

## **BILL ANALYSIS**

Senate Research Center

S.B. 1640  
By: Harris  
Finance  
4/17/2009  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The 75th Legislature, Regular Session, 1997, enacted S.B. 759, the Texas Heavy Equipment Dealer Act (HEDA), to ensure that ad valorem taxes were assessed on heavy equipment operators in a manner similar to the guidelines set forth for automobile dealers and boat dealers. There are currently many heavy equipment dealers whose primary source of revenue comes from the leasing of such heavy equipment. Calculating the property taxes under the Heavy Equipment Dealers Act has presented problems and confusion for those businesses that both lease and sell heavy equipment and the counties to which they report those taxes.

As proposed, S.B. 1640 would allow businesses that are primarily engaged in the leasing of heavy equipment and related machinery to elect to pay their property taxes under general law instead of the heavy equipment dealers section.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Provides that it is the intent of the legislature that the changes in law made by this Act be construed and implemented as an alternative method for valuation and collection of an existing ad valorem tax on property to which the changes apply and not as the imposition of a new tax on the affected property. Provides that the legislature further intends that the implementation of the changes in law made by this Act not result in any increase in tax revenue by virtue of the changes or an increase in the tax burden per unit of taxable property of affected parties by virtue of the changes.

SECTION 2. Amends Section 23.1241, Tax Code, by adding Subsection (k), to provide that this section does not apply to a person who has elected to instead be subject to Sections 23.12 (Inventory) and 23.1243.

SECTION 3. Amends Subchapter B, Chapter 23, Tax Code, by adding Section 23.1243, as follows:

Sec. 23.1243. LEASE OR RENTAL OF CERTAIN VEHICLES, MACHINERY, OR EQUIPMENT. (a) Authorizes a person who is otherwise subject to Section 23.1241 to elect to instead be subject to this section and Section 23.12 if the person meets the applicability of requirements described by this section.

(b) Defines "qualified property."

(c) Provides that this section applies only to a person primarily engaged in the business of leasing or renting qualified property in this state to others, and qualified property owned by the person that has taxable situs in this state for ad valorem tax purposes, and is subject to a lease or rental agreement having a term of less than one year or to an at-will contract that does not contain a defined term.

(d) Provides that this section does not apply to an item of qualified property that is operated during the term of the lease or rental agreement solely by the owner of the qualified property or by an employee or agent of the owner.

(e) Requires a person who leases or rents qualified property to another person and includes an amount for escrow of ad valorem tax as part of the agreement with the lessee or renter to clearly state in the lease or rental agreement or invoice covering the transaction the amount and rate of the tax and the amount being escrowed.

(f) Requires the assessor-collector of taxes for the county in which ad valorem taxes on the property were imposed during the applicable ad valorem tax year, if an amount remains of any escrow collections in excess of the amount of annual property taxes due on the qualified property, to retain the excess escrow. Requires the person who collected the escrow amounts, if the amount of any escrow collections is less than the amount of annual property taxes due on the qualified property, to pay the additional amount due directly to the tax office not later than February 15 of the tax year following the tax year in which the taxes were imposed.

(g) Requires the assessor-collector of taxes for the county, as soon as practicable following receipt of any amount under Subsection (f), to distribute those proceeds to the taxing units that imposed ad valorem taxes on the qualified property in the preceding tax year in proportion to the amount of taxes each taxing unit imposed in that year on the property.

SECTION 4. Effective date: September 1, 2009.