

BILL ANALYSIS

S.B. 1049
By: Campbell
Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties have expressed concerns regarding the absence of franchise tax exemptions or deductions related to veterans under current law. The parties contend that to encourage and support entrepreneurship among Texas veterans, legislation is needed to exempt a veteran-owned business from the franchise tax for a limited period. S.B. 1049 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 3 of this bill.

ANALYSIS

S.B. 1049 amends the Tax Code to exempt a taxable entity that qualifies as a new veteran-owned business from the franchise tax until the earlier of the fifth anniversary of the date on which the taxable entity begins doing business in Texas or the date the taxable entity ceases to qualify as a new veteran-owned business. The bill defines the taxable entity's beginning date, for purposes relating to the imposition of the franchise tax, as the earlier of those two dates. The bill repeals the exemption effective January 1, 2020, and restores the definition of "beginning date" by omitting reference to the exception.

S.B. 1049 establishes 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 served in and was honorably discharged from a branch of the U.S. armed forces and who provides verification to the comptroller of public accounts of the person's service and honorable discharge. The bill establishes that for such purposes, a new business is a taxable entity chartered, organized, or otherwise formed in Texas that first begins doing business in Texas on or after January 1, 2016. The bill requires the Texas Veterans Commission to provide to an honorably discharged veteran of the U.S. armed forces written verification of that status in a form required by the comptroller and requires the comptroller to adopt rules prescribing the form and content of the verification and the manner in which verification may be provided to the comptroller. Effective January 1, 2020, the bill repeals these provisions relating to the definition of a new veteran-owned business and verification of an honorably discharged veteran status.

S.B. 1049 creates an exception to the specification that, for a nonprofit corporation whose franchise tax exemption ends because of the Internal Revenue Service's withdrawal of the corporation's federal tax exemption, the effective date of the withdrawal is considered the corporation's beginning date for franchise tax purposes by providing that if the corporation

would have been subject to a franchise tax exemption for a new veteran-owned business 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 under the new veteran-owned business exemption, the date the corporation would have become subject to the franchise tax under the new veteran-owned business exemption is considered the corporation's beginning date for franchise tax purposes. The bill, effective January 1, 2020, restores the language of the provision relating to a corporation's federal tax exemption by omitting reference to the exception.

S.B. 1049 authorizes the comptroller to require a taxable entity exempt from the franchise tax solely because of the entity's status as a new veteran-owned business to file an information report stating the taxable entity's beginning date and any other information the comptroller determines necessary. The bill prohibits the comptroller from requiring the taxable entity to report or compute its margin. Effective January 1, 2020, the bill repeals these provisions relating to the report of a veteran-owned business's beginning date and other information required by the comptroller.

S.B. 1049 amends the Business Organizations Code to require the secretary of state to waive all filing fees imposed under the Business Organizations Code for an entity that is a new veteran-owned business 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. Effective January 1, 2020, the bill repeals this requirement.

S.B. 1049 establishes that its provisions taking effect January 1, 2020, do not apply to a business that first qualifies as a new veteran-owned business before that date.

Effective January 1, 2020, S.B. 1049 repeals the following provisions:

- Section 171.0005, Tax Code
- Section 171.001(d), Tax Code
- Section 171.204(d), Tax Code
- Section 12.005, Business Organizations Code

EFFECTIVE DATE

Except as otherwise provided, January 1, 2016.