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: **HB599** by Schofield (Relating to the decrease of the rates of the franchise tax under certain circumstances and the expiration of that tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB599, As Introduced: an impact of $0 through the biennium ending August 31, 2019.

Additionally, the bill is estimated to have a direct impact of a revenue loss to the Property Tax Relief Fund of ($1,628,904,000) for the 2020-21 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	($689,482,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Property Tax Relief Fund* 304
2018	$0	$0
2019	$0	$0
2020	$0	($804,606,000)
2021	$0	($824,298,000)
2022	($689,482,000)	($999,525,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by adding provisions that would decrease the rates of the franchise tax under certain circumstances.

Adjustments to the rates of franchise tax would occur if on January 1 of an even numbered year beginning in 2018 the Comptroller's Certification Revenue Estimate for the current state fiscal biennium for general revenue-related funds available for certification exceeds the previous state fiscal biennium revenue by at least six percent.

If the condition were met, the current tax rate of 0.75 percent would be reduced by subtracting 0.25 from the rate. The tax rate of 0.375 percent would be reduced by subtracting 0.125 from the rate. The E-Z tax rate of 0.331 percent would be reduce by subtracting 0.111 from the rate. The adjusted rates would apply to a report due on or after January 1 of the year the adjustments were made. The adjusted rates would remain in effect until an additional reduction in the rates could be made.

If the rates of franchise tax were reduced to zero a taxable entity does not owe any tax and is not required to file a report.

The Comptroller could adopt rules related to making required determinations, and would publish the franchise tax rates in effect for a tax year in the Texas Register and on the Comptroller's Internet website not later than January 15 of that year.

Chapter 171 of the Tax Code would expire on December 31 of the year in which the franchise tax rates are reduced to zero. The provisions related to audits, deficiencies, redeterminations and refunds of tax would remain in effect until barred by limitation.

The bill would take effect on September 1, 2017, and apply to a report due on or after January 1, 2018.

Methodology

No fiscal impact is assumed for the 2018-19 biennium given the current revenue outlook. Five of the past nine certification estimates would have produced an adjustment in the franchise tax had the bill been in effect, approximately 56 percent of the estimates. The estimated fiscal impact assumes adjustments are made in 2020 and 2022. The fiscal impact is based on subtractions from the franchise tax rates specified in the bill multiplied by 56 percent to account for the probability of a reduction being triggered.

The bill as written could make it impossible for the Comptroller to complete the Biennial Revenue Estimate (BRE) to determine a final estimate of general-revenue related funds available for certification. If the initial BRE projection results in growth of general-revenue related funds available for certification in excess of six percent, the BRE would need to be adjusted downward based on the tax cut, thereby producing a new estimate. The revised estimate may result in a growth rate of less than six percent, resulting in no projected franchise tax rate reduction and thus returning the BRE projection to the original estimate.

It should also be noted that if the CRE projects growth in excess of six percent, resulting in a franchise tax rate reduction, the result may be revenue collections less than appropriations for the biennium.

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