

BILL ANALYSIS

C.S.H.B. 509
By: Murphy
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, the current iteration of the franchise tax was created last decade in order to raise additional revenue necessary to fund reductions of school district property tax rates. The parties contend, however, that repealing the franchise tax would have substantial economic benefits for the entire Texas economy, including reducing the after-tax burden on income derived from capital investments, which provides a powerful incentive for business owners inside Texas to invest in their businesses, making Texas an even more attractive location for firms looking to locate new facilities. C.S.H.B. 509 seeks to phase out the franchise tax.

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. 509 amends the Tax Code to reduce incrementally the franchise tax rate, the franchise tax rate for those taxable entities primarily engaged in retail or wholesale trade, and the E-Z Computation franchise tax rate, according to the following schedules:

- The bill reduces the franchise tax rate from the current rate of one percent of taxable margin to the following rates:
 - 0.75 percent of taxable margin, effective January 1, 2014
 - 0.50 percent of taxable margin, effective January 1, 2015
 - 0.25 percent of taxable margin, effective January 1, 2016
- The bill reduces the franchise tax rate for those taxable entities primarily engaged in retail or wholesale trade from the current rate of 0.5 percent of taxable margin to the following rates:
 - 0.38 percent of taxable margin, effective January 1, 2014
 - 0.25 percent of taxable margin, effective January 1, 2015
 - 0.13 percent of taxable margin, effective January 1, 2016
- The bill reduces the E-Z Computation franchise tax rate from the current rate of 0.575 percent of apportioned total revenue to the following rates:
 - 0.43 percent of apportioned total revenue, effective January 1, 2014
 - 0.29 percent of apportioned total revenue, effective January 1, 2015
 - 0.14 percent of apportioned total revenue, effective January 1, 2016

C.S.H.B. 509 repeals the franchise tax, effective January 1, 2017, and requires a taxable entity subject to the franchise tax imposed on December 31, 2016, to file a final franchise tax return

and pay a transitional tax on or before May 15, 2017, that is equal to the franchise tax the taxable entity would have paid in 2017 had the tax not been repealed. The bill establishes that the Tax Code provisions relating to the computation and payment of the franchise tax remain in effect after the repeal for the purposes of computing and paying the transitional tax. The bill clarifies that the franchise tax and provisions relating to enforcement and collection with regard to state taxation continue to apply to audits, deficiencies, redeterminations, and refunds of any franchise tax due or collected, including the transitional tax, until barred by limitations. The bill clarifies that the repeal of the franchise tax does not affect the status of a taxable entity that has had certain sanctions imposed against it, a suit filed against it, or a receiver appointed for it; the ability of the comptroller of public accounts, secretary of state, or attorney general to take action against a taxable entity for actions that took place before the repeal; or the right of a taxable entity to contest a forfeiture, revocation, lawsuit, or appointment of a receiver, all with regard to certain provisions relating to the franchise tax.

C.S.H.B. 509 repeals provisions of law relating to the effective dates for successive changes to the maximum amount of a taxable entity's total revenue that would exempt such an entity from franchise tax liability and repeals provisions relating to discounts from tax liability for small businesses with total business revenue at various ranges below \$900,000.

C.S.H.B. 509 repeals the following provisions of law:

- Section 1(c), Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, as amended by Section 37.01, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called Session, 2011
- Section 2, Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, as amended by Section 37.02, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called Session, 2011, and 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, as amended by Section 37.03, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called Session, 2011, and which amended former Subsection (a), Section 171.0021, Tax Code
- Section 171.0021, Tax Code
- Section 171.1016(d), Tax Code

Effective January 1, 2017, C.S.H.B. 509 repeals Chapter 171, Tax Code.

EFFECTIVE DATE

Except as otherwise provided, January 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 509 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

| INTRODUCED | HOUSE COMMITTEE SUBSTITUTE |
|-----------------------------------------------------------------------------------------------|----------------------------------------|
| SECTION 1. (a) Effective January 1, 2014, Sections 171.002(a) and (b), Tax Code, are amended. | SECTION 1. Same as introduced version. |
| SECTION 2. (a) Effective January 1, 2015, Sections 171.002(a) and (b), Tax Code, are | SECTION 2. Same as introduced version. |

amended.

SECTION 3. (a) Effective January 1, 2016, Sections 171.002(a) and (b), Tax Code, are amended.

SECTION 4. (a) Effective January 1, 2014, Section 171.1016(b), Tax Code, is amended.

SECTION 5. (a) Effective January 1, 2015, Section 171.1016(b), Tax Code, is amended.

SECTION 6. (a) Effective January 1, 2016, Section 171.1016(b), Tax Code, is amended.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Section 171.006(b), Tax Code, is amended to read as follows:
(b) Beginning in 2010, on January 1 of each even-numbered year, the amounts prescribed by Sections 171.002(d)(2)[, 171.0021,] and 171.1013(c) are increased or decreased by an amount equal to the amount prescribed by those sections on December 31 of the preceding year multiplied by the percentage increase or decrease during the preceding state fiscal biennium in the consumer price index and rounded to the nearest \$10,000.

SECTION 8. Section 1(c), Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, as amended by Section 37.01, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called Session, 2011, is repealed.

SECTION 9. Section 2, Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, as amended by Section 37.02, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called Session, 2011, and which amended former Subsection (d), Section 171.002, Tax Code, is repealed.

SECTION 10. Section 3, Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, as amended by Section 37.03, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called Session, 2011, and which amended former Subsection (a), Section 171.0021, Tax Code, is repealed.

SECTION 11. Sections 171.0021 and 171.1016(d), Tax Code, are repealed.

SECTION 7. (a) Chapter 171, Tax Code, is repealed.

(b) A taxable entity that is subject to the franchise tax imposed under Chapter 171, Tax Code, on December 31, 2016, shall file a final franchise tax return and pay a transitional tax as required by this subsection on or before May 15, 2017. The transitional tax is equal to the tax the taxable entity would have paid in 2017 under Chapter 171, Tax Code, if Chapter 171, Tax Code, had not been repealed. The provisions of Chapter 171, Tax Code, relating to the computation and payment of the franchise tax remain in effect after the repeal of Chapter 171, Tax Code, by this section for the purposes of computing and paying the transitional tax required by this subsection.

(c) Chapter 171, Tax Code, and Subtitle B, Title 2, Tax Code, continue to apply to audits, deficiencies, redeterminations, and refunds of any tax due or collected under Chapter 171, including the tax due as provided by Subsection (b) of this section, until barred by limitations.

(d) The repeal of Chapter 171, Tax Code, does not affect:

(1) the status of a taxable entity that has had its corporate privileges, certificate of authority, certificate of organization, certificate of limited partnership, corporate charter, or registration revoked, suit filed against it, or a receiver appointed under Subchapter F, G, or H of that chapter;

(2) the ability of the comptroller, secretary of state, or attorney general to take action against a taxable entity under Subchapter F, G, or H of that chapter for actions that took place before the repeal; or

(3) the right of a taxable entity to contest a forfeiture, revocation, lawsuit, or appointment of a receiver under Subchapter F, G, or H of that chapter.

(e) This section takes effect January 1, 2017.

SECTION 8. Except as otherwise provided by this Act, this Act applies only to a report originally due on or after the effective date of this Act.

SECTION 9. Except as otherwise provided by this Act, this Act takes effect January 1, 2014.

SECTION 12. Same as introduced version.

SECTION 13. Same as introduced version.

SECTION 14. Same as introduced version.