

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 13, 2019**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Finance

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

**IN RE: SB412** by Hughes (Relating to a franchise tax credit based on the ad valorem taxes paid by a taxable entity on certain inventory.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB412, As Introduced: a negative impact of (\$776,000) 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 (\$571,798,000) 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 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	(\$388,000)
2021	(\$388,000)
2022	(\$388,000)
2023	(\$388,000)
2024	(\$388,000)

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

Fiscal Year	Probable Revenue (Loss) from Property Tax Relief Fund 304	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2019
2020	(\$270,504,000)	(\$388,000)	6.0
2021	(\$301,294,000)	(\$388,000)	6.0
2022	(\$332,576,000)	(\$388,000)	6.0
2023	(\$363,780,000)	(\$388,000)	6.0
2024	(\$394,274,000)	(\$388,000)	6.0

## **Fiscal Analysis**

The bill would add a new subchapter to Chapter 171 of the Tax Code, allowing certain qualified entities to earn franchise tax credits for ad valorem taxes paid on certain inventory.

The bill would allow retailers to earn a franchise tax credit equal to the difference between the amount of ad valorem taxes paid based on the taxable value of the entity's retail inventory and the amount of ad valorem taxes the retailer would have if the taxable value of that inventory were an amount determined by dividing the entity's total annual sales by 12.

The bill would define total annual sales as the total of the sales price from every sale from a retailer's retail inventory for a 12-month period, other than a sale at wholesale or a sale to another retailer. The bill would define sales price as the total amount of money paid or to be paid to a retailer for the purchase of an item of retail inventory.

The bill would require a qualified entity to apply for the credit using a form promulgated by the Comptroller's Office. On its application, the entity would be required to report its total annual sales for the 12-month period for which the credit is claimed. Under the bill, the burden of establishing eligibility for and the value of the credit is on the qualified entity.

The bill would allow carryforward for not more than three consecutive reports of any unused amount of credit. The total credit claimed for a report, including the amount of any carryforward, could not exceed the amount of franchise tax due for the report after any other applicable credits.

The bill would allow a retailer to sell or assign all or part of any credit earned. Any entity to which all or part of the credit is sold or assigned may also sell or assign all or part of the credit to another entity. The sale or assignment of the credit would not extend the period for which a credit may be carried forward and would not increase the total amount of the credit that may be claimed.

The bill would provide for the comptroller to adopt rules relating to the new subchapter.

The bill would take effect January 1, 2020, and would only apply to a report originally due on or after that date.

## **Methodology**

The estimated revenue loss of the bill is based on retail inventory data from County Appraisal Districts and the U.S. Department of Commerce.

The Comptroller of Public Accounts indicates they would need to hire six accounts examiner IIIs to handle the anticipated increase in taxpayer credit refunds. It is estimated that more than 32,000 entities would be eligible to claim this credit. Processing credit applications and applicable transfers, verification of credits on original and amended reports, tracking carryforward credits as well as credits that have been sold or assigned necessitates the additional staff.

## **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