

## BILL ANALYSIS

C.S.H.B. 3388  
By: Hilderbran  
Ways & Means  
Committee Report (Substituted)

### BACKGROUND AND PURPOSE

Interested parties note that certain taxpayers, including television stations, video stores, and theaters, may use the cost of goods sold deduction in determining their taxable margin under the franchise tax, a deduction which, as it applies to movie producers, television stations, and other companies in the business of distributing films or television programs, may include fees paid for the right to use the programs or movies. Distribution begins with a sale by the manufacturer or producer and ends with the sale or exhibition to the consumer. In the movie industry, there are several distribution channels, and the costs of the right to use movies are steep. This complexity has resulted in confusion regarding the distribution of movies and how related costs are factored into franchise tax liability. C.S.H.B. 3388 seeks to eliminate this confusion by requiring that amounts paid by theaters for the right to exhibit movies be included in the cost of goods sold deduction.

### 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. 3388 amends the Tax Code to require the cost of goods sold for a taxable entity that is a movie theater and that elects to subtract cost of goods sold from its taxable margin for purposes of computing franchise tax liability to be the costs in relation to the acquisition, production, exhibition, or use of a film or motion picture, including expenses for the right to use the film or motion picture.

### EFFECTIVE DATE

September 1, 2013.

### COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3388 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(o), Tax Code, is amended to read as follows:

(o) If a taxable entity, including a taxable entity with respect to which cost of goods

#### HOUSE COMMITTEE SUBSTITUTE

No equivalent provision but see SECTION 1 below.

83R 26772

13.122.800

Substitute Document Number: 83R 23383

sold is determined pursuant to Section 171.1014(e)(1), whose principal business activity is film or television production, exhibition, or broadcasting or the distribution of tangible personal property described by Subsection (a)(3)(A)(ii), or any combination of these activities, elects to subtract cost of goods sold, the cost of goods sold for the taxable entity shall be the costs described in this section in relation to the property and include depreciation, amortization, and other expenses directly related to the acquisition, production, exhibition, or use of the property, including expenses for the right to broadcast, exhibit, or use the property.

No equivalent provision but see SECTION 1 above.

SECTION 2. This Act is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this Act.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 1. Section 171.1012, Tax Code, is amended by adding Subsection (r) to read as follows:

(r) If a taxable entity that is a movie theater elects to subtract cost of goods sold, the cost of goods sold for the taxable entity shall be the costs described by this section in relation to the acquisition, production, exhibition, or use of a film or motion picture, including expenses for the right to use the film or motion picture.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.