LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 28, 2021

TO: Honorable Morgan Meyer, Chair, House Committee on Ways & Means

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3907** by Goldman (Relating to a franchise or insurance tax credit for certain housing developments.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3907, As Introduced : a negative impact of ($9,703,000) 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 ($6,294,000) for 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.

Annual reductions in net tax revenue would continue to escalate as additional annual credit award cohorts cumulate; by 2032 estimated total state tax revenue reductions would exceed $188 million.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to *General Revenue Related Funds*
2022	$0
2023	($9,703,000)
2024	($19,783,000)
2025	($30,231,000)
2026	($41,031,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Foundation School Fund* 193	Probable Revenue (Loss) from *Property Tax Relief Fund* 304
2022	$0	$0	$0
2023	($7,277,000)	($2,426,000)	($6,294,000)
2024	($14,837,000)	($4,946,000)	($12,834,000)
2025	($22,673,000)	($7,558,000)	($19,612,000)
2026	($30,773,000)	($10,258,000)	($26,617,000)

Fiscal Analysis

The bill would amend the Insurance Code and the Tax Code to provide for tax credits for certain low-income housing developments.

Chapter 171, Tax Code would be amended by adding Subchapter K to provide entitlement to a franchise tax credit for a taxable entity that owns a direct or indirect interest in a qualified development eligible for a federal low-income housing credit under Section 42, Internal Revenue Code.

The credits would be awarded by the Texas Department of Housing and Community Affairs (TDHCA) for qualified developments based on criteria to be established by the department. The amount of credits awarded for a qualified development could not exceed the total federal tax credit awarded to the owner(s) of the development over the ten year federal tax credit period. The total amount of credits awarded in a year could not exceed the state housing credit ceiling for the state determined under Section 42, Internal Revenue Code (IRC), plus any unallocated credits for the preceding year and any credits recaptured or returned to the department.

A taxable entity receiving a credit would claim the credit in equal installments each year of the ten year period beginning with the tax year in which a building that is part of a qualified development is placed in service. The credit claimed could not exceed the amount of franchise tax due for a report year, but unused credit could be carried forward or backward to reports for other tax years.

TDHCA would make an annual report to the legislature regarding the number of qualified developments for which credits were issued and the number of units supported by the developments, and describing specified characteristics of the developments.

Subtitle B, Title 3, Insurance Code would be amended by adding Chapter 233 to provide for credit against state insurance tax liability incurred under Chapters 221 through 226 or Chapter 281. Provisions for the credit would parallel those for the credit under Subchapter K, Chapter 171, Tax Code as added by the bill.

TDHCA could begin issuing the franchise tax and insurance tax credits January 1, 2022. Credits could first be claimed in tax reports originally due on or after January 1, 2023, and could not be carried back to tax reports originally due before that date.

The bill would take effect January 1, 2022.

Methodology

The bill provides that the total amount of state tax credit awards in a year may not exceed the state housing credit ceiling under Section 42, IRC and that the amount awarded in connection with any one qualified development not exceed the total amount of federal tax credit awarded the owner(s) of the development over the ten year federal tax credit period, and that the state tax credits be claimed in equal installments distributed over a ten year period.

This estimate assumes that TDHCA will award the maximum amount of credits allowed as provided by the bill. Consequently, estimated annual state tax credit award amounts will equal estimated annual awards of federal low-income housing credits under Section 42, IRC. TDHCA projections of pertinent housing tax credit program amounts for 2022 and 2023 were divided into installments and distributed over ten year intervals beginning with the year following the year of award. Estimated award amounts for years after 2023 were extrapolated based on forecast population growth and price inflation. The total estimated credit claims were allocated between franchise tax and insurance taxes and the pertinent funds based on the same proportions that certified historic structure credits have been claimed against those taxes.

Because TDHCA administers the federal housing tax credit program, it is anticipated that the state housing tax credit could mirror the rules and procedures currently in place and be incorporated into the administration the new state program. Therefore, TDHCA believes the additional work required under the new program could be absorbed by existing staff responsible for administration, review, reporting, and compliance monitoring.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 332 Dept Housing-Comm Affairs

LBB Staff: JMc, KK, SD