

SUBJECT: Revising the bank franchise tax

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 7 ayes — Craddick, Wolens, Heflin, Horn, Marchant, Oliveira, Romo
0 nays

4 absent — Finnell, Holzheausser, T. Hunter, Place

WITNESSES: For — Karen Neeley, Texas Independent Bankers Association
Against — None

On — Wade Anderson, Teresa Comer, Mike Reissig, Comptroller of Public Accounts

BACKGROUND: Banks and savings and loans domiciled in Texas pay franchise taxes based on the gross receipts (interest and dividends) of business conducted in the state.

HB 889 by Marchant, which has been approved by both houses and was sent to the governor on April 27, would prohibit inter-state branch banking in Texas, "opting out" of federal multi-state branch banking provisions, until September 2, 1999.

DIGEST: CSHB 2627 would base bank franchise taxes on receipts, property and payroll. The tax would be levied on all banks, not just those domiciled in Texas. The bill would place into law comptroller rules allowing deduction of interest income from federal securities and obligations from gross receipts.

The Texas Department of Banking could appoint a conservator to pay the franchise tax of any banking corporation the comptroller certifies as delinquent in paying its franchise taxes.

The bill would take effect January 1, 1996.

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**SUPPORTERS
SAY:**

CSHB 2627 would change the conditions under which bank franchise taxes are paid and would increase overall state revenue from bank franchise taxes. It would require banks to pay franchise taxes on a base that includes receipts, payroll and property (the so-called three-factor formula), not just gross receipts. This new method of taxation would be more fair and equitable and would assure an equitable distribution of all bank taxes under multi-state branch banking.

The bill would ensure that the state taxes all banks, not just those domiciled in Texas, if and when the state opts-in to multi-state branch banking, thus assuring that foreign banks and multi-state banks pay taxes in Texas. Under current law the gross-receipts franchise tax is levied only on banks domiciled in Texas, but all banks now operating in Texas must also be chartered in Texas, that is, have their domicile here. This would change if the state eventually does opt-in to interstate branch banking; without this bill multi-state and foreign banks that are domiciled in another state would no longer be obligated to pay bank franchise taxes.

Changing the basis of bank franchise taxes from gross receipts to the three-factor method (receipts, property and payroll) has the coordinated support of the Multi-State Tax Commission, the Federation of Tax Administrators and banking groups. The new method of taxation would provide a uniform method to tax financial institutions and would place Texas at the forefront of modern bank taxation. Oregon and Arkansas have enacted this uniform method of bank taxation and a number of other states, including California, are considering or have passed regulations for uniform bank taxation that this bill would implement.

The fiscal note on the bill shows an increase of \$11.2 million in taxes in 1996 and \$11.7 million in 1997. A jump to nearly \$30 million in 1998 reflects the assumption that branch banking would be allowed starting in 1997; however, HB 889, passed by both houses, would opt-out of the federal law allowing branch banking until September 2, 1999.

**OPPONENTS
SAY:**

This bill would place an undue tax burden on large banks unless the state opts-in to multi-state branch banking, which is not now due until 1999. The three-factor method of bank franchise taxation proposed in this bill would increase the tax burden of interstate banks, but leave the tax burden

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of small and medium banks the same or reduced. The revenue increase in the fiscal note of \$11.2 million in 1996 and \$11.7 million in 1997 shows the increased taxes that would have to be paid by large banks without the off-setting benefits allowed under multi-state branch banking.

The change in the method of taxing banks provided in this bill is not necessary unless the state opts-in to multi-state branch banking. The effective date of the bill should be changed to September 3, 1999 to reflect the date Texas opts-in to branch banking.

NOTES:

The committee substitute made technical changes in how the three franchise tax factors would be calculated.