

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 7, 2021

TO: Honorable Jane Nelson, Chair, House Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1195 by Geren (Relating to the franchise tax treatment of certain loans and grants made under the federal Coronavirus Aid, Relief, and Economic Security Act.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1195, As Engrossed : an impact of \$0 through the biennium ending August 31, 2023.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of (\$215,600,000) through the 2022-23 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.

All Funds, Six-Year Impact:

<i>Fiscal Year</i>	Probable Revenue (Loss) from Property Tax Relief Fund
	304
2021	(\$4,400,000)
2022	(\$138,500,000)
2023	(\$72,700,000)
2024	\$0
2025	\$0
2026	\$0

The first table assumes the bill takes immediate effect. The second table assumes the bill takes effect on September 1, 2021.

<i>Fiscal Year</i>	Probable Revenue (Loss) from Property Tax Relief Fund
	304
2022	(\$142,900,000)
2023	(\$72,700,000)
2024	\$0
2025	\$0
2026	\$0

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code to provide for exclusion from total revenue of the amounts of certain loan or grant proceeds for purposes of the franchise tax.

Added Section 171.10131 would provide that total revenue does not include an amount of money that:

(1) is received in loans or grants under the federal Coronavirus Aid, Relief, and Economic Security Act, as amended by the Paycheck Protection Program Flexibility Act of 2020 and the Consolidated Appropriations Act, 2021, or from the restaurant revitalization fund established under Section 5003 of the American Rescue Plan Act of 2021 and

(2) is excluded from gross income for purposes of federal income taxation by Sections 276 and 278 of the Consolidated Appropriations Act, 2021 or Section 9673 of the American Rescue Plan Act of 2021.

Expenses paid with such qualifying loan or grant proceeds would be allowed in the determination of cost of goods sold or of compensation for subtraction from total revenue in the determination of taxable margin, if otherwise includable as cost of goods sold or compensation.

The bill would only apply to reports originally due on or after January 1, 2021. The bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2021.

Methodology

The federal Consolidated Appropriations Act, 2021 provides for exclusion of certain loans and other financial assistance from gross income for purposes of federal income taxation, including forgiven Paycheck Protection Program (PPP) loans, emergency Economic Injury Disaster Loans (EIDL) and targeted EIDL advances, small business loan payments made on behalf of borrowers pursuant to Section 1112(c), CARES Act, and grants for shuttered venue operators. Those exclusions do not apply for purposes of the Texas franchise tax, because the state tax is tied to the Internal Revenue Code as it existed in 2007.

Data from the U.S. Small Business Administration (SBA) on amounts by recipient of PPP loans approved in 2020 was combined with comptroller franchise tax report data to estimate amounts of loan forgiveness that would be deemed revenue of taxable entities in the calculation of margin subject to apportionment to the state, and multiplied by a weighted average franchise tax rate. Amounts associated with the small business loan assumptions by SBA, the EIDL grants and advances, and the restaurant revitalization grants were estimated proportionally, based on the amounts appropriated for those purposes relative to appropriations for PPP loans. It is assumed that PPP loans granted in 2020 would be forgiven in 2021, affecting franchise tax liabilities for reports originally due in 2022. The exclusion from revenue of the value of loan payments made by the SBA in 2020 pursuant to Section 1112, CARES Act are assumed to affect franchise tax reports in fiscal 2021 if the bill receives immediate effect, otherwise the effects would be occur with respect to amended reports filed in fiscal 2022.

NOTE: Section 324, Consolidated Appropriations Act, 2021 is not an amendment of the CARES Act; consequently, a shuttered venue grant would not be a qualifying loan or grant under Subdivision (a) (1) (A) of Section 171.10131 as added by this bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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