LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 9, 2013

TO: Honorable Dan Patrick, Chair, Senate Committee on Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB23** by Patrick (Relating to the establishment of the Texas Equal Opportunity Scholarship Program.), **As Introduced**

The fiscal implications of the bill cannot be determined at this time. The Comptroller of Public Accounts reports that the potential revenue losses associated with credits against premium and franchise tax liability established by the bill cannot be estimated as they cannot predict how many credits will be taken.

The bill would create the Texas Equal Opportunity Scholarship Program. Under the program, the Comptroller of Public Accounts (CPA) would select up to three eligible organizations to administer the program. Organizations could receive donations for the purpose of funding opportunity scholarships under the provisions of the bill. Organizations would be required to distribute no less than 95 percent of the funds donated as opportunity scholarships and would be permitted to use no more than 5 percent for operating expenses. The organizations would be required to allocate no more than 80 percent of funds available for opportunity scholarships to eligible students to attend qualified non-public schools and no more than 20 percent of funds to eligible students to attend tuition-supported public prekindergarten programs or for opportunity scholarship recipients to attend educational after-school programs.

Eligibility for opportunity scholarships would be limited to students who were enrolled in a public school in Texas in the prior year and either meet the statutory definition of at risk or reside in a household with household income no greater than 200 percent of the income eligibility threshold for the federal free and reduced price lunch program. Scholarships would be awarded first to prior year participants and their siblings who are applying to continue in the subsequent year, then to eligible applicants attending a campus assigned an unacceptable performance rating in the state accountability system, and then to all other eligible applicants.

The amount of the scholarship is limited to 80 percent of the statewide average state and local funding provided to school districts through the Foundation School Program (FSP) for maintenance and operations per student in average daily attendance (ADA). Scholarships for after-school programs would be limited to $1,000 per year.

The bill would make an entity subject to the state premium tax eligible for a credit against its tax liability equal to the lesser of the amount of donations made to a certified Texas Equal Opportunity Scholarship Program administering organization or 15 percent of premium tax liability.

The bill would make an entity subject to the state franchise tax eligible for a credit against its tax liability equal to the lesser of the amount of donations made to a certified Texas Equal Opportunity Scholarship Program administering organization or 15 percent of franchise tax liability.

It is unknown how many entities will apply for the franchise and insurance premium tax credits in accordance with provisions of the bill; therefore, the total amount of revenue loss cannot be determined. Based on the CPA's Biennial Revenue Estimate, the 15 percent credit cap could lead to a maximum revenue loss to the state in fiscal year 2015 of approximately $716.4 million from the Property Tax Relief Fund, $182.2 million from the General Revenue Fund, and $60.7 million from the Foundation School Fund

Assuming that donations to Texas Equal Opportunity Scholarship Program administering organizations are limited to the amount required to maximize tax credits under the provisions of the bill, funding available to the organizations would be equal to the amount of tax credits awarded.

It is assumed that 95 percent of available funding is distributed as scholarships. Assuming a statewide average FSP M&O entitlement per student of $7,500 providing for a maximum scholarship amount of $6,000, the maximum revenue loss noted above could provide scholarships to approximately 159,883 students. However, analysis from the Texas Education Agency estimates the capacity of private schools at 94,500 in FY2015, increasing by 20 percent annually, which would limit savings to the FSP associated with scholarship recipients exiting the public school system. Assuming that FY2015 is the first full year of implementation based on the timing of implementation of the tax credits, savings to the FSP based on FY2015 entitlement at the maximum capacity of private schools estimated by TEA would be approximately $709 million.

Statutory provisions in Chapter 42 of the Education Code stipulate that the basis for payments of state aid in the FSP are estimates of student enrollment provided to the legislature by the TEA on October 1 and March 1. Statute further provides for a process by which the state settles up with school districts based on actual enrollment in the subsequent school year. As a result, any savings accrued in FY 2015 would be realized in FY 2016 through the settle-up process. Any FY 2016 savings would be substantially larger than the other years as districts would receive reduced FSP payments based on the revised student estimates to be made in March 2015 which would take lower attendance resulting from the impact of the bill into account in addition to a reduced settle-up from the 2015 school year.

After the initial year of implementation when FSP savings begins to accrue, the net impact of the bill is expected to be an ongoing savings to General Revenue, depending on the relationship of the actual value of the exemption to the capacity of private schools.

Local Government Impact

The fiscal impact to school districts would vary from school district to school district. Districts would lose state aid through the Foundation School Program resulting from decreased enrollment. Some districts might experience difficulties in realizing sufficient cost reductions due to the reduced enrollment and could suffer some financial hardship as their entitlements were reduced.

Source Agencies: 304 Comptroller of Public Accounts, 701 Central Education Agency

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