

- SUBJECT:** Appraisal of aircraft in production and in Texas temporarily
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 10 ayes — Hilderbran, Otto, Elkins, Gonzalez, Lyne, Martinez Fischer, Murphy, Ritter, Villarreal, Woolley
- 0 nays
- 1 absent — Christian
- WITNESSES:** For — Wayne Alexander, Port San Antonio; Philip Cortez, City of San Antonio; Samuel Dawson, Greater San Antonio Chamber of Commerce; Kevin Devine, The Boeing Company; Lloyd Graham; James Henderson, City of San Antonio; David Marquez, Bexar County Economic Development Dept.; (*Registered, but did not testify:* Jennifer Rodriguez, Lockheed Martin Aeronautics Company)
- Against — None
- On — Deborah Cartwright, Tim Wooten, Comptroller of Public Accounts
- BACKGROUND:** Tex. Const., Art. 8, sec. 1(b) requires that property be taxed in proportion to its value. Sec. 20 requires that property be appraised at no more than its fair market value.
- DIGEST:** CSHB 3727 would direct the state’s chief local appraisers to value temporary production aircraft at 10 percent of its list price as of January 1.
- The bill would define “temporary production aircraft” as an aircraft that:
- was a transport category aircraft as defined by federal aviation regulations;
 - received a special airworthiness certificate from the Federal Aviation Administration (FAA);
 - operated under a special flight permit issued by the FAA;
 - had a maximum takeoff weight of at least 145,000 pounds; and

- was temporarily located in Texas for purposes of manufacturing or assembly.

CSHB 3727 would define “list price” as the value of an aircraft as listed in the most recent edition of the International Bureau of Aviation Aircraft Values Book.

The bill also would define “maximum takeoff weight.”

The bill would take effect on September 1, 2011, and would apply only to ad valorem taxes imposed for the tax year beginning January 1, 2012.

**SUPPORTERS
SAY:**

When the federal Defense Base Closure and Realignment Commission closes a base, the economic loss to the adjacent community is significant. A municipality can create a defense base development authority to reinvigorate the economic viability of the area. Due to their workforce expertise and experience, certain authorities attract commercial aircraft construction from companies like Boeing and Lockheed Martin. The construction typically includes adding instrumentation, safety belts, and other interior work before the aircraft is in service.

CSHB 3727 would clarify how the temporary production aircraft are to be appraised. There is disagreement among appraisers on the best way to value these unfinished aircraft, and CSHB 3727 would provide for simple consistent valuations.

Valuing the unfinished aircraft at 10 percent of the list price would be an appropriate method because these aircraft are not yet ready for flight by an air carrier or airline. As such, taxing them on the full list price would be inappropriate. At the same time, they are partially completed and have some value though it is difficult to determine. CSHB 3727 would enact a balanced compromise that would allow the aircraft to be taxed while providing a business-friendly incentive for the companies that want to manufacture aircraft in Texas.

CSHB 3727 would keep these aircraft production facilities in Texas so that they could be taxed. While the fiscal note assumes that the bill would lower taxable property values, resulting in a loss to local property tax revenue, it does not take into account that the aircraft manufacturing contracts will not come to Texas at all without clear, reasonable, and predictable appraisal rules in place. The aircraft production facilities at the

Port of San Antonio's Maintenance, Repair, and Overhaul facility employ around 400 highly skilled workers who make, on average \$68,000 a year. Without the kind of tax predictability that CSHB 3727 would provide, major manufacturers will move to other states and countries, and there will not be any business investment in this area to tax.

The Legislature often provides direction on the proper valuation of property to ensure equitable and consistent valuation across the state. In addition, local appraisers value many items that are in Texas temporarily and not necessarily on January 1. Examples include certain kinds of heavy equipment and cars in a dealer's inventory. These items are appraised because they are in Texas and have a real impact on the state's economy.

**OPPONENTS
SAY:**

These aircraft should not be taxed while in Texas because they are part of interstate commerce and are only here temporarily. Tax Code, secs. 11.01 and 21.2 stipulate that real and tangible property that is temporarily in the state is not subject to taxation. Temporary production aircraft often are in Texas for much less than a year and may or may not happen to be in Texas on January 1, the day property is valued in this state. The aircraft are in Texas while they undergo part of the manufacturing process, usually the finishing out of their interiors. These aircraft are built in different stages in different states. They may start life in Washington state, fly to Texas, and return to Washington later on. The best way to categorize them for tax purposes, and to ensure the manufacturing facilities stay in Texas, would be to not tax them at all because of their fleeting presence in the state.

NOTES:

According to the fiscal note, CSHB 3727 would reduce taxable property values, and the related costs to the state Foundation School Fund would be increased through the operation of the school finance formulas.