

BILL ANALYSIS

S.B. 938
By: Campbell
Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been suggested that the state should do more to encourage and support entrepreneurship among veterans in Texas. While state law exempts certain entities from the franchise tax, veteran-owned businesses do not qualify for these tax breaks. S.B. 938 seeks to address this issue by providing a franchise tax exemption to new veteran-owned businesses during an initial period of operation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 4 of this bill.

ANALYSIS

S.B. 938 amends the Tax Code to exempt a taxable entity that qualifies as a new veteran-owned business from the franchise tax during an initial period of operation ending the earlier of the fifth anniversary of the date on which the entity begins doing business in Texas or the date the entity ceases to qualify as a new veteran-owned business. For purposes of imposing the franchise tax, the bill defines such an entity's beginning date as the earlier of those two dates. The bill repeals the exemption and restores the definition of "beginning date" by omitting reference to an entity that qualifies as a new veteran-owned business effective January 1, 2026.

S.B. 938 establishes a taxable entity as a new veteran-owned business only if it is a new business in which each owner is a natural person who served in and was honorably discharged from a branch of the U.S. armed forces and who provides verification to the comptroller of public accounts of the person's service and honorable discharge. For such purposes, a new business is a taxable entity chartered, organized, or otherwise formed in Texas that first begins doing business in Texas on or after January 1, 2022. The bill requires the Texas Veterans Commission to provide to an honorably discharged veteran of the U.S. armed forces written verification of that status in a form required by the comptroller and requires the comptroller to adopt rules prescribing the form and content of the verification and the manner in which verification may be provided to the comptroller. Effective January 1, 2026, the bill repeals these provisions.

S.B. 938 creates an exception to the date considered a nonprofit corporation's beginning date for purposes of determining privilege periods and for all other franchise tax purposes if the nonprofit corporation loses its federal tax exemption, but would have qualified as a new veteran-owned business in the absence of the federal exemption. In such a case, the bill makes the corporation's beginning date the date it would have become subject to the franchise tax as a new

veteran-owned business, not the date the IRS withdrew the corporation's federal tax exemption. Effective January 1, 2026, the bill restores statutory language setting a nonprofit corporation's beginning date as the effective date of the withdrawal of the federal exemption by omitting reference to that exception.

S.B. 938 authorizes the comptroller to require a taxable entity exempt from the franchise tax solely because of the entity's status as a new veteran-owned business to file an information report stating the entity's beginning date and any other information the comptroller determines necessary but prohibits the comptroller from requiring the entity to report or compute its margin. Effective January 1, 2026, the bill repeals these provisions.

S.B. 938 amends the Business Organizations Code to require the secretary of state to waive all filing fees imposed under the code for an entity that is a new veteran-owned business until the earlier of the fifth anniversary of the date on which the entity was formed or the date the entity ceases to qualify as a new veteran-owned business. Effective January 1, 2026, the bill repeals this requirement.

S.B. 938 makes the implementation of its provisions by the agency mandatory only if a specific appropriation is made for that purpose. The bill establishes that its provisions taking effect January 1, 2026, do not apply to a business that first qualifies as a new veteran-owned business before that date.

Effective January 1, 2026, S.B. 938 repeals the following provisions:

- Section 12.005, Business Organizations Code;
- Section 171.0005, Tax Code;
- Section 171.001(d), Tax Code; and
- Section 171.204(d), Tax Code.

EFFECTIVE DATE

Except as otherwise provided, January 1, 2022.