HOUSE
RESEARCH
ORGANIZATION bill analysis | 4/29/2013 | HB 1310 | Button, et al.

SUBJECT: Exempting physician practices from paying franchise taxes for vaccines

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 6 ayes — Hilderbran, Otto, Bohac, Button, Eiland, N. Gonzalez

1 nay — Strama

2 absent — Martinez Fischer, Ritter

WITNESSES: For — Laura Blanke, Texas Pediatric Society; (*Registered, but did not testify:* Troy Alexander, Texas Medical Association and Texas Public Health Coalition; Laura Blanke, Texas Pediatric Society; Brent Connett, Texas Conservative Coalition; Marshall Kenderdine, Texas Academy of Family Physicians; Nidhi Nakra, The Immunization Partnership; David Reynolds, Texas Medical Association; Bryan Sperry, Children's Hospital Association of Texas; James Willmann, Texas Nurses Association)

Against — None

On — (*Registered, but did not testify*: Teresa Bostick and Ed Warren, Comptroller of Public Accounts)

BACKGROUND: The Texas franchise tax, or "margins" tax, applies to each taxable entity that does business or is organized in the state. The tax is calculated as either 1 percent or 0.5 percent of taxable margin. An entity's taxable margin is the lesser of 70 percent of the entity's total revenue or an amount computed by either determining the entity's total business revenue using a specific method or subtracting either cost of goods sold or compensation.

DIGEST: HB 1310 would allow a taxable physician practice to exclude from total revenue the actual cost paid for vaccines. The bill would define physician practice as an entity that was owned by one or more individuals licensed to practice medicine in the state and that qualified as practicing medicine under the Occupations Code.

The bill would take effect January 1, 2014, and would apply only to a report on or after that date.

SUPPORTERS SAY:

HB 1310 would keep physician-owned practices from having to pay state franchise taxes on the cost of vaccines they purchase. Vaccinations are widely recognized as public goods. The Department of State Health Services has adopted far-reaching vaccination requirements for all children according to an extensive immunization schedule. Many medical care providers offer vaccinations at or near cost as a service to the community and in recognition of the importance of vaccinations to public health.

Under the state's current franchise tax law, however, physician-owned practices have to choose between deducting the cost of goods sold and compensation from total revenue. This calculus almost always leads to a deduction of the latter for medical practices. As a result of this either-or choice, practices are allowed to deduct the costs of administering vaccines but not the cost of the vaccines themselves.

By allowing physician-owned practices to deduct the cost of vaccines from total revenue, HB 1310 would ensure that costs would not be included in tax calculations. The fact that there are larger public educational funding issues in the state is no reason to maintain an unfair tax practice. The bill would have a minimal fiscal impact on the state and a significant impact on doctor-owned practices, many of which are small businesses with limited resources.

While many would agree that the franchise tax is in need of greater reform that is no reason to delay making small changes to make it more fair and equitable for businesses now.

OPPONENTS SAY:

HB 1310 would have an indirect impact on general revenue funds by reducing franchise tax funds flowing to the Property Tax Relief Fund, which was established by the Legislature in 2006 to offset reductions of school property taxes. It would reduce taxes collected for public schools by about $3.7 million for fiscal 2014-15 and beyond, according to the Legislative Budget Board. Because revenue in the Property Tax Relief Fund is dedicated to public education, any reduction of revenue in the fund must be offset with general revenue funds.

The Legislature should not contemplate measures that reduce funds available for public education without first restoring the deep cuts it made to schools in 2011. Until these cuts are restored, any proposal to reduce revenue coming into the state that is not absolutely necessary should be tabled.

OTHER OPPONENTS SAY:

While the intent of HB 1310 may be laudable, it would continue the state's piecemeal approach to the seemingly endless issues that plague the franchise tax. Under the current tax, many businesses are taxed on expenses that should be exempt, others pay unequal rates for similar activities, and still others have to pay taxes for years where they actually report a net loss of income. Unfortunately, solving a problem for one business or industry leaves out others who are still subject to unfair taxes and can lead to a policy of "legislating by fiscal note" – that is, making those changes that have the most limited impact on the state budget.

The Legislature should embrace comprehensive reform or elimination of the deeply flawed franchise tax and move away from the ad-hoc approach to fixing its various problems.

NOTES:

The Legislative Budget Board's fiscal note estimates HB 1310 would result in a loss of $3.7 million in revenue to the Property Tax Relief Fund. Any loss to this fund, according to the Legislative Budget Board, would have to be made up with an equal amount of general revenue to fund the Foundation School Program.