

## BILL ANALYSIS

Senate Research Center  
83R8122 T

S.B. 960  
By: Fraser  
Finance  
5/3/2013  
As Filed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that, under the current franchise tax system, the franchise tax rate for a taxable entity primarily engaged in retail or wholesale trade is 0.5 percent of its taxable margin and one percent for an electric utility. However, if a taxable entity primarily engaged in retail or wholesale trade also provides retail electricity to its customers in any state, the taxable entity will pay the one percent rate for its entire taxable margin, not just the taxable margin on its sale of electricity. Therefore, if a traditional retailer offers electricity for sale to its customers anywhere in the United States, its entire franchise tax rate doubles, even if it provides only a minimal amount of electricity. S.B. 960 seeks to encourage traditional retailers to enter the retail electric market in Texas or other states, thus increasing competition and lowering prices.

As proposed, S.B. 960 amends current law relating to the franchise tax of certain nonqualified affiliates.

### 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. (a) Amends Section 171.1014, Tax Code, by adding Subsection (j), as follows:

(j)(1) Prohibits a nonqualified affiliate that would, except as otherwise provided by this Subsection (j)(1), be included in a combined group with a qualified affiliate, notwithstanding any other provision of this chapter, from being included in such combined group if:

(A) greater than 50 percent of the threshold amount is from activities in retail or wholesale trade;

(B) less than 50 percent of the threshold amount is from the sale of products produced by any entity that is included in an affiliated group with such qualified affiliate; and

(C) less than 5 percent of the threshold amount is from providing retail or wholesale electric utilities.

(2) Provides that for purposes of this section:

(A) a nonqualified affiliate is an individual taxable entity that provides retail or wholesale electric utilities;

(B) a qualified affiliate is an individual taxable entity that does not provide retail or wholesale electric utilities; and

(C) the threshold amount is the total revenue that would be determined under Subsection (c) (relating to the method for

determining a combined group's total revenue), provided that Subsection (j)(1) does not apply to the determination of total revenue for purposes of this Subsection (j)(2)(C).

(b) Provides that this report applies only to a report originally due on or after January 1, 2014.

SECTION 2. Effective date: September 1, 2013.