

## **BILL ANALYSIS**

Senate Research Center

S.B. 1049  
By: Campbell; Zaffirini  
Finance  
6/17/2015  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The franchise tax is levied on adjusted gross receipts at a rate of one percent for all businesses except those primarily engaged in retail or wholesale trade, which are taxed at 0.5 percent. Some legal entities, such as sole proprietorships, are exempted from the tax.

Additionally, current law exempts a range of enterprises from the Texas franchise tax—the state's primary business tax. These organizations include charities, homeowners associations, educational organizations, and religious organizations. The exemptions are total and permanent, meaning that a qualifying entity owes no franchise tax to the state. However, there are no current franchise tax exemptions or deductions related to veterans.

To encourage and support entrepreneurship among Texas veterans, S.B. 1049 amends the Tax Code to exempt a veteran-owned business from the franchise tax during the first five years of operation. In addition, S.B. 1049 exempts veteran-owned businesses from state business registration fees to start up a business.

S.B. 1049 amends current law relating to an exemption from the franchise tax and certain filing fees for certain businesses owned by veterans during an initial period of operation in the state.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 3 (Section 171.0005, Tax Code) of this bill.

Rulemaking authority previously granted to the comptroller of public accounts of the State of Texas is rescinded in SECTION 9 (Section 171.0005, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 171.0001(4), Tax Code, by redefining "beginning date."

SECTION 2. Amends Section 171.0001(4), Tax Code, effective January 1, 2020, by defining "beginning date."

SECTION 3. Amends Subchapter A, Chapter 171, Tax Code, by adding Section 171.0005, as follows:

Sec. 171.0005. DEFINITION OF NEW VETERAN-OWNED BUSINESS. (a) Provides that a taxable entity is a new veteran-owned business only if the taxable entity is a new business in which each owner is a natural person who:

(1) served in and was honorably discharged from a branch of the United States armed forces; and

(2) provides verification to the comptroller of public accounts of the State of Texas (comptroller) of the person's service and discharge required by Subdivision (1).

(b) Requires the Texas Veterans Commission to provide to a person who meets the requirements of Subsection (a)(1) written verification of that status in a form required by the comptroller. Requires the comptroller to adopt rules prescribing the form and content of the verification and the manner in which the verification may be provided to the comptroller.

(c) Provides that for purposes of Subsection (a), a new business is a taxable entity that is chartered or organized or otherwise formed in this state, and first begins doing business in this state on or after January 1, 2016.

SECTION 4. Amends Section 171.001, Tax Code, by adding Subsection (d), to provide that, notwithstanding Subsection (a), the tax imposed under this chapter is not imposed on a taxable entity that qualifies as a new veteran-owned business as defined by Section 171.0005 until the earlier of the fifth anniversary of the date on which the taxable entity begins doing business in this state, or the date the taxable entity ceases to qualify as a new veteran-owned business as defined by Section 171.0005.

SECTION 5. Amends Section 171.063(g), Tax Code, to provide that the effective date of the withdrawal is considered the corporation's beginning date for purposes of determining the corporation's privilege periods and for all other purposes of this chapter, except that if the corporation would have been subject to Section 171.001(d) in the absence of the federal tax exemption, and the effective date of the withdrawal is a date earlier than the date the corporation would have become subject to the franchise tax as provided by Section 171.001(d), the date the corporation would have become subject to the franchise tax under that section is considered the corporation's beginning date for those purposes.

SECTION 6. Amends Section 171.063(g), Tax Code, effective January 1, 2020, as follows:

(g) Provides that, if a corporation's federal tax exemption is withdrawn by the Internal Revenue Service for failure of the corporation to qualify or maintain its qualification for the exemption, the corporation's exemption under this section ends on the effective date of that withdrawal by the Internal Revenue Service. Provides that the effective date of the withdrawal is considered the corporation's beginning date for purposes of determining the corporation's privilege periods and for all other purposes of this chapter.

SECTION 7. Amends Section 171.204, Tax Code, by adding Subsection (d), as follows:

(d) Authorizes the comptroller to require that a taxable entity on which the tax imposed under this chapter is not imposed solely because of the application of Section 171.001(d) to file an information report stating the taxable entity's beginning date as determined under Section 171.0001(4)(B) (relating to the beginning date for a new veteran owned business) and any other information the comptroller determines necessary. Prohibits the comptroller from requiring the taxable entity to report or compute its margin.

SECTION 8. Amends Subchapter A, Chapter 12, Business Organizations Code, by adding Section 12.005, as follows:

Sec. 12.005. FEE WAIVER FOR NEW VETERAN-OWNED BUSINESS. Requires the secretary of state to waive all fees imposed under Subchapter D (Filing Fees), Chapter 4, for an entity that is a new veteran-owned business as defined by Section 171.0005, Tax Code, 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 as defined by Section 171.0005, Tax Code.

SECTION 9. Effective January 1, 2020, Repealer: Section 171.0005 (Definition of New veteran-Owned Business), Tax Code.

Repealer: Section 171.001(d) (providing that the tax imposed under this chapter is not imposed on a taxable entity that qualifies as a new veteran-owned business that meets certain requirements), Tax Code.

Repealer: Section 171.204(d) (authorizing the comptroller to require that a taxable entity on which the tax imposed under this chapter is not imposed solely because of certain applications), Tax Code.

Repealer: Section 12.005 (Fee Waiver for New Veteran-Owned Business), Business Organizations Code.

SECTION 10. Provides that the changes in law made by this Act that take effect January 1, 2020, do not apply to a business that first qualifies before that date as a new veteran-owned business as defined by Section 171.0005, Tax Code, as that section exists immediately before that date. Provides that a business that first qualifies before January 1, 2020, as a new veteran-owned business is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 11. Effective date, except as otherwise provided by this Act: January 1, 2016.