

SUBJECT: Broadcaster payments of franchise taxes

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 7 ayes — Hilderbran, Otto, Bohac, Button, Eiland, Gonzalez, Ritter
0 nays
1 absent — Martinez Fischer
1 present, not voting — Strama

WITNESSES: For — Robert Vonick, The Walt Disney Company and the Motion Picture Association of America; (*Registered, but did not testify:* Angela Miele and Jody Richardson, Motion Picture Association of America, Oscar Rodriguez, Texas Association of Broadcasters)

Against - None

On — (*Registered, but did not testify:* Teresa Bostick and Ed Warren, Comptroller of Public Accounts)

DIGEST: CSHB 2145 would amend Tax Code, sec. 171.106 to provide that a broadcaster's apportionment of receipts from a broadcast or other distribution of film programming was based on the legal domicile of the broadcaster's customer. The subsection would apply only to receipts that were licensing income from distributing film programming.

CSHB 2145 would define broadcaster as a taxable entity, not including a cable service provider or a direct broadcast satellite that was a television station, a television network, a cable television network, or a television distribution company. Customer would be defined as person (company), including a licensee, that had a direct connection or contractual relationship with the broadcaster under which the broadcaster derived revenue. The bill would define film programming as all or part of a live or recorded performance, event, or production intended to be distributed for visual and auditory perception by an audience. Programming would be defined to include news, entertainment, sporting events, plays, stories, or other literary, commercial, educational, or artistic works.

The bill would take effect on January 1, 2015.

**SUPPORTERS
SAY:**

The bill would provide clarity to the broadcast industry for franchise tax purposes by providing that the franchise tax should be based on where the broadcaster's customers (such as cable companies) are incorporated, and not where content is actually viewed (at homes and businesses). This parallels other state laws dealing with the conveyance of intellectual property. Film and other forms of broadcasts are conveyances of intellectual property.

**OPPONENTS
SAY:**

The true intersection of the transaction for franchise tax purpose should be at the place of the ultimate consumer – the residential or business subscriber to a cable television or a satellite network. The LBB fiscal note states that the cost to the state over the biennium will be \$2.9 million beginning in 2015. The fiscal 2016-17 biennium cost is estimated to be \$5.8 million.