

BILL ANALYSIS

Senate Research Center
81R37200 JE-D

C.S.H.B. 4765
By: Oliveira et al. (Patrick, Dan)
Finance
5/25/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2008, business payments under the revised Texas franchise tax almost doubled; however, this increase was not spread equally across the business community. Businesses between \$1 million and \$10 million in total revenue bore the brunt of this tax increase. This sector of the economy paid an increase of almost 50 percent. As the Texas economy gradually works its way out of a recession, small businesses need some tax relief. This bill seeks to mitigate the affect of the new franchise tax by effectively removing 40,000 businesses from the tax rolls.

C.S.H.B. 4765 amends current law relating to the computation of the franchise tax.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Amends Section 171.002(d), Tax Code, as follows:

(d) Provides that a taxable entity is not required to pay any tax and is not considered to owe any tax for a period if the amount of tax computed for the taxable entity is less than \$1,000, or the amount of the taxable entity's total revenue from its entire business is less than or equal to \$1 million, rather than \$300,000, or the amount determined under Section 171.006 (Adjustment of Eligibility for No Tax Due, Discounts, and Compensation Deduction) per 12-month period on which margin is based.

(b) Provides that this section takes effect only if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211 (Tax Imposed on Tobacco Products Other Than Cigars), Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. Provides that if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section has no effect.

(c) Provides that if this section takes effect, this section expires December 31, 2011.

(d) Provides that this section applies only to a report originally due on or after the effective date of this section.

SECTION 2. (a) Amends Section 171.002(d), Tax Code, as follows:

(d) Provides that a taxable entity is not required to pay any tax and is not considered to owe any tax for a period if the amount of tax computed for the taxable entity is less than \$1,000, or the amount of the taxable entity's total revenue from its entire business is less than or equal to \$600,000, rather than \$300,000, or the amount determined under Section 171.006 per 12-month period on which margin is based.

(b) Provides that this section takes effect January 1, 2012, if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. Provides that if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section takes effect January 1, 2010.

(c) Provides that this section applies only to a report originally due on or after the effective date of this section.

SECTION 3. (a) Amends Section 171.0021(a), Tax Code, as follows:

(a) Provides that a taxable entity is entitled to a discount of the tax imposed under this chapter that the taxable entity is required to pay after determining its taxable margin under Section 171.101 (Determination of Taxable Margin), applying the appropriate rate of the tax under Section 171.002(a) (relating to providing that the section is subject to certain other sections except as provided by subsection (b)) or (b) (relating to providing that subject to certain sections, the rate of the franchise tax is 0.5 percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade), and subtracting any other allowable credits for a taxable entity for which the total revenue from its entire business is greater than \$600,000, rather than equal to or greater than \$500,000, but less than \$700,000, the taxable entity is entitled to a discount of 40 percent; and for a taxable entity for which the total revenue from its entire business is equal to or greater than \$700,000 but less than \$900,000, the taxable entity is entitled to a discount of 20 percent. Deletes existing text providing that a taxable entity is entitled to a discount of the tax imposed under this chapter that the taxable entity is required to pay after determining its taxable margin under Section 171.101 (Determination of Taxable Margin), applying the appropriate rate of the tax under Section 171.002(a) or (b), and subtracting any other allowable credits for a taxable entity for which the total revenue from its entire business is greater than \$300,000 but less than \$400,000, the taxable entity is entitled to a discount of 80 percent; for a taxable entity for which the total revenue from its entire business is equal to or greater than \$400,000 but less than \$500,000, the taxable entity is entitled to a discount of 60 percent. Makes nonsubstantive changes.

(b) Provides that this section takes effect January 1, 2012, if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. Provides that if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section takes effect January 1, 2010.

(c) Provides that this section applies only to a report originally due on or after the effective date of this section.

SECTION 4. Effective date, except as otherwise provided by this Act: January 1, 2010.