

BILL ANALYSIS

Senate Research Center

S.B. 1811
By: Wentworth
Finance
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 79th Legislature, the passage of H.B. 3 created a margin tax to replace the franchise tax on certain entities doing business in Texas. Under the new margin tax, most entities are considered "taxable entities," with only a few exceptions such as sole proprietorships, general partnerships owned solely by natural persons, and certain passive income entities. An entity qualifies as a passive entity, and thus is excluded from the definition of a taxable entity and not subject to the margin tax, if it earns over 90 percent of its federal gross income from passive investments. However, rent collected by an entity is not considered a passive investment.

Some governmental entities, such as municipally-owned utilities, have trusts which provide for the payment of pension, health, disability, or other benefits to its employees. If these employee health and benefit trusts receive rental income from commercial real estate investments, such income could be considered taxable under the margin tax.

As proposed, S.B. 1811 provides that the benefit trusts of a unit of local government are not subject to the margin tax by exempting entities described by Section 501(c)(9), Internal Revenue Code, from the definition of "taxable entity."

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 171.0002(c), Tax Code, as effective January 1, 2008, to redefine "taxable entity."

SECTION 2. Effective date: upon passage or September 1, 2007.