

BILL ANALYSIS

Senate Research Center
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S.B. 66
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

What does this bill do?

- Reduces the franchise tax every biennium if the comptroller of public accounts of the State of Texas (comptroller) certifies that the state will experience at least five percent revenue growth.

Bill Provisions

- Adds Section 171.004 to the Tax Code;
- Dedicates to franchise tax relief half of the general revenue-related funds over five percent growth of general revenue-related funds available for certification in the comptroller's biennial revenue estimate;
- Permanently reduces the franchise tax rate according to the amount of available funds; and
- Continues the franchise tax rate reduction using the available general revenue-related funds biennially until the franchise tax is eliminated.

Under current projections, it would completely phase out in 20 years.

- Clarifies that the comptroller should use the general revenue-related funds from the biennial revenue estimate when calculating the amount of revenue available for tax relief.
- Ensures franchise tax records remain confidential after repeal of the franchise tax.

As proposed, S.B. 66 amends current law relating to the decrease of the rates of the franchise tax under certain circumstances and the expiration of that tax.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 2 (Section 171.004, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 171.002(a) and (b), Tax Code, as follows:

(a) Provides that, subject to Sections 171.003 (Definitions), 171.004, and 171.1016 (E-Z Computation and Rate) and except as provided by Subsection (b), rather than subject to Sections 171.003 and 171.1016 and except as provided by Subsection (b), the rate of the franchise tax is 0.75 percent of taxable margin.

(b) Makes a conforming change.

SECTION 2. Amends Subchapter A, Chapter 171, Tax Code, by adding Section 171.004, as follows:

Sec. 171.004. ADJUSTMENT OF TAX RATES. (a) Defines "biennial revenue estimate," "current biennium," and "succeeding biennium."

(b) Requires the comptroller of public accounts of the State of Texas (comptroller) to determine and include with the biennial revenue estimate:

(1) the amount of total general revenue-related funds that would be available for certification for the succeeding biennium assuming a franchise tax rate adjustment under this section does not take effect in that biennium;

(2) the percentage change between the amount of total general revenue-related funds available for certification for the current biennium, as provided by the biennial revenue estimate, and the amount provided by Subdivision (1) for the succeeding biennium;

(3) if the percentage change under Subdivision (2) is greater than five percent, the amount of total general revenue-related funds that would be available for certification for the succeeding biennium assuming the franchise tax rate adjustment under this section takes effect in the succeeding biennium; and

(4) if the percentage change under Subdivision (2) is greater than five percent, the percentage change between the amount of total general revenue-related funds available for certification for the current biennium, as provided by the biennial revenue estimate, and the amount provided by Subdivision (3) for the succeeding biennium.

(c) Requires the comptroller to determine the amount of revenue available for franchise tax reduction if the percentage change determined under Subsection (b)(2) is greater than five percent, which is computed as follows:

$$\text{PTR} = 0.5 \times (\text{SBGR} - (\text{CBGR} \times 1.05))$$

Defines "PTR," "SBGR," and "CBGR."

(d) Provides that this subsection applies only if the percentage determined under Subsection (b) (2) is greater than five percent. Requires the comptroller, not later than the last day of a state fiscal biennium, to determine the rates for purposes of Sections 171.002(a) and (b) and Section 171.1016 that, if effective beginning January 1 of the even-numbered year occurring during the succeeding biennium, are estimated to reduce the amount of revenue collected under this chapter (Franchise Tax) for the succeeding biennium, as compared to the amount of revenue that would be collected if the rates then in effect remained in effect, by the amount of revenue available for franchise tax reduction determined under Subsection (c). Requires the comptroller in determining the rates under this subsection to proportionately reduce the rates under Sections 171.002(a) (relating to the computation of tax rates) and (b) (relating to the computation of the franchise tax) and Section 171.1016 that are in effect on the date the comptroller makes the determination.

(e) Requires the comptroller, not later than the last day of, a state fiscal biennium, to adopt the adjusted tax rates determined under Subsection (d), if applicable, publish notice of the adjusted tax rates in the Texas Register, and provide any other notice relating to the adjusted tax rates that the comptroller considers appropriate.

