

## **BILL ANALYSIS**

C.S.H.B. 607  
By: Turner, Scott  
Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The franchise tax was revised last decade to base computation of the tax on a taxable entity's gross margin. In the time since, interested parties have indicated that the tax burden for many businesses has increased, the tax is more complicated to calculate than the previous method of computation, and the tax has faced litigation for some equity issues as a result of restructuring. C.S.H.B. 607 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. 607 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 for certain taxable entities, 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. 607 makes each of the franchise tax reductions applicable to a report originally due on or after the effective date of the reduction.

C.S.H.B. 607 conditions the requirement that a taxable entity pay a penalty of \$50 for failing to

file a franchise tax report on the entity's owing a tax for the reporting period for which the report is due.

C.S.H.B. 607 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. 607 repeals provisions of session 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. 607 repeals the following provisions of session 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

Effective January 1, 2017, C.S.H.B. 607 repeals Chapter 171, Tax Code.

### **EFFECTIVE DATE**

Except as otherwise provided, January 1, 2014.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 607 differs from the original only by amending the caption.