

BILL ANALYSIS

H.B. 1733
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Many companies that transport aggregate materials, such as sand, gravel, or limestone, enter into contractual agreements with subcontractors that actually haul the materials from the mining operation to the intended destination. It has been reported that these contracts stipulate the percentage of revenue that is to be paid by the original aggregate transport company to the subcontractor for hauling the materials and when the aggregate transporter is paid by the mining operation for its services, it then remits payment to the subcontractor in the percentage amount agreed upon in the contract. This is often an 80-20 percent split with the subcontractor getting the higher percentage of the money earned. Under such an arrangement, even though the aggregate transporter collects the full amount for its services, it is contractually obligated to remit 80 percent to the subcontractor, with the remainder used to pay for employees, liability insurance, and other costs of operation. Interested parties assert, however, that the comptroller of public accounts has determined that the aggregate transporter is required to pay franchise tax on 100 percent of the money collected from its customers, meaning these entities are paying the tax based on an artificially inflated revenue amount.

H.B. 1733 seeks to clarify this matter by allowing aggregate transporters to exclude flow-through funds that are contractually paid to their subcontractors from their total revenue for purposes of 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

H.B. 1733 amends the Tax Code to require a taxable entity that is primarily engaged in the business of transporting aggregates to exclude from its total revenue, for purposes of computing the franchise tax and to the extent included under certain statutory provisions relating to the computation of total revenue with regard to that tax, subcontracting payments made by the taxable entity to nonemployee agents for the performance of delivery services on behalf of the taxable entity. The bill defines "aggregates" as any commonly recognized construction material removed or extracted from the earth.

EFFECTIVE DATE

January 1, 2014.