

## **BILL ANALYSIS**

H.B. 416  
By: Hilderbran  
Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Apportionment of the franchise tax is based on where a company sells its goods so as to ensure a competitive and geographically unbiased system in which an out-of-state seller and a Texas seller are subject to the same level of tax. Services are treated differently. Revenue from services is apportioned based on where the services are performed. Interested parties contend that, in a few cases, this leads to an unfair and unintended consequence and that Internet hosting services are one such case that deserves legislative attention.

Under current law, a Texas provider of Internet hosting services, meaning information technology services delivered over the Internet, may pay many times more franchise tax than an out-of-state competitor with an identical level of in-state sales due to services being taxed where the Internet hosting servers are located, rather than where customers actually use the services. H.B. 416 seeks to balance this tax burden and make the state a more competitive place to locate Internet hosting data centers by basing apportionment with regard to Internet hosting on customer location. The interested parties note that this should have the added fiscal benefit of increasing state sales and use tax receipts and enlarging the property tax base.

### **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**

H.B. 416 amends the Tax Code to establish a receipt from Internet hosting as a receipt from business done in Texas, for purposes of computing the franchise tax, only if the customer to whom the service is provided is located in Texas.

### **EFFECTIVE DATE**

September 1, 2013.