

By: Chavez, Quintanilla, Mowery

H.B. No. 104

Substitute the following for H.B. No. 104:

By: Mowery

C.S.H.B. No. 104

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the exemption from ad valorem taxation of tangible
3 personal property held temporarily at a location in this state for
4 assembling, storing, manufacturing, processing, or fabricating
5 purposes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by
8 adding Section 11.253 to read as follows:

9 Sec. 11.253. TANGIBLE PERSONAL PROPERTY IN TRANSIT. (a) In
10 this section:

11 (1) "Dealer's motor vehicle inventory," "dealer's
12 vessel and outboard motor inventory," "dealer's heavy equipment
13 inventory," and "retail manufactured housing inventory" have the
14 meanings assigned by Subchapter B, Chapter 23.

15 (2) "Goods-in-transit" means tangible personal
16 property that:

17 (A) is acquired in or imported into this state to
18 be forwarded to another location in this state or outside this
19 state;

20 (B) is detained at a location in this state in
21 which the owner of the property does not have a direct or indirect
22 ownership interest for assembling, storing, manufacturing,
23 processing, or fabricating purposes by the person who acquired or
24 imported the property;

1 (C) is transported to another location in this
2 state or outside this state not later than 175 days after the date
3 the person acquired the property in or imported the property into
4 this state; and

5 (D) does not include oil, natural gas, petroleum
6 products, aircraft, dealer's motor vehicle inventory, dealer's
7 vessel and outboard motor inventory, dealer's heavy equipment
8 inventory, or retail manufactured housing inventory.

9 (3) "Location" means a physical address.

10 (4) "Petroleum product" means a liquid or gaseous
11 material that is an immediate derivative of the refining of oil or
12 natural gas.

13 (b) A person is entitled to an exemption from taxation of
14 the appraised value of that portion of the person's property that
15 consists of goods-in-transit.

16 (c) The exemption provided by Subsection (b) is subtracted
17 from the market value of the property determined under Section
18 23.01 or 23.12, as applicable, to determine the taxable value of the
19 property.

20 (d) Except as provided by Subsections (f) and (g), the chief
21 appraiser shall determine the appraised value of goods-in-transit
22 under this subsection. The chief appraiser shall determine the
23 percentage of the market value of tangible personal property owned
24 by the property owner and used for the production of income in the
25 preceding calendar year that was contributed by goods-in-transit.
26 For the first year in which the exemption applies to a taxing unit,
27 the chief appraiser shall determine that percentage as if the

1 exemption applied in the preceding year. The chief appraiser shall
2 apply that percentage to the market value of the property owner's
3 tangible personal property used for the production of income for
4 the current year to determine the appraised value of
5 goods-in-transit for the current year.

6 (e) In determining the market value of goods-in-transit
7 that in the preceding year were assembled, stored, manufactured,
8 processed, or fabricated in this state, the chief appraiser shall
9 exclude the cost of equipment, machinery, or materials that entered
10 into and became component parts of the goods-in-transit but were
11 not themselves goods-in-transit or that were not transported to
12 another location in this state or outside this state before the
13 expiration of 175 days after the date they were brought into this
14 state by the property owner or acquired by the property owner in
15 this state. For component parts held in bulk, the chief appraiser
16 may use the average length of time a component part was held by the
17 owner of the component parts during the preceding year at a location
18 in this state that was not owned by or under the control of the owner
19 of the component parts in determining whether the component parts
20 were transported to another location in this state or outside this
21 state before the expiration of 175 days.

22 (f) If the property owner was not engaged in transporting
23 goods-in-transit to another location in this state or outside this
24 state for the entire preceding year, the chief appraiser shall
25 calculate the percentage of the market value described in
26 Subsection (d) for the portion of the year in which the property
27 owner was engaged in transporting goods-in-transit to another

1 location in this state or outside this state.

2 (g) If the property owner or the chief appraiser
3 demonstrates that the method provided by Subsection (d)
4 significantly understates or overstates the market value of the
5 property qualified for an exemption under Subsection (b) in the
6 current year, the chief appraiser shall determine the market value
7 of the goods-in-transit to be exempt by determining, according to
8 the property owner's records and any other available information,
9 the market value of those goods-in-transit owned by the property
10 owner on January 1 of the current year, excluding the cost of
11 equipment, machinery, or materials that entered into and became
12 component parts of the goods-in-transit but were not themselves
13 goods-in-transit or that were not transported to another location
14 in this state or outside this state before the expiration of 175
15 days after the date they were brought into this state by the
16 property owner or acquired by the property owner in this state.

17 (h) The chief appraiser by written notice delivered to a
18 property owner who claims an exemption under this section may
19 require the property owner to provide copies of property records so
20 the chief appraiser can determine the amount and value of
21 goods-in-transit and that the location in this state where the
22 goods-in-transit were detained for assembling, storing,
23 manufacturing, processing, or fabricating purposes was not owned by
24 or under the control of the owner of the goods-in-transit. If the
25 property owner fails to deliver the information requested in the
26 notice before the 31st day after the date the notice is delivered to
27 the property owner, the property owner forfeits the right to claim

1 or receive the exemption for that year.

2 (i) Property that meets the requirements of this section
3 constitutes goods-in-transit regardless of whether the person who
4 owns the property on January 1 is the person who transports it to
5 another location in this state or outside this state.

