

1-1 By: Campbell, et al. S.B. No. 938
1-2 (In the Senate - Filed March 2, 2021; March 11, 2021, read
1-3 first time and referred to Committee on Finance; April 8, 2021,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 15, Nays 0; April 8, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			

1-23 COMMITTEE SUBSTITUTE FOR S.B. No. 938 By: Campbell

1-24 A BILL TO BE ENTITLED
1-25 AN ACT

1-26 relating to an exemption from the franchise tax and certain filing
1-27 fees for certain businesses owned by veterans during an initial
1-28 period of operation in the state.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Subchapter A, Chapter 12, Business Organizations
1-31 Code, is amended by adding Section 12.005 to read as follows:

1-32 Sec. 12.005. FEE WAIVER FOR NEW VETERAN-OWNED BUSINESS.
1-33 The secretary of state shall waive all fees imposed under
1-34 Subchapter D, Chapter 4, for an entity that is a new veteran-owned
1-35 business as defined by Section 171.0005, Tax Code, until the
1-36 earlier of:

1-37 (1) the fifth anniversary of the date on which the
1-38 entity was formed; or
1-39 (2) the date the entity ceases to qualify as a new
1-40 veteran-owned business as defined by Section 171.0005, Tax Code.

1-41 SECTION 2. Section 171.0001(4), Tax Code, is amended to
1-42 read as follows:

1-43 (4) "Beginning date" means:

1-44 (A) except as provided by Paragraph (B):

1-45 (i) for a taxable entity chartered or
1-46 organized in this state, the date on which the taxable entity's
1-47 charter or organization takes effect; and

1-48 (ii) [~~(B)~~] for any other taxable entity,
1-49 the date on which the taxable entity begins doing business in this
1-50 state; or

1-51 (B) for a taxable entity that qualifies as a new
1-52 veteran-owned business as defined by Section 171.0005, the earlier
1-53 of:

1-54 (i) the fifth anniversary of the date on
1-55 which the taxable entity begins doing business in this state; or

1-56 (ii) the date the taxable entity ceases to
1-57 qualify as a new veteran-owned business as defined by Section
1-58 171.0005.

1-59 SECTION 3. Effective January 1, 2026, Section 171.0001(4),
1-60 Tax Code, is amended to read as follows:

2-1 (4) "Beginning date" means:

2-2 (A) for a taxable entity chartered or organized
2-3 in this state, the date on which the taxable entity's charter or
2-4 organization takes effect; and

2-5 (B) for any other taxable entity, the date on
2-6 which the taxable entity begins doing business in this state.

2-7 SECTION 4. Subchapter A, Chapter 171, Tax Code, is amended
2-8 by adding Section 171.0005 to read as follows:

2-9 Sec. 171.0005. DEFINITION OF NEW VETERAN-OWNED BUSINESS.

2-10 (a) A taxable entity is a new veteran-owned business only if the
2-11 taxable entity is a new business in which each owner is a natural
2-12 person who:

2-13 (1) served in and was honorably discharged from a
2-14 branch of the United States armed forces; and

2-15 (2) provides verification to the comptroller of the
2-16 person's service and discharge required by Subdivision (1).

2-17 (b) The Texas Veterans Commission shall provide to a person
2-18 who meets the requirements of Subsection (a)(1) written
2-19 verification of that status in a form required by the comptroller.
2-20 The comptroller shall adopt rules prescribing the form and content
2-21 of the verification and the manner in which the verification may be
2-22 provided to the comptroller.

2-23 (c) For purposes of Subsection (a), a new business is a
2-24 taxable entity that:

2-25 (1) is chartered or organized or otherwise formed in
2-26 this state; and

2-27 (2) first begins doing business in this state on or
2-28 after January 1, 2022.

2-29 SECTION 5. Section 171.001, Tax Code, is amended by adding
2-30 Subsection (d) to read as follows:

2-31 (d) Notwithstanding Subsection (a), the tax imposed under
2-32 this chapter is not imposed on a taxable entity that qualifies as a
2-33 new veteran-owned business as defined by Section 171.0005 until the
2-34 earlier of:

2-35 (1) the fifth anniversary of the date on which the
2-36 taxable entity begins doing business in this state; or

2-37 (2) the date the taxable entity ceases to qualify as a
2-38 new veteran-owned business as defined by Section 171.0005.

2-39 SECTION 6. Section 171.063(g), Tax Code, is amended to read
2-40 as follows:

2-41 (g) If a corporation's federal tax exemption is withdrawn by
2-42 the Internal Revenue Service for failure of the corporation to
2-43 qualify or maintain its qualification for the exemption, the
2-44 corporation's exemption under this section ends on the effective
2-45 date of that withdrawal by the Internal Revenue Service. The
2-46 effective date of the withdrawal is considered the corporation's
2-47 beginning date for purposes of determining the corporation's
2-48 privilege periods and for all other purposes of this chapter,
2-49 except that if the corporation would have been subject to Section
2-50 171.001(d) in the absence of the federal tax exemption, and the
2-51 effective date of the withdrawal is a date earlier than the date the
2-52 corporation would have become subject to the franchise tax as
2-53 provided by Section 171.001(d), the date the corporation would have
2-54 become subject to the franchise tax under that section is
2-55 considered the corporation's beginning date for those purposes.

2-56 SECTION 7. Effective January 1, 2026, Section 171.063(g),
2-57 Tax Code, is amended to read as follows:

2-58 (g) If a corporation's federal tax exemption is withdrawn by
2-59 the Internal Revenue Service for failure of the corporation to
2-60 qualify or maintain its qualification for the exemption, the
2-61 corporation's exemption under this section ends on the effective
2-62 date of that withdrawal by the Internal Revenue Service. The
2-63 effective date of the withdrawal is considered the corporation's
2-64 beginning date for purposes of determining the corporation's
2-65 privilege periods and for all other purposes of this chapter.

2-66 SECTION 8. Section 171.204, Tax Code, is amended by adding
2-67 Subsection (d) to read as follows:

2-68 (d) The comptroller may require a taxable entity on which
2-69 the tax imposed under this chapter is not imposed solely because of

3-1 the application of Section 171.001(d) to file an information report
3-2 stating the taxable entity's beginning date as determined under
3-3 Section 171.0001(4)(B) and any other information the comptroller
3-4 determines necessary. The comptroller may not require the taxable
3-5 entity to report or compute its margin.

3-6 SECTION 9. Effective January 1, 2026, the following
3-7 provisions are repealed:

3-8 (1) Section 12.005, Business Organizations Code;

3-9 (2) Section 171.0005, Tax Code;

3-10 (3) Section 171.001(d), Tax Code; and

3-11 (4) Section 171.204(d), Tax Code.

3-12 SECTION 10. The changes in law made by this Act that take
3-13 effect January 1, 2026, do not apply to a business that first
3-14 qualifies before that date as a new veteran-owned business as
3-15 defined by Section 171.0005, Tax Code, as that section exists
3-16 immediately before that date. A business that first qualifies
3-17 before January 1, 2026, as a new veteran-owned business is governed
3-18 by the law in effect immediately before that date, and that law is
3-19 continued in effect for that purpose.

3-20 SECTION 11. The agency is required to implement this Act
3-21 only if the legislature appropriates money specifically for that
3-22 purpose. If the legislature does not appropriate money
3-23 specifically for that purpose, the commission may, but is not
3-24 required to, implement this Act using other appropriations
3-25 available for the purpose.

3-26 SECTION 12. Except as otherwise provided by this Act, this
3-27 Act takes effect January 1, 2022.

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