

By: Hinojosa

H.B. No. 3714

A BILL TO BE ENTITLED

AN ACT

relating to a franchise tax credit pilot program for taxable entities that contribute to an employee dependent care flexible spending account.

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

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. TAX CREDIT PILOT PROGRAM FOR EMPLOYER CONTRIBUTIONS
TO DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS

Sec. 171.801. DEFINITION. In this subchapter, "dependent care flexible spending account" means a pre-tax benefit account used to pay eligible dependent care services as authorized by the Internal Revenue Code of 1986, as effective on January 1, 2017.

Sec. 171.802. ENTITLEMENT TO CREDIT. A taxable entity is entitled to a credit in the amount and under the conditions provided by this subchapter against the tax imposed under this chapter.

Sec. 171.803. QUALIFICATION. A taxable entity with not more than 500 employees qualifies for a credit under this subchapter for contributions made to the dependent care flexible spending account of each employee of the taxable entity who receives from the taxable entity an annual salary or wage of not more than \$65,000.

Sec. 171.804. AMOUNT OF CREDIT; LIMITATIONS. (a) Subject to Subsection (b), the amount of the credit for a report in

1 connection with each employee described by Section 171.803 is equal
2 to the lesser of:

3 (1) 50 percent of the contributions made by the
4 taxable entity to the employee's dependent care flexible spending
5 account; or

6 (2) \$2,500.

7 (b) The total amount of the credit for each report is equal
8 to the lesser of:

9 (1) the total of the credits allowed under Subsection
10 (a) for the reporting period for all employees; or

11 (2) the amount of franchise tax due after applying all
12 other applicable credits.

13 Sec. 171.805. APPLICATION FOR CREDIT. (a) A taxable entity
14 must apply for a credit under this subchapter on or with the tax
15 report for the period for which the credit is claimed.

16 (b) The comptroller shall promulgate a form for the
17 application for the credit. A taxable entity must use the form in
18 applying for the credit.

19 Sec. 171.806. PERIOD FOR WHICH CREDIT MAY BE CLAIMED. A
20 taxable entity may claim a credit under this subchapter for a report
21 only in connection with contributions made during the accounting
22 period on which the report is based.

23 Sec. 171.807. EXPIRATION. This subchapter expires December
24 31, 2019.

25 SECTION 2. (a) Not later than September 1, 2020, the
26 comptroller shall prepare and deliver to the governor, the
27 lieutenant governor, the speaker of the house of representatives,

1 and the presiding officer of each legislative standing committee
2 with primary jurisdiction over taxation a report that evaluates the
3 effect of the pilot program established under Subchapter P, Chapter
4 171, Tax Code, as added by this Act, on employer contributions to
5 employees' dependent care flexible spending accounts for which
6 credits are granted under the pilot program under that subchapter.
7 The report must include a recommendation regarding whether the
8 credit allowed under the pilot program should be reestablished.

9 (b) A taxable entity that claims a credit under Subchapter
10 P, Chapter 171, Tax Code, as added by this Act, shall provide to the
11 comptroller information the comptroller requests to prepare the
12 report described by Subsection (a).

13 SECTION 3. A taxable entity may claim the credit under
14 Subchapter P, Chapter 171, Tax Code, as added by this Act, only for
15 contributions made on or after September 1, 2017, and only on a
16 franchise tax report originally due under Chapter 171, Tax Code, on
17 or after January 1, 2018.

18 SECTION 4. This Act takes effect September 1, 2017.