(f) Provides that the tax rates adopted under Subsection (e) apply to a report originally due on or after January 1 of the even-numbered year described by Subsection (d) and are

considered for purposes of this chapter to be the rates provided by and imposed under Section 171.002 or 171.1016, as possible.

(g) Provides that if the percentage change determined under Subsection (b)(2) is not greater than five percent, the rates of the franchise tax in effect when the biennial revenue estimate is submitted to the governor and legislature remain in effect for the succeeding biennium unless modified by other law.

(h) Provides that notwithstanding Subsection (d), if an adjustment otherwise required by that subsection would reduce a rate of the franchise tax to less than zero, the rate is instead reduced to zero.

(i) Provides that, notwithstanding any other law, if the rates of the franchise tax are reduced to zero under Subsection (d) or (h), a taxable entity does not owe any tax and is not required to file a report that would otherwise be originally due on or after the date those rates are reduced to zero.

(j) Authorizes the comptroller to adopt rules related to making the determinations required by this section.

(k) Provides that in the state fiscal year in which the rates of the franchise tax are reduced to zero under Subsection (d) or (h), this chapter expires as provided by Section 171.9321, and not later than January 15 of that year the comptroller is required to publish notice in the Texas Register that an entity previously subject to the tax imposed under this chapter is no longer required to file a report or pay the tax and to provide any other notice relating to the expiration of the tax that the comptroller considers appropriate.

(l) Provides that an action taken by the comptroller under this section is final and may not be appealed.

SECTION 3. Amends Sections 171.1016(b) and (e), Tax Code, as follows:

(b) Provides that the amount of the tax for which a taxable entity that elects to pay the tax as provided by this section is liable is computed by:

(1)–(2) makes no changes to these subsections.

(3) multiplying the amount computed under Subdivision (2) by the rate of 0.331 percent or, if applicable, an adjusted tax rate determined under Section 171.004.

(e) Provides that a reference in this chapter or other law to the rate of the franchise tax means, as appropriate, the rate under Section 171.002 or, for a taxable entity that elects to pay the tax as provided by this section, the rate under this section, or the adjusted rates under Section 171.004.

SECTION 4. Amends Chapter 171, Tax Code, by adding Subchapter Z, as follows:

SUBCHAPTER Z. EXPIRATION

Sec. 17.9321. EXPIRATION. Provides that this chapter expires on December 31 of the year in which the rates of the franchise tax under Sections 171.002 and 171.1016 are reduced to zero under Section 171.004(d) or (h).

SECTION 5. (a) Provides that after Chapter 171, Tax Code, expires as provided by Subchapter Z, Chapter 171, Tax Code, as added by this Act:

(1) Chapter 171 and Subtitle B (Enforcement and Collection), Title 2, Tax Code, continue to apply to audits, deficiencies, redeterminations, and refunds of any tax due or collected under Chapter 171 until barred by limitations; and

(2) Sections 171.206 through 171.210, Tax Code, continue to apply to information described by those sections.

(b) Provides that the expiration of Chapter 171, Tax Code, does not affect:

(1) the status of a taxable entity that has had its corporate privileges, certificate of authority, certificate of organization, certificate of limited partnership, corporate charter, or registration revoked, suit filed against it, or a receiver appointed under Subchapter F (Forfeiture of Corporate and Business Privileges), G (Forfeiture of Charter or Certificate of Authority), or H (Enforcement) of that chapter.

(2) the ability of the comptroller, secretary of state, or Texas attorney general to take action against a taxable entity under Subchapter F, G, or H of that chapter for actions that took place before the chapter expired; or

(3) the right of a taxable entity to contest a forfeiture, revocation, lawsuit, or appointment of a receiver under Subchapter F (Forfeiture of Corporate and Business Privileges), G (Forfeiture of Charter or Certificate of Authority), or H (Enforcement) of that chapter.

SECTION 6. Provides that this Act applies only to a report originally due on or after January 1, 2022.

SECTION 7. Effective date: September 1, 2019.