HOUSE RESEARCH ORGANIZATION bill analysis 5/21/2003

SB 658
Brimer
(Woolley)

SUBJECT: Extending the tax exemption for leased motor vehicles

COMMITTEE: Local Government Ways and Means — favorable, without amendment

VOTE: 6 ayes — Hill, Hegar, McReynolds, Mowery, Puente, Quintanilla

0 nays

1 absent — Laubenberg

SENATE VOTE: On final passage, April 30— 31-0

WITNESSES: For — Dan Hart, Taxpayers for Equal Appraisals

Against — None

BACKGROUND: The Texas Constitution generally requires taxation of income-producing property. In 1999, voters amended the Constitution to allow the Legislature to exempt from taxation vehicles leased for personal use and not used to produce income (Art. 8, sec. 1). Most appraisal districts apply the exemption to motor vehicles owned by people who do not use them primarily to produce income.

The 77th Legislature in 2001 enacted Tax Code, sec. 11.252 (SB 248 by Carona), implementing the exemption for personal leased vehicles. Sec. 11.252(f) allows the governing body of a municipality to adopt an ordinance before January 1, 2002, to provide for taxation of leased motor vehicles that otherwise would be exempt. Under sec. 11.252(g), the general exemption will expire December 31, 2003, unless continued by the Legislature.

DIGEST: SB 658 would repeal Tax Code, sec. 11.252(g) and eliminate the December 31, 2003, sunset date, continuing the tax exemption for personal leased vehicles.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

SUPPORTERS SAY:

SB 658 would eliminate the anachronistic personal property tax on leased vehicles. Both Texas voters and the Legislature have agreed overwhelmingly to stop applying a business tax never meant to be applied to consumers. Leasing has become an attractive option for many families and would be more popular if not for the application of this punitive tax. Cities that chose by the January 1, 2002, deadline to tax personal leased vehicles could continue to do so.

Texas remains one of the few states to allow taxation of personal leased vehicles. This represents double taxation for the consumer, who also pays sales tax on the lease. Typically, the tax is paid by the financing entity or the leasing company that earns income from the vehicle, but the consumer is hit with a large lump-sum payment for the tax. As a result of such policies, Texas has one of the lowest leased-vehicle rates in the nation. Imposition of the tax discourages companies from offering low-cost leases in Texas or even from entering the market in the state.

Eliminating this tax exemption actually would increase general revenue to the state by $15.8 million over the next biennium by increasing the use of leased vehicles, according to the bill's fiscal note. The analysis by the Legislative Budget Board and the Comptroller's Office notes that leased autos are "turned over," or disposed of by lessees, every 42 months on average, compared with a turnover of purchased vehicles every 53 months. The effect of the bill would be to increase collections of motor-vehicle sales and use taxes. The projected net gain in state revenue takes into account the amount of additional state funding that would pass to local school districts to compensate them for decreased local tax revenues.

OPPONENTS SAY:

According to the fiscal note for SB 658, school districts potentially would have to make up $13.6 million in lost revenue from taxation of personal leased vehicles in fiscal 2005 as they waited for the state to make the additional Foundation School Fund payments. This lag time between the reduction of local revenue and payment of state funds could cause cash management problems for some districts. Counties could lose $3.3 million in 2005 and as much as $6.6 million in 2008, without being compensated by the state.

By continuing the exemption, the state would establish a special class of personal property exempt from taxes to the benefit of the car-leasing industry. Such decisions are best left to local taxing entities, whose governing boards are more directly responsive to the taxpayers.

Consumers already can avoid these taxes by means of retail installment contracts developed for the Texas market. They feature a tax-exempt option to buy through a balloon payment. These agreements are easier on appraisal districts, relieve taxes, and reduce fraud. Most Texans prefer to own their cars, so extending the exemption would not increase leasing significantly by itself. However, if fairness is the problem, state and local officials should raise public awareness of how the tax works.

OTHER OPPONENTS SAY:

The Legislature should extend the statute's sunset date, rather than repeal it, so that the Legislature could assess more fully the fiscal implications of the exemption.

NOTES:

On April 30, the House passed HB 1444 by Krusee and Zedler that would repeal Tax Code, sec. 11.252(f), which allows the governing body of a municipality to adopt an ordinance before January 1, 2002, to provide for taxation of leased motor vehicles that otherwise would be exempt, and sec. 11.252(g), which holds that the general exemption will expire December 31, 2003, unless continued by the Legislature. That bill is pending in Senate Finance Committee.

HB 515 by Madden and Woolley would extend the sunset date for Tax Code, sec. 11.252 to December 31, 2007, continuing until then the tax exemption on motor vehicles leased for personal use. The Local Government Ways and Means Committee considered HB 515 in a public hearing on April 10 and left the bill pending.