

BILL ANALYSIS

Senate Research Center

S.B. 653
By: Springer
Finance
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Most taxable entities formed in Texas or doing business in Texas must file and pay a one percent franchise tax (0.5 percent for certain companies). This tax applies to those businesses that have revenues over \$1 million per year, and, unlike a standard corporate income tax, the entity owes the tax regardless of profits or losses.

A business that produces goods is typically allowed to deduct the cost of goods sold, which generally includes costs related to the acquisition and production of tangible personal property and real property. Whereas the state usually prevents taxable entities that sell services from a cost of goods sold deduction, these entities can deduct compensation up to \$300,000 per employee.

However, some professional sports teams in Texas, while not producing goods, take advantage of a loophole in current law to avoid paying millions in taxes by using the cost of goods sold deduction. These teams then deduct their players' total salaries, claiming they are part of the cost of goods sold instead of taking the intended compensation deduction.

The bill would close the loophole and ensure that major sports franchises that enjoy Texas's many benefits pay their proper taxes.

As proposed, S.B. 653 amends current law relating to the payment of franchise taxes by taxable entity that employs or contracts with a professional athlete.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 171.1012, Tax Code, by adding Subsection (u), as follows:

(u) Prohibits a taxable entity that employs or contracts with a professional athlete and that elects to subtract costs of goods sold, notwithstanding any other provision of Section 171.1012 (Determination of Cost of Goods Sold), from including the cost to employ the professional athlete as labor costs when calculating the entity's costs of goods sold for purposes of the franchise tax to the extent the amount paid to the athlete exceeds the limit on wage and cash compensation under Section 171.1013(c) (relating to a maximum amount a taxable entity may include as wages and cash compensation to certain employees) as applied to the athlete. Provides that in this subsection, "professional athlete" has the meaning assigned by Section 406.095 (Certain Professional Athletes), Labor Code.

SECTION 2. Provides that this Act applies only to a report originally due on or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2021.