

## **BILL ANALYSIS**

C.S.H.B. 1722  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties assert that the aerospace and defense industry is responsible for hundreds of thousands of jobs and generates billions of dollars of revenue in Texas annually, placing Texas among the states with the highest levels of industry-generated revenue, jobs, and exports. The jobs provided by the aerospace and defense industry are high-paying jobs that foster innovation in the state. Concerned parties contend that the strong presence of aerospace and defense businesses in Texas can continue but only if the state's tax structure remains competitive with other states.

A significant number of Texas franchise taxpayers elect to calculate their tax liability by deducting cost of goods sold from total revenue. Current law allows businesses to include overhead costs when determining cost of goods sold. However, the law currently limits the amount of overhead costs that can be included as cost of goods sold to four percent of the taxpayer's total indirect or administrative overhead costs. Industry observers contend that this limit has a disparate impact on aerospace and defense companies because such companies have a substantial amount of overhead. C.S.H.B. 1722 seeks to address this disparity by increasing the amount of overhead costs that may be deducted for franchise tax purposes.

### **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. 1722 amends the Tax Code to raise the cap on the amount of indirect or administrative overhead costs that a taxable entity may subtract as a cost of goods sold, for purposes of computing the entity's taxable margin on which the entity's franchise tax liability is based, from four percent to 5.5 percent of the entity's total overhead costs, including all mixed service costs.

### **EFFECTIVE DATE**

January 1, 2014.

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

While C.S.H.B. 1722 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. Section 171.1012(f), Tax	SECTION 1. Section 171.1012(f), Tax

83R 26101

13.120.721

Substitute Document Number: 83R 22880

Code, is amended to read as follows:  
(f) A taxable entity may subtract as a cost of goods sold indirect or administrative overhead costs, including all mixed service costs, such as security services, legal services, data processing services, accounting services, personnel operations, and general financial planning and financial management costs, that it can demonstrate are allocable to the acquisition or production of goods, except that the amount subtracted may not exceed **10** [~~four~~] percent of the taxable entity's total indirect or administrative overhead costs, including all mixed service costs. Any costs excluded under Subsection (e) may not be subtracted under this subsection.

SECTION 2. This Act applies only to a report originally due on or after the effective date of this Act.

SECTION 3. This Act takes effect January 1, 2014.

Code, is amended to read as follows:  
(f) A taxable entity may subtract as a cost of goods sold indirect or administrative overhead costs, including all mixed service costs, such as security services, legal services, data processing services, accounting services, personnel operations, and general financial planning and financial management costs, that it can demonstrate are allocable to the acquisition or production of goods, except that the amount subtracted may not exceed **5.5** [~~four~~] percent of the taxable entity's total indirect or administrative overhead costs, including all mixed service costs. Any costs excluded under Subsection (e) may not be subtracted under this subsection.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.