# BILL ANALYSIS

Senate Research Center

S.B. 330
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Finance
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## AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas franchise tax requires businesses to account for their total revenue and then subtract 1 of 4 possible deductions: (1) 30 percent of total revenue, (2) $1 million, (3) cost of goods sold, or (4) cost of compensation. The problem with this system is that none of these deductions accurately represent the full costs of doing business.

S.B. 330 addresses this issue by eliminating the current formula for franchise tax deductions and replacing it with one simplified formula: taxable margin = total revenue - $1 million - cost of goods sold - cost of compensation.

By allowing businesses to deduct both the cost of goods sold and the cost of compensation, S.B. 330 creates a more accurate reflection of the actual costs of doing business.

Many other potential business costs not included in the cost of goods sold or cost of compensation will be subtracted through the $1 million revenue deduction. The $1 million deduction will also ensure that taxpayers who currently are not subject to franchise tax are not harmed by these changes.

Texas can no longer afford to harm businesses operating at a loss and must make smart tax policy choices in nurturing a strong and vibrant business climate.

As proposed, S.B. 330 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. Amends Section 171.101(a), Tax Code, as follows:

(a) Provides that the taxable margin of a taxable entity is computed by:

(1) determining the taxable entity's margin, which is computed by determining the taxable entity's total revenue from its entire business, as determined under Section 171.1011 (Determination of Total Revenue From Entire Business), and subtracting an amount equal to the sum of:

(A) $1 million;

(B) cost of goods sold, as determined under Section 171.1012 (Determination of Cost of Goods Sold); and

(C) compensation, as determined under Section 171.1013 (Determination of Compensation).

(2) and (3) Makes no change to these subdivisions.

Deletes existing text of Subsection (a) providing that the taxable margin of a taxable entity is computed by determining the taxable entity's margin, which is the lesser of certain amounts as described in existing Subdivisions (A) and (B).

SECTION 2. Amends Section 171.1011(v), Tax Code, as follows:

(v) Requires a taxable entity primarily engaged in the business of transporting goods by waterways to exclude from its total revenue direct costs of providing transportation services by intrastate or interstate waterways to the same extent that a taxable entity that sells in the ordinary course of business real or tangible personal property is authorized by Section 171.1012 to subtract those costs as costs of goods sold in computing its taxable margin, notwithstanding Section 171.1012(e)(3) (providing that the cost of goods sold does not include distribution costs in relation to the taxable entity's goods). Deletes existing text requiring that a taxable entity primarily engaged in the business of transporting goods by waterways that does not subtract cost of goods sold in computing its taxable margin exclude from its total revenue direct costs providing transportation services by intrastate or interstate waterways to the same extent that a taxable entity that sells in the ordinary course of business real or tangible personal property would be authorized by Section 171.1012 to subtract those costs as costs of goods sold in computing its taxable margin, notwithstanding Section 171.1012(e)(3).

SECTION 3. Amends Sections 171.1012(b), (k), (o), and (t), Tax Code, as follows:

(b) Requires a taxable entity, subject to Section 171.1014 (Combined Reporting; Affiliated Group Engaged in Unitary Business), to determine the amount of cost of goods sold as provided by this section for the purpose of computing its taxable margin, rather than requiring a taxable entity that elects to subtract cost of goods sold for the purpose of computing its taxable margin to determine the amount of that cost of goods sold as provided by this section. Makes a nonsubstantive change.

(k) Authorizes a taxable entity that is a lending institution and that offers loans to the public, rather than offers loans to the public and elects to subtract cost of goods sold, other than an entity primarily engaged in an activity described by category 5932 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget, notwithstanding any other provision of this section, to subtract as a cost of goods sold an amount equal to interest expense. Makes nonsubstantive changes.

(o) Requires that the cost of goods sold for a taxable entity, including a taxable entity with respect to which cost of goods sold is determined pursuant to Section 171.1014(e)(1) (requiring a combined group that elects to subtract costs of goods sold to determine that amount by determining the cost of goods sold for each of its members), whose principal business activity is film or television production or broadcasting or the distribution of tangible personal property described by Subsection (a)(3)(A)(ii) (defining "tangible personal property"), or any combination of these activities, rather than if such a taxable entity elects to subtract cost of goods sold, be the costs described in this section in relation to the property and include depreciation, amortization, and other expenses directly related to the acquisition, production, or use of the property, including expenses for the right to broadcast or use the property. Makes nonsusbtantive changes.

(t) Requires that the cost of goods sold for a taxable entity that is a movie theater be the costs described by this section in relation to the acquisition, production, exhibition, or use of a film or motion picture, including expenses for the right to use the film or motion picture, rather than requiring that the cost of goods sold for the taxable entity, if a taxable entity that is a movie elects to subtract cost of goods sold, be the costs described by this section in relation to the acquisition, production, exhibition, or use of a film or motion picture, including expenses for the right to use the film or motion picture.

SECTION 4. Amends Sections 171.1013(b), (b-1), (c-1), and (h), Tax Code, as follows:

(b) Requires a taxable entity, subject to Section 171.1014, for the purpose of computing its taxable margin under Section 171.101 (Determination of Taxable Margin), rather than authorizing a taxable entity that elects to subtract compensation for the purpose of computing its taxable margin under Section 171.101, to subtract an amount of compensation equal to certain wages, costs, and benefits.

(b-1) Makes a conforming change.

(c-1) Prohibits a taxable entity, subject to Section 171.1014, for the purpose of computing its taxable margin under Section 171.101, from subtracting as compensation any wages or cash compensation paid to an undocumented worker. Makes a conforming change.

(h) Prohibits a taxable entity, subject to Section 171.1014, for the purpose of computing its taxable margin under Section 171.101, from including as wages or cash compensation amounts paid to an employee whose primary employment is directly associated with the operation of a certain facility. Makes a conforming change.

SECTION 5. Amends Sections 171.1014(d), (e), and (f), Tax Code, as follows:

(d) Requires a combined group, for purposes of Section 171.101, to subtract the sum of cost of goods sold, as determined under Subsection (e), compensation, as determined under Subsection (f) and $1 million, rather than requiring a combined group to make an election to subtract either cost of goods sold or compensation that applies to all of its members or $1 million. Deletes existing text prohibiting the taxable margin of the combined group, regardless of the election, from exceeding the amount provided by Section 171.101(a)(1)(A) (relating to providing the computation for the taxable margin of a taxable entity) for the combined group.

(e) Makes conforming change relating to authorizing a taxable entity to subtract costs of goods sold.

(f) Makes conforming change relating to authorizing a taxable entity to subtract the amount of compensation.

SECTION 6. Repealer: Sections 171.101(b) (authorizing a professional employer organization to subtract only the greater of $1 million) and 171.101(d) (requiring an election under certain circumstances be made by the taxable entity on its annual report), Tax Code.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: January 1, 2016.