

BILL ANALYSIS

C.S.H.B. 262
By: Hilderbran
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that recent legislation temporarily raised the franchise tax revenue exemption from \$300,000 to \$1 million for tax reports due in 2010 and 2011, after which the exemption is scheduled to return to its original thresholds. Interested parties assert that many thousands of small businesses in Texas have benefited from the increase in the franchise tax exemption amount. C.S.H.B. 262 seeks to extend the \$1 million exemption and allow Texas to preserve its competitive edge in the national business market.

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

C.S.H.B. 262 amends Section 1(c), Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, to extend until December 31, 2013, the temporary Tax Code provision increasing from \$300,000 to \$1 million the cap on the amount of total revenue from a taxable entity's entire business, per 12-month period on which the entity's margin is based for franchise tax computation purposes, that is exempt from that tax and for which a taxable entity with total annualized revenue at or below the cap has no franchise tax liability.

C.S.H.B. 262 amends Section 2(b), Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, to postpone from January 1, 2012, to January 1, 2014, the effective date for the Tax Code provision increasing from \$300,000 to \$600,000 the cap on the amount of total revenue from a taxable entity's entire business, per 12-month period on which the entity's margin is based for franchise tax computation purposes, that is exempt from that tax and for which a taxable entity with total annualized revenue at or below the cap has no franchise tax liability.

C.S.H.B. 262 amends Section 3(b), Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, to postpone from January 1, 2012, to January 1, 2014, the effective date for the Tax Code provisions removing the franchise tax discounts for a taxable entity that has no tax liability as a result of the revised revenue threshold for incurring a tax liability and increasing from \$500,000 to \$600,000 the minimum amount of a taxable entity's total revenue for a taxable entity entitled to a 40 percent discount.

C.S.H.B. 262 removes contingency provisions that made that act's amendments contingent on passage of law that subsequently has been executed.

C.S.H.B. 262 makes its provisions effective contingent on the passage of H.B. 3790, Acts of the 82nd Legislature, Regular Session, 2011, and only if that act results in an increase in the revenue collected from state taxes imposed during the state fiscal biennium beginning September 1, 2011, that is attributable to the changes provided by that act.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 262 differs from the original by extending until December 31, 2013, the expiration date for the temporary Tax Code provision increasing from \$300,000 to \$1 million the cap on the amount of total revenue from a taxable entity's entire business that is exempt from the franchise tax and for which a taxable entity with total annualized revenue at or below the cap has no franchise tax liability and removing language making the provision contingent on passage of law that subsequently has been executed, whereas the original makes such provision permanent by repealing the expiration date.

C.S.H.B. 262 differs from the original by postponing from January 1, 2012, to January 1, 2014, the Tax Code provision increasing from \$300,000 to \$600,000 the cap on the amount of total revenue from a taxable entity's entire business that is exempt from the franchise tax and for which a taxable entity with total annualized revenue at or below the cap has no franchise tax liability and differs by removing language making the provision contingent on passage of law that subsequently has been executed, whereas the original repeals that provision entirely.

C.S.H.B. 262 differs from the original by postponing from January 1, 2012, to January 1, 2014, the effective date for the Tax Code provisions removing the franchise tax discounts for a taxable entity with total revenue from its entire business below the revised threshold for incurring a tax liability and increasing from \$500,000 to \$600,000 the minimum amount of a taxable entity's total revenue for a taxable entity entitled to a 40 percent discount and differs by removing language making the provision contingent on passage of law that subsequently has been executed, whereas the original repeals that provision entirely.

C.S.H.B. 262 contains a provision not included in the original making the bill's provisions contingent on the passage of H.B. 3790, Acts of the 82nd Legislature, Regular Session, 2011, and only if that act results in an increase in the revenue collected from state taxes imposed during the state fiscal biennium beginning September 1, 2011, that is attributable to the changes provided by that act.

C.S.H.B. 262 omits provisions included in the original repealing the following provisions relating to the retention of the \$1 million total revenue exemption for the franchise tax:

- Section 1(c), Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009
- Section 2, Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, which amended former Subsection (d), Section 171.002, Tax Code
- Section 3, Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, which amended former Subsection (a), Section 171.0021, Tax Code
- Section 171.0021, Tax Code
- Section 171.1016(d), Tax Code