

BILL ANALYSIS

Senate Research Center
81R12485 JE-F

S.B. 1315
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Finance
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas's franchise tax has long been based on where a company sells its goods. This ensures a competitive and geographically unbiased system. An out-of-state seller of goods and a Texas seller of goods are subject to the same level of tax. Texas service sellers, including Internet hosting providers, do not receive similar tax treatment. Under current law, a Texas provider of Internet hosting services may pay hundreds of times more franchise tax than does an out-of-state competitor with an identical level of Texas sales. That is because these services are taxed where they are performed, rather than where they are sold. As a result Texas has an unbalanced tax burden and is less competitive for attracting Internet hosting data centers.

This bill changes the franchise tax apportionment method for Internet hosting by mirroring changes made in the apportionment rules by past Texas Legislatures. By basing the apportionment on the location of the customer instead of the location of the service provider, this change to the Tax Code will promote fairness, competitiveness, and protect state revenue.

As proposed, S.B. 1315 amends current law relating to the computation of taxable margin for purposes of the franchise tax by a taxable entity principally engaged in Internet hosting.

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 171.0001, Tax Code, by adding Subdivision (9-a), to define "Internet hosting."

SECTION 2. Amends Section 171.106, Tax Code, by adding Subsection (g), to provide that for a taxable entity receiving more than 50 percent of its total revenue from Internet hosting, receipts from Internet hosting are receipts from business done in this state if the place from which the entity's customer's trade or business is directed or managed is in this state.

SECTION 3. Provides this Act applies only to a report originally due on or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2009.