

BILL ANALYSIS

C.S.H.B. 2451
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that, under current law, the franchise tax is applied unfairly to certain types of business operators. Because of the inherent structure of certain agriculture aircraft operations, the service provided by those operations does not qualify for certain deductions normally available to other businesses. The parties note that these deductions would help such businesses offset their tax burden and maintain the ability to compete and generate profit. C.S.H.B. 2451 seeks to address this issue.

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. 2451 amends the Tax Code to require a taxable entity primarily engaged in the business of providing services as an agricultural aircraft operation, as defined by federal regulation, to exclude from its total revenue, for the purposes of computing the entity's taxable margin for the franchise tax, the cost of labor, equipment, fuel, and materials used in providing those services.

EFFECTIVE DATE

January 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2451 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

SECTION 1. Section 171.1012(i), Tax Code, is amended to read as follows:
(i) A taxable entity may make a subtraction under this section in relation to the cost of goods sold only if that entity owns the goods. The determination of whether a taxable entity is an owner is based on all of the facts and circumstances, including the various benefits and burdens of ownership vested with the taxable entity. A taxable entity furnishing labor or materials to a project for the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 171.1011, Tax Code, is amended by adding Subsection (w-1) to read as follows:

construction, improvement, remodeling, repair, or industrial maintenance (as the term "maintenance" is defined in 34 T.A.C. Section 3.357) of real property is considered to be an owner of that labor or materials and may include the costs, as allowed by this section, in the computation of cost of goods sold. Solely for purposes of this section, a taxable entity shall be treated as the owner of goods being manufactured or produced by the entity under a contract with the federal government, including any subcontracts that support a contract with the federal government, notwithstanding that the Federal Acquisition Regulation may require that title or risk of loss with respect to those goods be transferred to the federal government before the manufacture or production of those goods is complete. A taxable entity furnishing labor or materials in connection with an agricultural aircraft operation is considered to be an owner of that labor or materials and may include the costs, as allowed by this section, in the computation of cost of goods sold.

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.

(w-1) A taxable entity primarily engaged in the business of providing services as an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3, shall exclude from its total revenue the cost of labor, equipment, fuel, and materials used in providing those services.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.