

BILL ANALYSIS

S.B. 755
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that each transaction involving the sale of software used for Internet hosting services, first to the hosting company and then to the end user, includes the application of sales tax, which subjects the same product to double taxation. The parties suggest that this double taxation places Texas at a competitive disadvantage with regard to attracting and retaining Internet hosting companies. S.B. 755 seeks to resolve this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 755 amends the Tax Code to include in a sale for resale, as it relates to the sales and use tax, the sale of a computer program to a provider of Internet hosting who acquires the computer program from an unrelated vendor for the purpose of selling the right to use the computer program to an unrelated user of the provider's Internet hosting services in the normal course of business and in the form or condition in which the provider acquired the computer program. The bill specifies that, for such purpose, the purchase of the computer program by the provider qualifies as a sale for resale only if the provider offers the unrelated user a selection of computer programs that are available to the public for purchase directly from an unrelated vendor and executes a written contract with the unrelated user that specifies the name of the computer program sold to the unrelated user and includes a charge to the unrelated user for computing hardware. The bill applies if the unrelated user purchases the right to use the computer program from the provider through the acquisition of a license and the provider does not retain the right to use the computer program under that license, regardless of the performance by the provider of routine maintenance of the computer program that is recommended or required by the unrelated vendor of the computer program.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.