

By: Campbell

S.B. No. 1049

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from the franchise tax and certain filing fees for certain businesses owned by veterans during an initial period of operation in the state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 171.0001(4), Tax Code, is amended to read as follows:

(4) "Beginning date" means:

(A) except as provided by Paragraph (B):

(i) for a taxable entity chartered or organized in this state, the date on which the taxable entity's charter or organization takes effect; and

(ii) ~~[(B)]~~ for any other taxable entity, the date on which the taxable entity begins doing business in this state; or

(B) for a taxable entity that qualifies as a new veteran-owned business as defined by Section 171.0005, the earlier of:

(i) the fifth anniversary of the date on which the taxable entity begins doing business in this state; or

(ii) the date the taxable entity ceases to qualify as a new veteran-owned business as defined by Section 171.0005.

SECTION 2. Effective January 1, 2020, Section 171.0001(4),

1 Tax Code, is amended to read as follows:

2 (4) "Beginning date" means:

3 (A) for a taxable entity chartered or organized
4 in this state, the date on which the taxable entity's charter or
5 organization takes effect; and

6 (B) for any other taxable entity, the date on
7 which the taxable entity begins doing business in this state.

8 SECTION 3. Subchapter A, Chapter 171, Tax Code, is amended
9 by adding Section 171.0005 to read as follows:

10 Sec. 171.0005. DEFINITION OF NEW VETERAN-OWNED BUSINESS.

11 (a) A taxable entity is a new veteran-owned business only if the
12 taxable entity is a new business in which each owner is a natural
13 person who:

14 (1) served in and was honorably discharged from a
15 branch of the United States armed forces; and

16 (2) provides verification to the comptroller of the
17 person's service and discharge required by Subdivision (1).

18 (b) The Texas Veterans Commission shall provide to a person
19 who meets the requirements of Subsection (a)(1) written
20 verification of that status in a form required by the comptroller.
21 The comptroller shall adopt rules prescribing the form and content
22 of the verification and the manner in which the verification may be
23 provided to the comptroller.

24 (c) For purposes of Subsection (a), a new business is a
25 taxable entity that:

26 (1) is chartered or organized or otherwise formed in
27 this state; and

1 (2) first begins doing business in this state on or
2 after January 1, 2016.

3 SECTION 4. Section 171.001, Tax Code, is amended by adding
4 Subsection (d) to read as follows:

5 (d) Notwithstanding Subsection (a), the tax imposed under
6 this chapter is not imposed on a taxable entity that qualifies as a
7 new veteran-owned business as defined by Section 171.0005 until the
8 earlier of:

9 (1) the fifth anniversary of the date on which the
10 taxable entity begins doing business in this state; or

11 (2) the date the taxable entity ceases to qualify as a
12 new veteran-owned business as defined by Section 171.0005.

13 SECTION 5. Section 171.063(g), Tax Code, is amended to read
14 as follows:

15 (g) If a corporation's federal tax exemption is withdrawn by
16 the Internal Revenue Service for failure of the corporation to
17 qualify or maintain its qualification for the exemption, the
18 corporation's exemption under this section ends on the effective
19 date of that withdrawal by the Internal Revenue Service. The
20 effective date of the withdrawal is considered the corporation's
21 beginning date for purposes of determining the corporation's
22 privilege periods and for all other purposes of this chapter,
23 except that if the corporation would have been subject to Section
24 171.001(d) in the absence of the federal tax exemption, and the
25 effective date of the withdrawal is a date earlier than the date the
26 corporation would have become subject to the franchise tax as
27 provided by Section 171.001(d), the date the corporation would have

1 become subject to the franchise tax under that section is
2 considered the corporation's beginning date for those purposes.

3 SECTION 6. Effective January 1, 2020, Section 171.063(g),
4 Tax Code, is amended to read as follows:

5 (g) If a corporation's federal tax exemption is withdrawn by
6 the Internal Revenue Service for failure of the corporation to
7 qualify or maintain its qualification for the exemption, the
8 corporation's exemption under this section ends on the effective
9 date of that withdrawal by the Internal Revenue Service. The
10 effective date of the withdrawal is considered the corporation's
11 beginning date for purposes of determining the corporation's
12 privilege periods and for all other purposes of this chapter.

13 SECTION 7. Section 171.204, Tax Code, is amended by adding
14 Subsection (d) to read as follows:

15 (d) The comptroller may require a taxable entity on which
16 the tax imposed under this chapter is not imposed solely because of
17 the application of Section 171.001(d) to file an information report
18 stating the taxable entity's beginning date as determined under
19 Section 171.0001(4)(B) and any other information the comptroller
20 determines necessary. The comptroller may not require the taxable
21 entity to report or compute its margin.

22 SECTION 8. Subchapter A, Chapter 12, Business Organizations
23 Code, is amended by adding Section 12.005 to read as follows:

24 Sec. 12.005. FEE WAIVER FOR NEW VETERAN-OWNED BUSINESS.
25 The secretary of state shall waive all fees imposed under
26 Subchapter D, Chapter 4, for an entity that is a new veteran-owned
27 business as defined by Section 171.0005, Tax Code, until the

1 earlier of:

2 (1) the fifth anniversary of the date on which the
3 entity was formed; or

4 (2) the date the entity ceases to qualify as a new
5 veteran-owned business as defined by Section 171.0005, Tax Code.

6 SECTION 9. Effective January 1, 2020, the following
7 sections are repealed:

8 (1) Section 171.0005, Tax Code;

9 (2) Section 171.001(d), Tax Code;

10 (3) Section 171.204(d), Tax Code; and

11 (4) Section 12.005, Business Organizations Code.

12 SECTION 10. The changes in law made by this Act that take
13 effect January 1, 2020, do not apply to a business that first
14 qualifies before that date as a new veteran-owned business as
15 defined by Section 171.0005, Tax Code, as that section exists
16 immediately before that date. A business that first qualifies
17 before January 1, 2020, as a new veteran-owned business is governed
18 by the law in effect immediately before that date, and that law is
19 continued in effect for that purpose.

20 SECTION 11. Except as otherwise provided by this Act, this
21 Act takes effect January 1, 2016.