SUBJECT: Excluding certain barite transportation costs from franchise tax liability

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 8 ayes — Hilderbran, Otto, Bohac, Button, Eiland, N. Gonzalez, Martinez Fischer, Strama

0 nays

1 absent — Ritter

WITNESSES: For — Douglas Cain (*Registered, but did not testify*: Robert Flores, Texas Association of Mexican American Chambers of Commerce; Gloria Leal, Texas Alliance of Energy Producers; Michael Stewart, Aggregate Transporters of Texas)

Against — None

On — (*Registered, but did not testify*: Teresa Bostick, Ed Warren, Comptroller of Public Accounts)

DIGEST: HB 1596 would require that an entity primarily engaged in transporting barite to exclude from total revenue subcontracting payments to nonemployee agents for the performance of transportation services on the entity's behalf.

The bill would take effect January 1, 2014.

SUPPORTERS SAY: HB 1596 would reduce ambiguity surrounding qualifying deductible expenses versus non-deductible expenses for companies involved in the business of transporting barite. Current law allows a business to deduct certain expenses against total revenue to calculate the business' franchise tax liability. The comptroller has interpreted statute to allow companies primarily engaged in barite transport using their own trucks to deduct the full cost of related expenses from total revenue, but a business engaged in the same activity that does not own its own trucks cannot deduct these same expenses. Such companies hire independent trucking subcontractors to haul and deliver barite to oil and gas field service companies, and the payments can account for as much as three-quarters of their revenue. HB 1596 would elimiante this inconsistency in the law and treat both businesses equally and fairly.

The cost to the state would be minor, and HB 1596 would have a significant positive impact on the businesses that subcontract the transportation of barite.

OPPONENTS SAY:

HB 1596 could have an indirect negative impact on general revenue funds by reducing franchise tax funds flowing to the Property Tax Relief Fund, which was established by the Legislature in 2006 to offset reductions of school property taxes. Because revenue in the Property Tax Relief Fund is dedicated to public education, any reduction of revenue in the fund must be offset with general revenue funds.

The Legislature should not consider reducing funds available for public education without first restoring the cuts made to schools in 2011. Until these cuts are restored, any proposal to reduce revenue for the state that is unproductive should be set aside.

OTHER OPPONENTS SAY:

HB 1596 would continue the fragmented approach to adjusting inconsistencies related to the franchise tax instead of pursuing comprehensive reform. Under the current tax system, some businesses are taxed on expenses that should be exempt while others pay unequal rates for similar activities. The Legislature should embrace broad reform instead of endless tinkering with a deeply flawed franchise tax.

NOTES:

According to the Legislative Budget Board, no significant fiscal implication to the state is expected to result from HB 1596 due to the small size of the barite transportation industry.