

## **BILL ANALYSIS**

Senate Research Center  
84R9402 GRM-F

S.B. 1364  
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Finance  
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As Filed

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

The Office of the Comptroller of Public Accounts of the State of Texas (comptroller's office) has seen a recent increase in the number of business entities filing their franchise reports electronically. In 2014, about two-thirds of the state's 1.4 million taxpayers chose to file online.

At the same time, the number of no-tax-due franchise reports has also increased, as about 80 percent of the reports filed for 2014 indicated no tax was due. Of those no-tax-due reports, approximately two-thirds were filed electronically.

Electronic filing of tax reports is already required for limited sales, excise, and use tax, gas production tax, and oil production tax for taxpayers paying over \$50,000 annually. Currently, no requirements exist for electronically filing no-tax-due franchise tax reports.

S.B. 1364 adds the information report that an entity must file when no franchise tax is due to the list of reports that must be filed electronically. This should allow the comptroller's office to process franchise tax reports more efficiently and cost-effectively.

All no-tax-due returns will be filed through the comptroller's office program or through tax filing programs from approved tax filing vendors.

The comptroller's office will offer a hardship waiver opportunity for any taxpayer that does not have access to the Internet. The waiver would sunset after one year, which is consistent with the comptroller's office current practice on other existing mandatory filers.

The comptroller's office sends all active taxpayers an annual notice of upcoming filing responsibility. The notice would include information regarding changes in filing requirements and the hardship waiver. Taxpayers with a history of no-tax-due filing would receive a direct mailing. The comptroller's office would advertise any changes in filing requirements on its website and via GovDelivery e-mail notification.

S.B. 1364 also establishes a \$50 penalty for failure to properly file a no-tax-due report online. Taxpayers who cannot comply with the electronic filing requirement may qualify for a waiver and avoid the penalty.

As proposed, S.B. 1364 amends current law relating to electronic filing of certain reports; provides a penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the comptroller of public accounts of the State of Texas is modified in SECTION 1 (Section 111.0626(a), Tax Code) of this bill.

Rulemaking authority previously granted to the comptroller of public accounts of the State of Texas is rescinded in SECTION 4 (Section 111.0626(b), Tax Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 111.0626(a), Tax Code, to require the comptroller of public accounts of the State of Texas (comptroller) by rule to require electronic filing for:

- (1) Creates this subdivision from existing text; and
- (2) a report required under Section 171.204 (Information Report).

SECTION 2. Amends the heading to Section 171.362, Tax Code, to read as follows:

Sec. 171.362. PENALTY FOR FAILURE TO PAY TAX OR PROPERLY FILE REPORT.

SECTION 3. Amends Section 171.362, Tax Code, by adding Subsection (g), as follows:

(g) Requires a taxable entity that fails to file a report required under Section 171.204 electronically as required by Section 111.0626(a)(2), in addition to any other penalty authorized by this section or Section 111.063 (Penalty for Failure to Use Electronic Transfer and Filings), to pay a penalty of \$50 unless the taxable entity qualifies for a waiver from the electronic filing requirement under a rule adopted under Section 111.0626(c) (requiring the rules adopted under this section to meet certain requirements set forth). Provides that the penalty provided by this subsection is assessed without regard to whether the taxable entity subsequently files the report electronically or whether any taxes were due from the taxable entity for the reporting period under the required report.

SECTION 4. Repealer: Section 11.0626(b) (authorizing the comptroller to adopt rules requiring electronic filing of a report not described by Subsection (a)), Tax Code.

SECTION 5. Effective date: September 1, 2015.