

BILL ANALYSIS

Senate Research Center
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S.B. 704
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Finance
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As Filed

DIGEST

Currently, in Texas, there is no franchise tax refund for certain research and development activities, which jeopardizes Texas' technology leadership because other states are creating more attractive environments for technology-based businesses, largely through tax incentives for research and development activities. This bill creates a franchise tax refund for certain research and development activities.

PURPOSE

As proposed, S.B. 704 creates a franchise tax refund for certain research and development activities.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Comptroller of Public Accounts in SECTION 1 (Section 171.729, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 171, Tax Code, by adding Subchapter O, as follows:

SUBCHAPTER O. TAX REFUND OR CREDIT FOR CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

Sec. 171.721. DEFINITIONS. Defines "basic research payment" and "qualified research expense."

Sec. 171.722. ENTITLEMENT. Provides that a corporation is entitled to a refund in the amount and under the conditions and limitations provided by this subchapter of the tax imposed under this chapter.

Sec. 171.723. AMOUNT. Provides that the refund for any privilege period equals 4.5 percent of the sum of the qualified research expenses for this state and the basic research payments determined by the Internal Revenue Code, for this state, except as provided by Section 171.724 and subject to adjustment under Section 171.727. Requires any amount used to calculate the refund to be multiplied by a certain ratio, if a corporation's accounting year does not correspond to the privilege period.

Sec. 171.724. LIMITATIONS. Prohibits the total refund claimed for a privilege period from exceeding 25 percent of the amount of net franchise tax due for the privilege period, after any other applicable tax credits or refunds are taken. Authorizes the total refund claimed for a privilege period to exceed 25 percent and be equal to not more than the amount of net franchise tax due for the privilege period, after any other applicable tax credits or refunds are taken, if the corporation makes a grant of money equal to at least 25 percent of the refund to a public senior college or university or a medical or dental unit. Sets forth requirements for the grant of money under Subsection (b).

Sec. 171.725. APPLICATION. Requires a corporation to apply for a refund on or with the tax report for the period for which the refund is claimed. Requires the Comptroller of Public Accounts (comptroller) to promulgate a form for the application for the refund. Requires a corporation to use this form in applying for the refund.

Sec. 171.726. DETERMINATION OF TOTAL AMOUNT OF REFUNDS. Requires the comptroller to determine the total amount of refunds claimed for a tax year on all reports filed on or before November 15.

Sec. 171.727. ADJUSTMENT AND PAYMENT OF REFUND. Requires the comptroller to send to a corporation entitled to a refund all or a portion of the refund by a certain date. Requires the comptroller, if the amount under Section 171.726 is greater than \$125 million, to determine the amount of a corporation's refund by multiplying the refund by a certain fraction.

Sec. 171.728. CREDIT. Authorizes the comptroller, for a tax year, to allow corporations to take a credit directly against the tax owed under this chapter instead of issuing a refund after the tax is paid if the comptroller is reasonably certain the refund is less than or equal to \$125 million. Establishes that if the comptroller makes the determination under Subsection (a), the provisions of this subchapter that relate to entitlement to and amount of limitations of a refund apply in the same manner to a credit.

Sec. 171.729. RULES. Requires the comptroller adopt rules necessary to implement this subchapter.

SECTION 2. (a) Effective date: January 1, 2000.

(b) Makes application of this Act prospective, and provides that this Act applies only to an expense or payment made on or after January 1, 1999.

SECTION 3. Emergency clause.