

BILL ANALYSIS

C.S.H.B. 4
By: Swinford
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Supreme Court held in Neeley v. West Orange-Cove CISD, that the state school finance system relies on revenues derived from a tax that, in effect, is a state property tax prohibited by the Texas Constitution. The court required the legislature to correct the constitutional violation by June 1, 2006.

The purpose of C.S.H.B. 4 is to provide additional state revenue derived from sales and use taxes imposed on motor vehicles that would be available to fund the public school system, thus enabling school districts to exercise meaningful discretion in setting local property tax rates.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 3 of the bill.

ANALYSIS

SECTION 1 of the bill provides that, notwithstanding Section 152.002(a), Tax Code, the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412, Tax Code.

SECTION 2 of the bill specifies that, subject to Section 152.0412, Tax Code, the tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made for a motor vehicle shall collect the taxes imposed by Chapter 152, Tax Code, unless another person is required to collect the taxes.

SECTION 3 of the bill defines "standard presumptive value" for purposes of Section 152.0412, Tax Code. It also requires a county tax assessor-collector to compute the tax imposed on a motor vehicle by Chapter 152, Tax Code, on the amount paid for the motor vehicle, if that amount is equal to or greater than 80 percent of the standard presumptive value of the motor vehicle. The bill requires a county tax assessor-collector to compute the tax imposed on a motor vehicle by Chapter 152, Tax Code, on the standard presumptive value of the motor vehicle, if the amount paid is less than 80 percent of the presumptive value, unless the purchaser establishes the retail value of the motor vehicle as provided by Section 152.0412(d), Tax Code.

C.S.H.B. 4 requires a county tax assessor-collector to compute the tax imposed on a motor vehicle by Chapter 152, Tax Code, on the retail value of a motor vehicle, if the retail value is shown on: documentation provided by the seller to the purchaser, only if the seller is a dealer operating under Subchapter B, Chapter 503, Transportation Code; or an appraisal certified by an adjuster licensed under Chapter 4101, Insurance Code, or by a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code. The certified appraisal must be on a form prescribed by the comptroller and must be obtained not later than the 20th day after the date of purchase.

The bill requires a motor vehicle dealer operating under Subchapter B, Chapter 503 Transportation Code to provide a certified appraisal of the retail value of a motor vehicle on request. It also requires the comptroller to establish by rule a fee that a dealer may charge for providing the appraisal. The bill requires the county tax assessor-collector to retain a copy of an appraisal received under the section for a period prescribed by the comptroller.

The bill requires the Texas Department of Transportation to maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system. It requires the department to update the information at least quarterly each calendar year.

The bill provides that Section 152.0412, Tax Code, does not apply to a transaction described by Section 152.024 and 152.025. Section 152.0412, Tax Code does not apply to a motor vehicle disposed of in accordance with Chapter 2303, Occupations Code, or Chapter 683, Transportation Code.

SECTION 4 of the bill requires the Texas Department of Transportation, not later than October 1, 2006, to establish the standard presumptive values for motor vehicles as provided by Section 152.0412, Tax Code, to modify the department's registration and title system as needed to include the information and administer Section 152.0412, and to make the information available through that system to all county tax assessor-collectors.

SECTION 5 of the bill provides that the changes in law made by the bill do not affect tax liability accruing before the effective date of the bill, and further provides that the tax liability and the former law relating to collection and enforcement of that liability continue in effect as if the bill were not enacted.

SECTION 6 of the bill provides the effective dates of the bill, as follows:

(a) Provides that, except as provided by Subsection (b) of SECTION 6, the bill takes effect July 1, 2006, if the bill receives a two-thirds vote in each house of the legislature. If the bill does not receive that vote, the bill takes effect on the first day of the first month that begins on or after the 91st day after the last day of the legislative session.

(b) Provides that Section 152.0412, Tax Code, as added by the bill, takes effect October 1, 2006.

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(b) Provides that Section 152.0412, Tax Code, as added by the bill, takes effect October 1, 2006.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies Sec. 152.0412 by changing the threshold which determines the criteria for requiring the tax assessor-collector to compute the tax for a vehicle from the standard presumptive value of the vehicle to 80 percent of the standard presumptive value. The substitute also allows the tax assessor-collector to compute the tax for certain vehicles based on a receipt or invoice from a dealer. Finally, the substitute provides that Section 152.0412, Tax Code, does not apply to a motor vehicle disposed of in accordance with Chapter 2303, Occupations Code, or Chapter 683, Transportation Code.