

BILL ANALYSIS

Senate Research Center
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S.B. 326
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2001, the 77th Legislature enacted and voters endorsed S.J.R. 6, authorizing the legislature to exempt from ad valorem taxation all "goods-in-transit." H.B. 621, 80th Legislature, Regular Session, 2007, was to implement the property tax exemption authorized under that constitutional amendment.

During the implementation of H.B. 621, it was discovered that certain provisions in the bill were inconsistent with the constitutional language authorizing the tax exemption. Specifically, the language regarding the arrangement under which property must be held to qualify for the exemption was discovered to be inconsistent. This lack of harmony resulted in a more expansive application of tax exemption eligibility than originally intended.

S.B. 326 would clarify that only those goods held under a contract for bailment by a public warehouse operator would qualify for property tax exemption. This amendment would provide greater consistency between the enabling statute and constitutional provision. The bill would also more accurately reflect the original intent of the legislation and more precisely define when goods-in-transit would qualify for property tax exemption.

As proposed, S.B. 326 amends current law relating to the exemption from ad valorem taxation of certain tangible personal property stored temporarily at a location in this state.

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. Amends Section 11.253(a), Tax Code, by amending Subdivision (2) and adding Subdivisions (5) and (6), as follows:

- (2) Redefines "goods-in-transit."
- (5) Defines "bailee" and "warehouse."
- (6) Defines "public warehouse operator."

SECTION 2. Amends Section 11.253, Tax Code, by amending Subsections (e) and (h) and adding Subsections (j-1) and (j-2), as follows:

- (e) Requires the chief appraiser, in determining the market value of goods-in-transit that in the preceding year were stored in this state, rather than assembled, stored, manufactured, processed, or fabricated in this state, to exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state.

(h) Makes a conforming change.

(j-1) Prohibits a taxing unit, notwithstanding Subsection (j) (relating to the governing body of a taxing unit providing for the taxation of goods-in-transit) or official action that was taken under that subsection before September 1, 2011, to tax goods-in-transit exempt under Subsection (b) (relating to a person being entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit) and not exempt under other law, from taxing such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes action on or after September 1, 2011, in the manner required for official action by the governing body, to provide for the taxation of the goods-in-transit. Requires that the official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Requires the governing body of the taxing unit, before acting to tax the exempt property, to conduct a public hearing as required by Section 1-n(d) (relating to the requirement that a governing body of the political subdivision conduct a public hearing at which members of the public are permitted to speak for or against the taxation of the property), Article VIII, Texas Constitution. Provides that if the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit. Provides that the goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit or otherwise determines that the exemption prescribed by Subsection (b) will apply to that taxing unit.

(j-2) Authorizes the tax officials of the taxing unit to continue to impose the taxes against goods-in-transit until the debt is discharged, notwithstanding Subsection (j-1), and if under Subsection (j) the governing body of a taxing unit, before September 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the taxing unit, and if cessation of the imposition would impair the obligation of the contract by which the debt was created.

SECTION 3. Provides that Section 11.253(a)(2), Tax Code, as amended by this Act, applies only to an ad valorem tax year that begins on or after January 1, 2012.

SECTION 4. (a) Effective date, except as provided by Subsection (b) of this section: January 1, 2012.

(b) Effective date, Section 2: September 1, 2011.