

## **BILL ANALYSIS**

H.B. 1207  
By: Keffer, Jim  
Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Generally, transition language for the revised franchise tax should serve two purposes. First, to provide guidance to entities currently subject to the franchise tax to determine which reports will be subject to the new franchise tax calculation and which will be subject to the old calculation. Second, to prevent entities becoming subject to the new franchise tax from avoiding the tax for the first report year.

For entities currently subject to the franchise tax, the transition from the old franchise tax calculations to the new franchise tax calculations should depend on the due date of the report. For example, if a report is due on or after January 1, 2008, then the new franchise tax calculations would be used for that report. If a report is due before January 1, 2008, then the old calculations would be made. This is logical and easy for taxpayers and the comptroller's office to understand and implement. However, Section 22 of House Bill No. 3, 79th Legislature, 3rd Called Session, 2006, contains contradictory language which appears to disturb this result and could allow a newly taxed entity to avoid the tax in 2008. Additionally, there has been some confusion regarding entities that are part of a combined group and whether or not they would have to use the same period as the combined group for determination of taxable margin and apportionment. Therefore, HB 1207 clarifies the transition language in the new franchise tax, addresses combined group reports, and prevents entities from avoiding the tax for the first report year.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

This bill would amend Section 22, Chapter 1, of the Acts of the 79th Legislature, 3rd Called Session, 2006, to allow any entity becoming subject to the franchise tax created by House Bill No. 3, 79th Legislature, 3rd Called Session, 2006, to dissolve, change into an entity not taxable under the revised franchise tax, or stop doing business in Texas on or before June 30, 2007, and not pay any franchise tax. However, if the entity is in existence after June 30, 2007, then, even if it dissolves, changes into an entity not taxed under the revised franchise tax, or stops doing business in Texas before January 1, 2008, it will have to pay a final report based on the revised franchise tax. Also, an entity becoming subject to the franchise tax and that is part of a combined group would have to use the same period as the combined group for determination of taxable margin and apportionment.

This bill would become effective immediately, if it receives two-thirds vote in each house. Otherwise, the effective date would be September 1, 2007.

### **EFFECTIVE DATE**

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.