

## **BILL ANALYSIS**

Senate Research Center  
76R3373 DAK-D

S.B. 5  
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Finance  
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### **DIGEST**

Currently, a corporation in Texas may not claim a tax credit for conducting qualified research and development (R&D) activities. Moreover, at least 15 states offer some form of an R&D tax credit. S.B. 5 would authorize a five percent franchise tax credit or refund for qualified research expenses and basic research payments made in Texas, but the value of the credit in any given tax year is restricted to 25 percent of the corporation's franchise tax liability and to a total credit or refund of \$125 million per year.

### **PURPOSE**

As proposed, S.B. 5 provides a research and development refund or credit against the franchise tax for corporations conducting qualified research and development.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Comptroller of Public Accounts in SECTION 1 (Section 171.728, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 171, Tax Code, by adding Subchapter O, as follows:

#### **SUBCHAPTER O. TAX REFUND OR CREDIT FOR CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES**

Sec. 171.721. DEFINITIONS. Defines "base amount," "basic research payment," and "qualified research expense."

Sec. 171.722. ENTITLEMENT. Provides that a corporation is entitled to a refund as provided by this subchapter against the tax imposed by this chapter.

Sec. 171.723. AMOUNT. Establishes that the refund for any privilege period equals five percent of the sum of certain qualified research expenses and basic research payments, except as provided by Subsection (b), and subject to adjustment under Section 171.726. Prohibits the total refund claimed under this section for a privilege period from exceeding 25 percent of the net franchise tax for that period after any other applicable tax credits or refunds. Requires a certain procedure for calculating the base amount and any other amount in order to calculate the refund if the corporation's accounting year does not correspond to the privilege period.

Sec. 171.724. APPLICATION. Requires a corporation to apply for a refund on or with the tax report for same period as the claimed refund. Requires the Texas Comptroller of Public Accounts (comptroller) to promulgate a form for the refund application. Requires a corporation to use this form in applying for the refund.

Sec. 171.725. DETERMINATION OF TOTAL AMOUNT OF REFUNDS. Requires the comptroller to determine the total amount of refunds claimed for a tax year for all reports filed by a certain date.

Sec. 171.726. ADJUSTMENT AND PAYMENT OF REFUND. Requires the comptroller to send to a corporation entitled to a refund the refund or a portion of the refund under certain circumstances by a certain date. Requires the comptroller to determine a corporation's refund by

a certain procedure if the total amount of the refund is greater than \$125 million.

Sec. 171.727. CREDIT. Authorizes the comptroller to allow a corporation to take a direct credit against the tax owed under this chapter instead of issuing a refund after the payment of the tax if the total amount of the refund is a certain sum. Provides that if the comptroller makes the determination to allow a direct credit against the tax owed, the provisions of this subchapter regarding the entitlement to amount of limitations of a refund apply in the same manner to the credit.

Sec. 171.728. RULES. Grants rulemaking authority to the comptroller to implement this subchapter.

SECTION 2. (a) Effective date: January 1, 2000.

(b) Provides that this Act applies only to:

- (1) a report originally due on or after the effective date; and
- (2) an expense or payment made on or after January 1, 1999.

SECTION 3. Emergency clause.