

**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: HB966** by Dutton (Relating to providing a sales and use tax refund or franchise tax credit for businesses that employ certain apprentices.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB966, As Introduced: a negative impact of (\$74,270,000) through the biennium ending August 31, 2021.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$27,167,000)
2021	(\$47,103,000)
2022	(\$54,122,000)
2023	(\$62,193,000)
2024	(\$71,475,000)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$26,854,000)	(\$313,000)	5.0
2021	(\$46,790,000)	(\$313,000)	5.0
2022	(\$53,809,000)	(\$313,000)	5.0
2023	(\$61,880,000)	(\$313,000)	5.0
2024	(\$71,162,000)	(\$313,000)	5.0

**Fiscal Analysis**

The bill would amend Chapters 151 and 171 of the Tax Code to create a sales and use tax refund or franchise tax credit for businesses that employ certain apprentices. The bill would define apprentices that qualify for a refund or credit as those that participate in a program that is either registered with the U.S. Department of Labor (DoL) and qualified to receive funding provided through the Texas Workforce Commission under Chapter 133 of the Education Code, or certified

as an industry-recognized apprenticeship program by an entity determined to meet DoL criteria.

To be eligible for the sales and use tax refund, a person must employ at least one qualified apprentice for at least seven months during the calendar year. The bill would make a person ineligible for a refund for a calendar year if the person will, as a taxable entity or as a member of a combined group that is a taxable entity, claim a franchise tax credit in connection with wages paid to certain apprentices on a report covering all or part of that calendar year. A person is also ineligible to receive a refund in connection with wages paid to an individual apprentice for more than 48 months.

The amount of refund in connection with each apprentice would be limited to the lesser of 50 percent of the wages paid by the person to the apprentice during the calendar year or \$2,500. The total refund amount allowed per calendar year would be limited to the lesser of the total sales and use taxes paid by the person during the calendar year or the maximum refund amount allowed in connection with each apprentice for not more than five apprentices. The bill would require a person to apply to the Comptroller's Office to receive the refund.

To be eligible for the franchise tax credit, a taxable entity must employ at least one qualified apprentice for at least seven months during the period on which the franchise tax report is based. The bill would make a taxable entity ineligible for a credit if the entity, or a member of its combined group, received a sales and use tax refund in connection with wages paid to certain apprentices during the period on which the franchise tax report is based. A taxable entity is also ineligible to claim a credit in connection with wages paid to an individual apprentice for more than 48 months.

The amount of credit in connection with each apprentice would be limited to the lesser of 50 percent of the wages paid by the taxable entity to the apprentice or \$2,500. The total credit amount allowed for each report would be limited to the lesser of the amount of franchise tax due after applying all other applicable credits or the maximum credit amount allowed in connection with each apprentice for not more than five apprentices. The bill would require the taxable entity to apply for the credit on or with the franchise tax report for the period for which the credit is claimed. The bill would only allow taxable entities to claim a credit in connection with wages paid during the accounting period on which the franchise tax report is based.

The bill would require the Comptroller's Office to create a form that taxable entities must use when applying for the credit.

This bill would take effect January 1, 2020. A person may apply for a refund of sales and use taxes paid only in connection with wages paid on or after the bill's effective date. A taxable entity may claim a franchise tax credit only in connection with wages paid on or after the effective date of the bill, and only on a franchise tax report due on or after that date.

## **Methodology**

The fiscal impact is based on data received from the U.S. Department of Labor, the Texas Workforce Commission, and registered apprenticeship sponsoring organizations. The Comptroller's Office expects it to be more advantageous for taxpayers to receive a refund on sales and use taxes paid rather than as a franchise tax credit due to the credit limitations in the bill applying to a combined group, among other reasons. As a result, the entire fiscal impact of this bill is shown as a loss to the General Revenue Fund.

The General Revenue cost estimate reflects the funds necessary to hire five accounts examiner IIIs

to process, validate, and refund sales tax or franchise tax credits for approximately 7,000 businesses that currently employ a qualified apprentice. The verification and validation process will be time-consuming. The Comptroller's office would need to first verify that the business has a certified industry-recognized apprenticeship program or is qualified to receive funding provided through the Texas Workforce Commission. CPA would need to verify the refund is only the state tax portion, versus the local sales tax portion, determine that the months of employment coincide with the business's reporting periods, make adjustments if there is a carry-over of taxes across filing quarters or years, and maintain these records. CPA would also need to cross-reference again tax types to ensure against any double dipping or fraud.

### **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