

BILL ANALYSIS

Senate Research Center
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S.B. 1447
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Trucking companies are a viable and critical artery of any business component in transporting of goods and services throughout the State of Texas. Particularly, there are many trucking companies within the oil field service areas in support of oil and gas exploration companies throughout Texas transporting goods and services who hire independent trucking subcontractors known as “owner operators.”

Especially in the Permian Basin and the Eagle Ford Shale, where before a drill bit goes down the shaft, most if not all oil and gas exploration companies rely on a compound known as barite, a vital component in the drilling process for oil and gas exploration. Barite is picked up and delivered by specialized trucking companies to the drilling site as needed.

Currently, the Texas franchise tax allows for certain deductions for one trucking company that it does not allow for another trucking company. A trucking company that owns all of its fleet may deduct all of the expenses related to transporting goods and services. A trucking company that does not own its own fleet may not deduct these same expenses as stated above. They are the trucking companies that hire and utilize “owner-operator” independent trucking subcontractors (non-employee agents) to haul-and-deliver.

Most states allow the deduction for subcontractor payments. Texas is unique in taxing the margin of the company and not the net income.

S.B. 1447 seeks to create a fair and equitable state franchise tax by amending the current Tax Code by clearing up any ambiguity on what is deductible and what is not deductible for trucking companies that are primarily engaged in transportation of barite and that utilize independent trucking subcontractors receiving payments as non-employee agents.

As proposed, S.B. 1447 amends current law relating to the exclusion of certain flow-through funds by taxable entities engaged in the business of transporting barite in determining total revenue for purposes of the franchise tax.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 1 (Section 171.1011, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 171.1011, Tax Code, by adding Subsection (g-10), as follows:

(g-10) Requires a taxable entity that is primarily engaged in the business of transporting barite to exclude from its total revenue, to the extent included under Subsection (c)(1)(A) (relating to computing taxable margin of a taxable entity treated as a corporation for federal income tax purposes), (c)(2)(A) (relating to computing the taxable margin of a taxable entity treated as a partnership for federal income tax purposes), or (c)(3) (relating to computing the taxable margin of a taxable entity other than a taxable entity treated as a corporation or partnership for federal income tax purposes), subcontracting payments

made by the taxable entity to nonemployee agents for the performance of transportation services on behalf of the taxable entity. Defines, for purposes of this subsection, "barite."

SECTION 2. Provides that this Act applies only to a report originally due on or after the effective date of this Act.

SECTION 3. Effective date: January 1, 2014.