86R23635 GRM-D

By:  Hinojosa, Wray, Martinez Fischer, H.B. No. 52

     Guillen, Cole

Substitute the following for H.B. No. 52:

By:  Rodriguez C.S.H.B. No. 52

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 pretax benefit account used to pay eligible dependent care services as authorized by the Internal Revenue Code of 1986, as effective on January 1, 2019.

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) Subject to Subsection (b), a taxable entity qualifies for a credit under this subchapter if the taxable entity:

(1)  has an average of not more than 500 employees during the period on which the report is based; and

(2)  contributes to the dependent care flexible spending account of each employee of the taxable entity who maintains an account and receives from the taxable entity an annual salary or wage of not more than $65,000.

(b)  A combined group qualifies for a credit under this subchapter in connection with any member of the combined group that satisfies the requirements of Subsection (a).

Sec. 171.804.  AMOUNT OF CREDIT; LIMITATIONS. (a) Subject to Subsection (b), the amount of the credit for a report in connection with each employee described by Section 171.803(a)(2) is equal to the lesser of:

(1)  50 percent of the contributions made by the taxable entity to the employee's dependent care flexible spending account, excluding any portion of a contribution returned to the taxable entity; or

(2)  $2,500.

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

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

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

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

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

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

Sec. 171.807.  DEPOSIT OF CERTAIN REVENUE. Notwithstanding any other law, for each fiscal year, the comptroller must deposit to the credit of the property tax relief fund an amount of revenue received from the tax imposed under this chapter sufficient to offset any decrease in deposits to that fund that results from the implementation of this subchapter.

Sec. 171.808.  EXPIRATION. This subchapter expires December 31, 2021.

SECTION 2.  (a) Not later than September 1, 2022, the comptroller shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over taxation a report that evaluates the effect of the pilot program established under Subchapter P, Chapter 171, Tax Code, as added by this Act, on employer contributions to employees' dependent care flexible spending accounts for which credits are granted under the pilot program under that subchapter. The report must include a recommendation regarding whether the credit allowed under the pilot program should be reestablished.

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

SECTION 3.  A taxable entity may claim the credit under Subchapter P, Chapter 171, Tax Code, as added by this Act, only for contributions made on or after September 1, 2019, and before January 1, 2022, and only on a franchise tax report originally due under Chapter 171, Tax Code, on or after January 1, 2020, and before January 1, 2023, notwithstanding the expiration of Subchapter P, Chapter 171, Tax Code, as added by this Act.

SECTION 4.  This Act takes effect September 1, 2019.