6 (j) The governing body of a taxing unit, in the manner
7 required for official action by the governing body, may provide for
8 the taxation of goods-in-transit exempt under Subsection (b) and
9 not exempt under other law. The official action to tax the
10 goods-in-transit must be taken before January 1 of the first tax
11 year in which the governing body proposes to tax goods-in-transit.
12 Before acting to tax the exempt property, the governing body of the
13 taxing unit must conduct a public hearing as required by Section
14 1-n(d), Article VIII, Texas Constitution, as proposed by S.J.R. No.
15 6, 77th Legislature, Regular Session, 2001. If the governing body
16 of a taxing unit provides for the taxation of the goods-in-transit
17 as provided by this subsection, the exemption prescribed by
18 Subsection (b) does not apply to that unit. The goods-in-transit
19 remain subject to taxation by the taxing unit until the governing
20 body of the taxing unit, in the manner required for official action,
21 rescinds or repeals its previous action to tax goods-in-transit, or
22 otherwise determines that the exemption prescribed by Subsection
23 (b) will apply to that taxing unit.

24 (k) A property owner who receives the exemption from
25 taxation provided by Subsection (b) is not eligible to receive the
26 exemption from taxation provided by Section 11.251 for the same
27 property.

1 SECTION 2. Section 26.012(15), Tax Code, is amended to read
2 as follows:

3 (15) "Lost property levy" means the amount of taxes
4 levied in the preceding year on property value that was taxable in
5 the preceding year but is not taxable in the current year because
6 the property is exempt in the current year under a provision of this
7 code other than Section 11.251 or 11.253, the property has
8 qualified for special appraisal under Chapter 23 [~~of this code~~] in
9 the current year, or the property is located in territory that has
10 ceased to be a part of the unit since the preceding year.

11 SECTION 3. Section 403.302(d), Government Code, is amended
12 to read as follows:

13 (d) For the purposes of this section, "taxable value" means
14 the market value of all taxable property less:

15 (1) the total dollar amount of any residence homestead
16 exemptions lawfully granted under Section 11.13(b) or (c), Tax
17 Code, in the year that is the subject of the study for each school
18 district;

19 (2) one-half of the total dollar amount of any
20 residence homestead exemptions granted under Section 11.13(n), Tax
21 Code, in the year that is the subject of the study for each school
22 district;

23 (3) the total dollar amount of any exemptions granted
24 before May 31, 1993, within a reinvestment zone under agreements
25 authorized by Chapter 312, Tax Code;

26 (4) subject to Subsection (e), the total dollar amount
27 of any captured appraised value of property that:

1 (A) is within a reinvestment zone created on or
2 before May 31, 1999, or is proposed to be included within the
3 boundaries of a reinvestment zone as the boundaries of the zone and
4 the proposed portion of tax increment paid into the tax increment
5 fund by a school district are described in a written notification
6 provided by the municipality or the board of directors of the zone
7 to the governing bodies of the other taxing units in the manner
8 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
9 within the boundaries of the zone as those boundaries existed on
10 September 1, 1999, including subsequent improvements to the
11 property regardless of when made;

12 (B) generates taxes paid into a tax increment
13 fund created under Chapter 311, Tax Code, under a reinvestment zone
14 financing plan approved under Section 311.011(d), Tax Code, on or
15 before September 1, 1999; and

16 (C) is eligible for tax increment financing under
17 Chapter 311, Tax Code;

18 (5) the total dollar amount of any exemptions granted
19 under Section 11.251 or 11.253, Tax Code;

20 (6) the difference between the comptroller's estimate
21 of the market value and the productivity value of land that
22 qualifies for appraisal on the basis of its productive capacity,
23 except that the productivity value estimated by the comptroller may
24 not exceed the fair market value of the land;

25 (7) the portion of the appraised value of residence
26 homesteads of the elderly on which school district taxes are not
27 imposed in the year that is the subject of the study, calculated as

1 if the residence homesteads were appraised at the full value
2 required by law;

3 (8) a portion of the market value of property not
4 otherwise fully taxable by the district at market value because of:

5 (A) action required by statute or the
6 constitution of this state that, if the tax rate adopted by the
7 district is applied to it, produces an amount equal to the
8 difference between the tax that the district would have imposed on
9 the property if the property were fully taxable at market value and
10 the tax that the district is actually authorized to impose on the
11 property, if this subsection does not otherwise require that
12 portion to be deducted; or

13 (B) action taken by the district under Subchapter
14 B or C, Chapter 313, Tax Code;

15 (9) the market value of all tangible personal
16 property, other than manufactured homes, owned by a family or
17 individual and not held or used for the production of income;

18 (10) the appraised value of property the collection of
19 delinquent taxes on which is deferred under Section 33.06, Tax
20 Code;

21 (11) the portion of the appraised value of property
22 the collection of delinquent taxes on which is deferred under
23 Section 33.065, Tax Code; and

24 (12) the amount by which the market value of a
25 residence homestead to which Section 23.23, Tax Code, applies
26 exceeds the appraised value of that property as calculated under
27 that section.

1 SECTION 4. This Act takes effect January 1, 2004, and
2 applies only to taxes imposed for a tax year beginning on or after
3 that date.