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Some small businesses could lose tax b...

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## Some small businesses could lose tax break, legislator says

*If pending bill to extend exemption fails to pass, cut-off point for levy would drop from \$1 million to \$600,000.*

By Laylan Copelin

AMERICAN-STATESMAN STAFF

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An estimated 28,000 of Texas' smallest businesses might lose their exemption from paying the state's primary business tax.

The chairman of the powerful House Ways and Means Committee says odds are 50-50 whether the Legislature can continue exempting businesses with less than \$1 million a year in gross receipts. Without legislative action, the so-called margins tax would be levied against businesses making more than \$600,000 in gross receipts.

State Rep. Harvey Hilderbran, R-Kerrville, who heads the committee where tax bills originate, said he and many other lawmakers want to make the small-business exemption permanent but that they have to find about \$75 million a year to replace the lost revenue.

"That's a rounding error," said Will Newton, executive director of the National Federation of Independent Businesses, the most vocal critic of the business tax created in 2006.

In a typical legislative session, finding \$75 million a year wouldn't be difficult in a state that counts its budgets in billions. But next month, the Texas House is debating a two-year budget of \$164.5 billion — about \$23 billion less than the current one.

Hilderbran's assessment that the future of the exemption is a coin flip stands out because he is setting the odds for his own bill.

Two weeks ago, Hilderbran announced legislation to make the exemption permanent.

"This bill is about protecting small businesses because they are responsible for creating the vast majority of new jobs in the state," Hilderbran said in a press release. "Small businesses are the lifeblood of our economy and freedom from over-taxation will encourage more business growth and further economic development for the state."

The Legislature two years ago increased the small business exemption from \$300,000 to \$1 million by funding it with an increase in taxes on some smokeless tobaccos. But the exemption was only for two years. Unless the Legislature continues it, the \$1 million exemption falls to \$600,000.

Newton argues that the state continues to reap additional money from smokeless tobacco taxes and shouldn't make continuing the small-business exemption dependent on finding more revenue elsewhere.

"Small business should not be used as leverage to get their pet projects done," Newton said of lawmakers who are scouring the tax code for exemptions they can end.

Gov. Rick Perry, Lt. Gov. David Dewhurst and Speaker Joe Straus have promised that no new taxes will be used to resolve the state's financial crisis. But eliminating the exemption raises the specter of whether the Legislature would be violating that pledge.

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On his website, Perry takes credit for the \$1 million exemption as "essentially extending a tax cut." He has endorsed making it permanent.

Newton says his members will consider it a tax increase if the \$1 million exemption is lost.

Hilderbran disagrees. He noted that without legislative action, the exemption would be \$600,000 — double the exemption in the original tax bill that passed in 2006.

"I don't think it's a tax increase," Hilderbran said. "If we fail to pass a bill, we still stuck to our deal" for a two-year exemption at the \$1 million level.

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