LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 2, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB52** by Hinojosa (Relating to a franchise tax credit pilot program for taxable entities that contribute to an employee dependent care flexible spending account.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB52, As Introduced: an impact of $0 through the biennium ending August 31, 2021.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($665,000) for the 2020-21 biennium.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	$0
2021	$0
2022	$0
2023	$0
2024	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *Property Tax Relief Fund* 304
2020	($165,000)
2021	($500,000)
2022	($500,000)
2023	$0
2024	$0

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by adding a Subchapter P to establish a tax credit pilot program for employer contributions to dependent care flexible spending accounts.

The bill would define "dependent care flexible spending account" as authorized by the Internal Revenue Code of 1986, as effective on January 1, 2019.

The tax credit would be available to taxable entities with not more than 500 employees who made contributions to the dependent care flexible spending account of each employee who receives an annual salary or wage of not more than $65,000. The amount of credit in connection with each eligible employee would equal the lesser of 50 percent of the contributions or $2,500. The total amount of credits allowed for a report would be limited to the amount of franchise tax due after applying all other credits.

The Comptroller would be required to prepare a report by September 1, 2022 that evaluates the effect of the pilot program on contributions to dependent care flexible spending accounts. The report would be required to recommend whether the credit allowed under the program should be reestablished.

This bill would take effect on September 1, 2019, and apply to contributions made on or after that date and only to reports due on or after January 1, 2020. The pilot program would expire December 31, 2021.

Methodology

The estimated fiscal impact of this bill is based on data from a similar credit available under the franchise tax prior to 2008, as well as industry survey data regarding employee benefits and dependent care flexible spending accounts. This estimate assumes that taxpayers would be able to claim the credit for reports originally due on or after January 1, 2022 in connection with contributions made prior to the expiration of the subchapter.

According to IRS rules, funds left unused in dependent care flexible spending accounts at the end of the plan year are forfeited back to employers. As a result, the bill would allow franchise taxpayers to earn credits on contributions that are ultimately returned to the taxpayer.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK, SD