

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 6, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB372 by Hancock (Relating to the forgiveness of a loan made under the Paycheck Protection Program for franchise tax purposes.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB372, As Introduced : 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 (\$133,500,000) 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.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Revenue (Loss) from Property Tax Relief Fund 304
2022	(\$133,500,000)
2023	\$0
2024	\$0
2025	\$0
2026	\$0

Fiscal Analysis

The bill would amend Chapter 171, Tax Code to provide for exclusion from total revenue of the amounts of certain forgiven loans for purposes of the franchise tax.

Section 171.1011 would be amended by adding Subsection (y) to provide that total revenue does not include any amount of loan forgiven under the federal Paycheck Protection Program. Qualifying expenses paid with such loan 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.

The provisions of the bill would only apply to reports originally due on or after January 1, 2021. The bill would take effect September 1, 2021.

Methodology

Federal law enacted in 2020 provides for exclusion of the value of forgiven Paycheck Protection Program (PPP) loans from gross income for purposes of the Internal Revenue Code. That exclusion does 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 on amounts by recipient of Paycheck Protection Program 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, multiplied by a weighted average franchise tax rate. It is assumed that PPP loans granted in 2020 would be forgiven in 2021, affecting franchise tax liabilities for reports originally due in 2022.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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