

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 28, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB388 by Murphy (Relating to the phaseout and repeal of the franchise tax; lowering the rates of the tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB388, As Introduced: a negative impact of (\$754,967,000) 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 (\$1,744,531,000) 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	(\$754,967,000)
2020	(\$1,609,156,000)
2021	(\$2,465,913,000)
2022	(\$2,527,554,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>Property Tax Relief Fund</i> 304
2018	\$0	(\$820,432,000)
2019	(\$754,967,000)	(\$924,099,000)
2020	(\$1,609,156,000)	(\$951,829,000)
2021	(\$2,465,913,000)	(\$975,049,000)
2022	(\$2,527,554,000)	(\$999,525,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by lowering the tax rates applicable to the franchise tax base in four steps over the period from fiscal 2018 to

2021. The bill would repeal Chapter 171 of the Tax Code (franchise tax) effective January 1, 2022. A taxable entity subject to the tax on December 31, 2021 would be required to file a final report and pay a transitional tax equal to the tax the taxable entity would have paid in 2022 if the tax had not been repealed. The report and payment would be due on or before May 15, 2022.

The proposed rates for 2018 to 2022 (including the transitional tax) are shown in the table below.

Rate Applicable to	Current Law	Proposed 2018	Proposed 2019	Proposed 2020	Proposed 2021	Proposed 2022 (Transitional Tax)
Other than wholesale and retail trade	0.750%	0.60%	0.450%	0.30%	0.15%	0.15%
Wholesale and retail trade	0.375%	0.30%	0.225%	0.15%	0.075%	0.075%
E-Z Form	0.331%	0.265%	0.199%	0.132%	0.066%	0.066%

The bill would provide that the repeal of Chapter 171 would not affect audits, deficiencies, redeterminations, and refunds of franchise tax until barred by limitations. The repeal would not affect the status of a taxable entity that has its business privileges or certificate revoked or a suit filed against it.

Except as otherwise provided, the bill would take effect January 1, 2018.

Methodology

The estimated fiscal impact is based on the Comptroller's 2018-2019 Biennial Revenue Estimate and the Comptroller's franchise tax files. The estimate assumes the tax rates applicable for reports due on or after January 1, 2021 would apply to the transitional tax due May 15, 2022.

As drafted, the saving provisions in this bill do not include retaining Section 171.206 which provides confidentiality for roughly four million franchise tax reports and related records. If all existing franchise tax records become public, the Comptroller anticipates considerable public interest in obtaining this previously unavailable information which would require additional staff to support the Open Records Division.

If the franchise tax records remain confidential, there would be no administrative costs to the Comptroller's Office.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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