

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 16, 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: HB3423 by Allison (Relating to ad valorem and franchise tax credits for donations to school districts to create or support career and technical education programs or courses.),
As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB3423, As Introduced: a negative impact of (\$998,000) through the biennium ending August 31, 2021 relating to Comptroller administrative costs to implement provisions of the bill.

Additionally, the table below includes the estimated loss to the Property Tax Relief Fund of (\$267,000,000) 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. The table also includes estimated Donations to School Districts for Career and Technical Education Programs.

Additionally, the bill's provision for a property tax credit for donations to create or support career and technical education programs would create a cost to the state through the school funding formulas by reducing the taxes that would normally be paid to school districts by certain property owners which would increase state funding. The bill does not adjust the school funding formulas or the school district rollback rate calculations to account for the tax credit. Therefore, these provisions cannot be estimated.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$499,000)
2021	(\$499,000)
2022	(\$499,000)
2023	(\$499,000)
2024	(\$499,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Property Tax Relief Fund 304	Probable Revenue Gain/(Loss) from Donations to School Districts for Career and Technical Education Programs
2020	(\$499,000)	(\$130,000,000)	\$200,000,000
2021	(\$499,000)	(\$137,000,000)	\$211,000,000
2022	(\$499,000)	(\$142,000,000)	\$218,000,000
2023	(\$499,000)	(\$148,000,000)	\$228,000,000
2024	(\$499,000)	(\$154,000,000)	\$237,000,000

Fiscal Year	Change in Number of State Employees from FY 2019
2020	7.0
2021	7.0
2022	7.0
2023	7.0
2024	7.0

Fiscal Analysis

The bill would amend Chapter 31 of the Tax Code, regarding property tax collections, to add a new section regarding school district tax credit for donations to create or support career and technical education programs or courses. The bill would define "business entity", "Career and technical education", and "principal office".

The bill would provide that an owner of real property located in a school district is entitled to a credit against the taxes imposed in a tax year on that property by the district if:

- the property owner is a business entity;
- the property owner's principal office is located in the district; and
- the property owner donates money to the district to create a new career and technical education program or course in the district or to expand an existing career and technical education program or course in the district.

The amount of the credit to which a property owner is entitled under this section against the taxes imposed by the school district in a tax year would be a portion of the donation that would vary depending on the amount of the donation with a maximum of \$5 million. The credit would not exceed the amount of taxes imposed by the school district on the property owner's property in that tax year.

The property owner would be required to file an application containing specified information with the chief appraiser in which the property is located. The chief appraiser would be required to forward a copy of the application to the Comptroller and to the school district. The Comptroller would be required to determine whether the donation qualifies for the credit. The property owner would be permitted to appeal the Comptroller's determination in district court.

The Comptroller would be required to adopt rules to administer the program, to prescribe the application form, and governing appeals to district court.

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, to add new Subchapter K-2 to establish a tax credit for entities that donate money to a school district in Texas to create a new or expand an existing career and technical education program or course in the district if the principal office of the entity is not located in the district to which the entity makes a donation. The bill would require a school district that receives a donation to issue a receipt to the taxable entity each year listing the amount of donation made.

The amount of the credit would be equal to the lesser of \$5 million or, for donations not exceeding \$100,000, 50 percent of the donation; for donations exceeding \$100,000 but not exceeding \$300,000, \$50,000 plus 100 percent of the amount of the donation exceeding \$100,000; or for donations exceeding \$300,000, \$250,000 plus 50 percent of the amount exceeding \$300,000. The amount of the credit for each report could not exceed the amount of franchise tax due after any other applicable credits. The bill would only allow taxable entities to claim a credit in connection with donations made during the accounting period on which the franchise tax report is based.

The bill would take effect January 1, 2020 but only if the constitutional amendment proposed by the 86th Legislature, Regular Session providing for credit against ad valorem taxes imposed by a school district on the property owned by a business entity that donates money to the school district to create or support career and technical education programs or courses is approved by voters.

Methodology

The bill provides for equal dollar value credits to be earned against either property tax or franchise tax, but limits the property tax credits to a business that donates to the school district in which the principal office of the business is located. Consequently, this estimate assumes that most donation activity and credit claims will be in relation to franchise tax, and only the potential fiscal implications of the franchise tax credit provisions of the bill are estimated above.

Businesses reportedly spend an average of \$1,252 per employee annually for training, including both in-house and outsourced training expenditures. In view of the high ratio of tax credit to donation amount (in the case of a \$300,000 donation, \$250,000 or 83 percent would be recaptured by the donor in the form of a tax credit), it would be expected that a high percentage of franchise taxpayers with significant pre-credit franchise tax liabilities would choose to donate to school districts for career and technical education programs that meet their workforce training requirements. Despite the lack of provision for carryforward of the credits, it is assumed that franchise taxpayers would calibrate donations to maximize the realized value of credits earned. This estimate assumes that on average 65 percent of the value of donations would be realized as franchise tax credits used to reduce franchise tax liabilities.

The bill's provision for a property tax credit for donations to create or support career and technical education programs would create a cost to the state through the school funding formulas by reducing the taxes that would normally be paid to school districts by certain property owners which would increase state funding. The bill does not adjust the school funding formulas or the school district rollback rate calculations to account for the tax credit. The number and amount of tax credits that would be granted by school districts to businesses with principal office locations in the districts cannot be estimated.

The Comptroller's office reports that administrative costs to implement provisions of the bill would total \$499,000 per year starting in fiscal year 2020. The administrative cost estimate reflects the funds necessary to hire six accounts examiner IIIs and one attorney IV to administer the ad valorem and franchise tax credit provisions. Franchise tax accounts examiners would need

to process, validate, and refund franchise tax credits. Property tax accounts examiners would need to research and validate credit requests to determine that the business has its principal office within the school district where the donation was made and whether it is to a new CTE class or program in the district. The attorney would be necessary to address any determination appeals or apportioning issues.

Local Government Impact

The estimated fiscal implication to units of local government is reflected in the table above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK, SD, SJS