

SUBJECT: Allowing extension of exemption from inventory taxes for aircraft parts

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 7 ayes — Hilderbran, Otto, Bohac, Button, N. Gonzalez, Ritter, Strama

0 nays

2 absent — Eiland, Martinez Fischer

WITNESSES: For — John Kennedy, Texas Taxpayers and Research Association

Against — (*Registered, but did not testify*: Windy Nash, Dallas Central Appraisal District)

BACKGROUND: Texas Constitution, Art. 8, sec. 1-j and Tax Code, sec. 11.251 exempt from ad valorem taxation “Freeport” property that is located in Texas temporarily. Eligible Freeport property includes goods, wares, merchandise, and other tangible personal property, including aircraft and aircraft parts used for maintenance or repairs by certified air carriers, and ores, other than oil, natural gas, and other petroleum products. To be eligible for the exemption, property must be acquired in or imported into Texas for export; detained for assembly, storage, manufacturing, processing, or fabrication; and shipped out of Texas no later than 175 days after acquisition or importation.

DIGEST: HJR 133 would propose an amendment to the Texas Constitution, Art. 8, sec. 1-j to authorize the governing body of a political subdivision to extend, to 730 days after being imported or acquired, the date when aircraft parts with a Freeport exemption had to be transported outside of the state. An extension would apply only to the adopting political subdivision.

The proposal would be presented to the voters at an election on Tuesday, November 5, 2013. The ballot proposal would read: “The constitutional amendment to authorize a political subdivision of this state to extend the number of days that aircraft parts that are exempt from ad valorem taxation due to their location in this state for a temporary period may be located in this state for purposes of qualifying for the tax exemption. “

If approved at the election, the amendment would take effect January 1, 2014.

**SUPPORTERS
SAY:**

HJR 133 appropriately would provide the Constitutional authorization necessary to allow an appraisal district board to extend the so-called “Freeport exemption” on inventory taxes in the state to certain aircraft parts to 730 days (two years).

This measure, which would be totally permissive for local taxing entities, would accommodate the particular nature of the specialized aircraft parts industry. Airplane parts are expensive and, when needed, must be shipped to a customer with haste. However, since requests for special parts are rare, inventory often sits on the shelves prior to sale for longer than in other industries. It is not unusual for parts to sit in a warehouse for 600 days.

Texas is one of a small number of states that assesses a property tax on inventory. Certain Freeport goods that are in the state for no longer than 170 days and meet other criteria under current law are exempt from this tax. While aircraft parts are granted a Freeport exemption under current law, the maximum period is of insufficient length for many airplane part manufacturers. For example, Aviall, which is a provider of aircraft parts and related support services located in Irving, Texas, is considering opening a second warehouse in Texas. The Texas location is one among a few sites around the country under review. Extending the Freeport exemption to two years could be a determining factor in Aviall’s decision regarding where to open the new warehouse.

The proposed tax exemption authorized by HJR 133 has all the major elements that the Legislature has looked to when deciding whether to grant similar tax exemptions — it would promote economic development, it would have a proven positive impact, and it would be totally at the option of the local government granting the exemption. To guard against any abuse, the bill also would cap the extension at 730 days before the parts had to be shipped out of state. Measuring all proposed tax exemptions against these criteria would prevent the creation of a slippery slope caused by other industries requesting tax breaks that did not offer the same potential benefits to the state.

OPPONENTS

HJR 133 would allow an appraisal district to extend a Freeport exemption

SAY: for a certain group selling goods for certain purposes. Singling out one group for a tax exemption, even for a meritorious purpose, raises issues of uniformity in taxation. If the extension is authorized for aircraft parts, similar industries that make specialized parts and have a high portion of idle inventory will seek a similar extension. The Legislature would have trouble giving similar industries a principled explanation for why they should not be granted the same extension as those in the business of selling aircraft parts.

HJR 133, and its enabling legislation, HB 3121 by Harper-Brown, would have an unknown fiscal impact on the state by reducing funds available for education funding formulas, as well as for local governments. The Legislature should not contemplate measures that reduce funds available for public education without first restoring the deep cuts it made to schools in 2011. Until these cuts are restored, any proposal to reduce revenue coming in to the state that is not absolutely necessary should be tabled.

**OTHER
OPPONENTS
SAY:** Instead of granting extensions to the Freeport exemption, the Legislature should consider eliminating the antiquated and punitive inventory tax. Very few states have retained inventory taxes to this day, and the fact that Texas still assesses one puts businesses here at a competitive disadvantage. The state could greatly enhance its appeal to many inventory-heavy businesses by repealing the dated and unnecessary tax.

NOTES: The Legislative Budget Board estimates the bill would create an unknown cost to the state through the operation of the school finance formula.

The fiscal note estimates the cost to the state for publication of the resolution would be \$108,921.

The enabling legislation for HJR 133, HB 3121 by Harper-Brown, has been set for floor debate today on the general state calendar.