, the amount of which will depend on the ending balance of General Revenue Related (GR-R) Funds available for certification after fiscal year 2019. Because they depend on both future GR-R revenue collections and legislative appropriation decisions, which are unknown, biennial ending balances for years after 2019 cannot be determined. However, over the last 10 biennia, the average biennial ending balances in general revenue related funds available for certification has totaled $4.03 billion. Therefore the maximum biennial franchise tax reduction of $3.5 billion would be triggered during an average biennium.

The table above assumes that the 2018-19 GR-R ending certification balance equals the 2016-17 GR-R ending certification balance of $1.5 billion as estimated in the *Biennial Revenue Estimate*. The 2016-17 estimated ending certification balance is less than the average balance over the last 10 biennia. The estimate does not account for future rate reductions, although further rate reductions are expected in 2022; therefore the revenue loss projections after fiscal year 2021 represent a minimum amount of tax reduction that is expected from the implementation of the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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