87R3748 CJC-D

By:  Campbell, et al. S.B. No. 938

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

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

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

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

SECTION 2.  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 3.  Effective January 1, 2026, Section 171.0001(4), Tax Code, is amended to read as follows:

(4)  "Beginning date" means:

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

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

SECTION 4.  Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.0005 to read as follows:

Sec. 171.0005.  DEFINITION OF NEW VETERAN-OWNED BUSINESS. (a)  A taxable entity is a new veteran-owned business only if the taxable entity is a new business in which each owner is a natural person who:

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

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

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

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

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

(2)  first begins doing business in this state on or after January 1, 2022.

SECTION 5.  Section 171.001, Tax Code, is amended by adding Subsection (d) to read as follows:

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

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

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

SECTION 6.  Section 171.063(g), Tax Code, is amended to read as follows:

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

SECTION 7.  Effective January 1, 2026, Section 171.063(g), Tax Code, is amended to read as follows:

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

SECTION 8.  Section 171.204, Tax Code, is amended by adding Subsection (d) to read as follows:

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

SECTION 9.  Effective January 1, 2026, the following provisions are repealed:

(1)  Section 12.005, Business Organizations Code;

(2)  Section 171.0005, Tax Code;

(3)  Section 171.001(d), Tax Code; and

(4)  Section 171.204(d), Tax Code.

SECTION 10.  The changes in law made by this Act that take effect January 1, 2026, do not apply to a business that first qualifies before that date as a new veteran-owned business as defined by Section 171.0005, Tax Code, as that section exists immediately before that date. A business that first qualifies before January 1, 2026, as a new veteran-owned business is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 11.  Except as otherwise provided by this Act, this Act takes effect January 1, 2022.