

## **BILL ANALYSIS**

H.B. 1499  
By: Alvarado  
Economic & Small Business Development  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties assert that research and development activities offer businesses and state institutions of higher education the opportunity to work together to conduct beneficial research and create new jobs. It has been noted that while some other states levy a broad-based business tax, as Texas does with the franchise tax, they also offer a research and development tax credit against that business tax, which Texas does not.

Interested parties contend that if Texas is to compete against other states in recruiting new businesses, the state must offer financial incentives to attract industries with high-paying jobs and promote increased business investment. H.B. 1499 seeks to make Texas competitive among other states in recruiting new businesses and to make Texas more business-friendly by reinstating a tax credit for research and development activities performed by Texas businesses.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

### **ANALYSIS**

H.B. 1499 amends the Tax Code to add temporary provisions, set to expire December 31, 2022, to make a taxable entity eligible for a research and development activities credit against the franchise tax in an amount equal to five percent of the sum of the excess of qualified research expenses incurred in Texas during the period on which the tax is based over the base amount for Texas and the basic research payments determined under the federal Internal Revenue Code for Texas during the period on which the tax is based. The bill authorizes a taxable entity to claim the credit or take a carryforward credit without regard to whether the strategic investment area in which the entity incurred qualified research expenses or made basic research payments subsequently loses its designation as a strategic investment area.

H.B. 1499 authorizes a taxable entity to elect to compute the franchise tax credit for qualified research expenses incurred in Texas in a manner consistent with the alternative incremental credit described in the Internal Revenue Code only if for the corresponding federal tax period a federal election was made to compute the federal credit under that code, the taxable entity was a member of a consolidated group for which a federal election was made, or the taxable entity did not claim the federal credit. The bill, for purposes of that alternate franchise tax credit computation, sets the specific credit percentages applicable to certain qualified research expenses described in that code. The bill authorizes a taxable entity, in computing the franchise tax credit, to multiply by two the amount of any qualified research expenses and basic research payments made in a strategic investment area and places the burden of establishing entitlement to and the value of the credit on the taxable entity.

H.B. 1499 caps the sum of the total franchise tax credit claimed under the bill's provisions for a report, including the amount of any carryforward credit as specified under the bill's provisions

and the amount of unused credits accrued under repealed provisions of state law relating to a credit for research and development activities and claimed on the report, at 50 percent of the amount of franchise tax due for the report before any other applicable tax credits. The bill authorizes a taxable entity, if the entity is eligible for a credit that exceeds this cap, to carry the unused credit forward for not more than 20 consecutive reports. The bill specifies the order in which the credits, including carryforwards, are considered to be used.

H.B. 1499 requires the comptroller of public accounts, not later than September 1 of each year, to determine areas that qualify as strategic investment areas using the most recently completed full calendar year data available on that date and, not later than October 1, to publish a list and map of the designated areas. The bill makes the designation effective for the following calendar year for purposes of available franchise tax credits.

H.B. 1499 requires the comptroller, before the beginning of each regular session of the legislature, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report containing certain itemized data relating to the franchise tax credit. The bill requires the final report, to be issued before December 31, 2022, to include historical information on the credit. The bill prohibits the comptroller from including information in the report that is confidential by law. The bill authorizes the comptroller, for purposes of the biennial report, to require a taxable entity that claims the franchise tax credit to submit information, on a form provided by the comptroller, on the location of the taxable entity's research expenses and payments in Texas and any other information necessary to complete the required report.

H.B. 1499 requires the comptroller to adopt rules and forms necessary to implement the bill's provisions relating to the franchise tax credit for certain research and development activities.

H.B. 1499 prohibits a taxable entity from conveying, assigning, or transferring the franchise tax credit to another entity unless all of the entity's assets are conveyed, assigned, or transferred in the same transaction. The bill clarifies that the expiration of the bill's provisions does not affect the carryforward of a franchise tax credit that was accrued before December 31, 2022.

H.B. 1499 clarifies that statutory provisions relating to the limitation on the appraised value of property in certain rural school districts apply to a school district that has territory in an area that qualifies as a strategic investment area under the bill's provisions relating to the franchise tax credit for certain research and development activities.

H.B. 1499 amends the Insurance Code to make a nonsubstantive change.

#### **EFFECTIVE DATE**

January 1, 2014.