

BILL ANALYSIS

Senate Research Center
78R5582 DAK-D

S.B. 538
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Finance
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DIGEST AND PURPOSE

Currently, franchise tax incentives for corporations conducting certain research and development activities do not exist. As proposed, S.B. 538 establishes a franchise tax credit for certain research and development conducted in Texas. The bill offers a 10 percent credit on research spending in six designated areas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 1 (Section 171.928, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 171, Tax Code, by adding Subchapter V, as follows:

SUBCHAPTER V. CREDITS AND BUSINESS LOSS CARRYOVERS FOR CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

Sec. 171.921. DEFINITIONS. Defines “advanced computing technology,” “advanced materials technology,” “base amount,” “basic research payment,” “qualified research expense,” “biotechnology,” “electronic device technology,” “environmental technology,” and “medical device technology.”

Sec. 171.922. ENTITLEMENT. Provides that a corporation is entitled to a credit in the amount and under the conditions and limitations provided by this subchapter against the tax imposed under this chapter.

Sec. 171.923. AMOUNT OF CREDIT. (a) Provides that, subject to Section 171.924, the credit for any privilege period equals 10 percent of the sum of certain amounts.

(b) Requires the base amount and any other amount used to calculate the credit, if a corporation’s accounting year does not correspond to the privileged period, to be multiplied by a fraction the numerator of which is the number of days in the corporation’s accounting year that are also in the privilege period and the denominator of which is the number of days in the privilege period.

Sec. 171.924. EXPENSES AND PAYMENTS IN CERTAIN FIELDS OF TECHNOLOGY. Authorizes a company, for the purpose of determining the amount of the credit under Section 171.923, to include only those qualified research expenses and basic research payments in certain fields.

Sec. 171.925. CARRYOVER OF CREDIT. Authorizes a corporation to carry a credit forward for not more than 15 consecutive privilege periods.

Sec. 171.926. BUSINESS LOSS CARRYOVER. Authorizes a corporation that has a business loss for a privilege period, notwithstanding Section 171.110(e), to carry the loss forward for not more than 15 consecutive privilege periods if certain conditions apply.

Sec. 171.927. SALE OF UNUSED CREDIT OR BUSINESS LOSS. (a) Authorizes a corporation that has an unused credit under this subchapter or an unused business loss described by Section 171.926 to apply to the comptroller of public accounts of the State of Texas (comptroller) to sell the credit or business loss to another corporation. Requires the acquiring corporation to apply to the comptroller to purchase an unused credit or an unused business loss.

(b) Requires the comptroller to review applications under this section and prohibits the comptroller from approving the sale or purchase of an unused credit under this subchapter or an unused business loss described by Section 171.926 unless the comptroller determines certain circumstances apply.

Sec. 171.928. RULES. Requires the comptroller to adopt rules necessary to implement this subchapter.

SECTION 2. Effective date: January 1, 2004.

Provides that this Act applies to: (1) a report originally due on or after that date; and (2) an expense or business loss incurred on or after that date.