

- SUBJECT:** Franchise tax credit for R&D activities performed with universities
- COMMITTEE:** Economic and Small Business Development — favorable, without amendment
- VOTE:** 7 ayes — J. Davis, Vo, Bell, Murphy, Perez, E. Rodriguez, Workman
0 nays
2 absent — Y. Davis, Isaac
- WITNESSES:** For — (*Registered, but did not testify*: Richard A. (Tony) Bennett, Texas Association of Manufacturers; Raif Calvert, Independent Colleges & Universities of Texas; Dana Chiodo, Raytheon; Bill Hammond, Texas Association of Business; Wendy Reilly, TechAmerica; Drew Scheberle, Greater Austin Chamber of Commerce; Carlton Schwab, Texas Economic Development Council)

Against — (*Registered, but did not testify*: Ted Melina Raab, Texas AFT)

On — Bruce Gnade, The University of Texas at Dallas; (*Registered, but did not testify*: Kevin Kavanaugh, Legislative Budget Board, Jennifer Specchio and Ed Warren, Comptroller of Public Accounts)
- DIGEST:** HB 953 would provide a franchise tax credit for entities performing research and development in conjunction with higher education institutions.
- The bill would use definitions found in federal tax law for qualified research and qualified research expenses. A taxable entity, such as a technology company, would be eligible for a credit against its franchise tax liability if that entity contracted with a higher education institution for the performance of qualified research.
- The franchise tax credit would equal 20 percent of the difference between:
- the total amount of qualified research expenses performed in the state in association with a higher education institution during a tax period; and

- 50 percent of the average amount of the same type of qualified research expenses performed in the state during the three previous tax years.

The taxable entity would have to prove the value of the franchise tax credit it claimed. The total tax credit claimed for a report, including any carryforward credits, could not exceed 50 percent of the total franchise tax amount due for the reporting period prior to the application of any other tax credits. A taxable entity eligible for a franchise tax credit exceeding this limitation could carry the unused credit forward to future tax periods, but credits could not be carried forward beyond 20 consecutive reports.

The tax credits could not be assigned in any way to another taxable entity, unless the other entity acquired all of the assets of the tax credit-holder in the same transaction.

Taxable entities would have to apply for the tax credit along with the filing of their franchise tax report for the same tax period. The comptroller would adopt rules and forms necessary to administer the franchise tax credit.

The bill would take effect on January 1, 2014, and would apply only to franchise tax reports due on or after that date.

**SUPPORTERS
SAY:**

HB 953 would incentivize and encourage research and development in Texas. Research and development are activities that a company conducts with the intent of making discoveries that lead to the development of new or improved products and procedures. Texas currently is one of only seven states that does not offer a specific tax incentive for research and development. Where HB 953 differs from other bills before the 83rd Legislature is that it would offer a higher credit for research and development performed in conjunction with an institution of higher learning.

University-based research is important to innovation because early-stage research that is typically performed at universities serves to expand the knowledge pool from which the private sector draws ideas and innovation. Innovation drives economic growth, creating jobs and improving living standards.

Industry and higher education have been working together in the state for

some time. For example, Rice University and IBM recently partnered to build a first-of-its-kind supercomputer in Texas. The incentive proposed would promote mutually beneficial relationships, making the best minds available to business research and development, while providing opportunities and resources to institutions of higher education and their students. The bill would foster this relationship by allowing only those companies that partnered with Texas institutions of higher learning to claim a credit for research and development activities on their franchise tax.

**OPPONENTS
SAY:**

Tax credits represent money that is diverted from the state treasury to a private purpose. Offering a credit is tantamount to the state writing a check to the beneficiary. In this case, there is no guarantee that the return will exceed the expense the state would assume.

HB 953 also would have an indirect impact of \$10.3 million on general revenue funds in fiscal 2014-15 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.

NOTES:

According to the Legislative Budget Board, HB 953 would have a direct impact of revenue loss to the Property Tax Relief Fund of about \$10.3 million for fiscal 2014-15.