LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 15, 2023

TO: Honorable Joan Huffman, Chair, Senate Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB5** by Parker (Relating to an exemption from ad valorem taxation of a portion of the appraised value of tangible personal property a person owns that is held or used for the production of income and a franchise tax credit for the payment of certain related ad valorem taxes.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB5, As Introduced : a negative impact of ($109,215,217) through the biennium ending August 31, 2025.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($325,721,000) for the 2024-25 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:

Fiscal Year	Probable Net Positive/(Negative) Impact to *General Revenue Related Funds*
2024	($622,106)
2025	($108,593,111)
2026	($121,287,111)
2027	($130,072,111)
2028	($130,979,111)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193	Probable Savings/(Cost) from *Recapture Payments Atten Crdts* 8905	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304
2024	($622,106)	$0	$0	($159,667,000)
2025	($354,111)	($108,239,000)	$45,659,000	($166,054,000)
2026	($354,111)	($120,933,000)	$48,969,000	($172,696,000)
2027	($354,111)	($129,718,000)	$53,105,000	($179,604,000)
2028	($354,111)	($130,625,000)	$53,915,000	($186,788,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *School Districts*	Probable Revenue Gain/(Loss) from *Cities*	Probable Revenue Gain/(Loss) from *Counties*	Probable Revenue Gain/(Loss) from *Other Special Districts*
2024	$0	$0	$0	$0
2025	($161,890,000)	($72,753,000)	($64,058,000)	($59,138,000)
2026	($176,599,000)	($73,754,000)	($65,133,000)	($60,773,000)
2027	($187,192,000)	($74,769,000)	($66,227,000)	($62,454,000)
2028	($190,659,000)	($75,798,000)	($67,339,000)	($64,181,000)

Fiscal Year	*Change in Number of State Employees from FY 2023*
2024	5.0
2025	5.0
2026	5.0
2027	5.0
2028	5.0

Fiscal Analysis

The bill would amend Section 11.145 of the Tax Code, relating to Income-Producing Tangible Personal Property Having Value of Less Than $2,500, and exempt from taxation $25,000 of the appraised value of tangible personal property the person owns that is held or used for the production of income, rather than less than $2,500 dollars of taxable value.

The bill would amend Section 22.01 of the Tax Code, relating to Rendition Generally, and add rendition requirements.

These provisions of the bill would take effect January 1, 2024, contingent on the approval by voters of a constitutional amendment (SJR 2) authorizing the legislature to grant the exemption.

The bill would amend Chapter 171 of the Tax Code, relating to the Franchise Tax by adding Subchapter N to provide a tax credit for property taxes paid on inventory.

The amount of a taxable entity's credit for a report would be equal to 20.0 percent of the amount of ad valorem taxes paid by the entity that are derived from the taxable value of the inventory owned by the entity and located in Texas, for the period on which the report is based. The total credit claimed on a report, including any carryforward credit, may not exceed 20.0 percent of the amount of franchise tax due for the report after applying all other applicable credits.

The total amount of credits that can be awarded per year may not exceed $400.0 million. The credits would be awarded by the comptroller on a first-come, first-served basis, based on the date the entity applies for the credit.

If a taxable entity's credit awarded in a year is more than the entity uses on the report, the unused credit can be carried forward to the next five consecutive reports.

NOTE: According to the Comptroller's office, the provision that application for credit be made only on or with a tax report would mean that taxpayers would not know whether or not they would receive a credit at the time they file the report upon which the credit is to be taken, necessitating amended reports and refunds after grants of credit are confirmed. The provision that credits be awarded on a first-come, first-serve basis could spur taxpayers that normally file reports after extension due to complexity of their operations to file incomplete or erroneous reports in order to improve their chance of receiving a share of the finite amount of credit award available, requiring subsequent amendment.

Methodology

The bill's proposed exemption of $25,000 of tangible personal property that has an aggregate value of at least $25,000 would create a cost to school districts, other local taxing units, and to the state through the operation of the school funding formulas. Unlike the de minimis $2,500 exemption in current law, which exempts tangible personal property only if the total value of such property owned is less than $2,500, the proposed change would exempt $25,000 of the appraised value of such tangible personal property regardless the total value of such property owned.

The estimate was based on tangible personal property information reported electronically by appraisal districts. The percentage of tangible personal property accounts exceeding $25,000 in market value was identified from a sample of personal property accounts and extrapolated statewide. The value loss was calculated based on the resulting number of personal property accounts that would receive the proposed $25,000 exemption.

The cost to the Foundation School Program (FSP) due to exempting $25,000 of tangible personal property that has an aggregative value of at least $25,000 is estimated to be $108.2 million in fiscal year 2025, increasing to $130.6 million in fiscal year 2028.

The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of $45.7 million in fiscal year 2025, increasing to $53.9 million in fiscal year 2028 as a result of the reduction in school district taxable value. The decrease in recapture is reflected as a savings in the table above because recapture is appropriated as a method of finance for the FSP in the General Appropriations Act.

The bill provides the total amount of franchise tax credits may not exceed $400.0 million annually. This estimate used franchise tax data at the individual taxpayer level to model estimated inventory taxes paid (based on typical inventory to sales ratios by major industry group and estimated average statewide total property tax rate) compared with taxpayer liabilities after application of other credits to estimate amounts of credits awarded that could be used. The limitation of the amount of credit that may be taken to 20.0 percent of a taxpayer's franchise tax liability results in amounts taken significantly below the $400.0 million that may be annually awarded.

This analysis assumes administrative costs of $622,106 in fiscal year 2024 and $354,111 in each subsequent year to administer the new franchise tax credit. The Comptroller's office anticipates needing to hire five Accounts Examiners III and to hire a contractor for application development.

Technology

The administrative cost includes a technology cost of $288,000 in fiscal 2024 to hire a contractor for one year to assist in the estimated 2,100 programming hours that would be needed to develop an application process for entities applying for the credit in this bill.

Local Government Impact

The estimated fiscal implication to units of local government is reflected in the table above and is contingent upon passage of a constitutional amendment authorizing the exemption.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, BRI