

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 7, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB42 by Romero, Jr. (Relating to a franchise tax credit for certain taxable entities offering postsecondary tuition assistance.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB42, As Introduced: an impact of \$0 through the biennium ending August 31, 2019.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of (\$8,727,000) for 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
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	(\$4,278,000)
2019	(\$4,449,000)
2020	(\$4,627,000)
2021	(\$4,812,000)
2022	(\$5,004,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to add new Subchapter L-1 to establish a tax credit for certain entities that provide tuition assistance. To be

eligible for a credit, a taxable entity would have to provide tuition assistance for an employee attending a postsecondary educational institution, be located in a neighborhood empowerment zone as defined in the Local Government Code, and have less than \$250 million in total revenue from its entire business.

This bill would establish various limits for the credit amount based on an entity's total revenue. For entities with less than \$10 million in total revenue, the credit amount would be limited to the lesser of the amount of tuition assistance provided or \$10,000. For entities with at least \$10 million but less than \$50 million in total revenue, the credit amount would be limited to the lesser of the amount of tuition assistance provided or the greater of half the amount of franchise tax due for the report period after all other credits have been applied or \$10,000. For entities with at least \$50 million but less than \$250 million in total revenue, the credit amount would be limited to the lesser of the amount of tuition assistance provided or the lesser of half the amount of franchise tax due for the report period after all other credits have been applied or \$50,000.

The credit for a period could not exceed the amount of franchise tax due for the report after all other applicable credits. The taxable entity could not assign or transfer the credit unless all assets of the taxable entity are transferred in the same transaction. The taxable entity could also not carry forward credits to future reporting periods.

The Comptroller would be required to adopt a form and rules to implement the credit.

The bill would take effect January 1, 2018, and apply only to reports due on or after that date. The provisions of the bill would expire on December 31, 2022.

Methodology

Neighborhood Empowerment Zones (NEZs) are locally implemented and administered and there is no statewide registry. Cities that do have details about their NEZs posted online show that these zones are used for a variety of purposes and are located in very different types of areas, from neighborhoods of single-family homes to central business districts. Many of the NEZs that were located in business districts, and would therefore have non-negligible franchise tax implications, were located in the City of Fort Worth. As a result, the Comptroller estimated that approximately 60 percent of the total credit taken under this bill would be from Fort Worth-area firms.

The Comptroller relied on sales tax and franchise tax records for business and outlet addresses. Through GIS analysis, the Comptroller was able to determine which Fort Worth-area taxpayers were "located" within a NEZ, and was able to estimate the amount of credits available to these firms under this bill. This amount was then adjusted using assumptions regarding the portion of firms that offer tuition assistance programs and the number of non-Fort Worth area firms that would earn credits under this bill.

Ambiguity associated with some terms in the bill contribute to the bill's estimated fiscal impact. First, the term "located" could have multiple meanings, ranging from having any presence at all such as an outlet or sales office to being the entity's primary business location. Secondly, the bill does not specify that only tuition assistance paid to employees working out of locations within a NEZ can be used as a franchise tax credit. This would result in tuition assistance paid out to employees working in non-NEZ locations, or even out-of-state locations, being eligible for a Texas franchise tax credit as long as the entity has one location within a NEZ. As a result, the Comptroller assumed that firms earning credits under this bill would earn an amount equal to the maximum allowed under this bill.

A 2015 survey conducted by the Society for Human Resource Management found that approximately 60 percent of firms offer some form of tuition assistance for their employees.

The estimate assumes an annual growth rate of approximately 4 percent due to a likely increase in both the creation of NEZs by municipalities across the state and the amount of Texas franchise taxpayers offering tuition assistance to employees.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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