

BILL ANALYSIS

C.S.H.B. 121
By: Chavez
Local Government Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, certain tangible personal property is exempt from ad valorem taxation if the property is detained in this state for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property. However, property that would otherwise be exempt, such as warehouse inventory, is subject to taxation by the state which may place the Texas warehousing industry at a competitive disadvantage to similar industries in neighboring states or across the border. C.S.H.B. 121 authorizes the legislature to exempt tangible personal property that consists of goods-in-transit from ad valorem taxation.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.253, as follows:

Sec. 11.253. TANGIBLE PERSONAL PROPERTY IN TRANSIT. (a) Defines "business-use item", "dealer's motor vehicle inventory," "goods-in-transit," "location" and "petroleum product."

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

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

(d) Requires the chief appraiser, except as provided by Subsections (f) and (g), to determine the appraised value of goods-in-transit under this subsection. Requires the chief appraiser to determine the percentage of the market value of tangible personal property owned by the property owner and used for the production of income in the preceding calendar year that was contributed by goods-in-transit. Requires the chief appraiser, for the first year in which the exemption applies to a taxing unit, to determine that percentage as if the exemption applied in the preceding year. Requires the chief appraiser to apply that percentage to the market value of the property owner's tangible personal property used for the production of income for the current year.

(e) Requires the chief appraiser, in determining the market value of goods-in-transit that in the preceding year were assembled, stored, manufactured, processed, or fabricated in this state, to exclude the cost equipment, machinery, or materials that entered into and became component parts of the 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 property owner in this state. Authorizes the chief appraiser, for component parts held in bulk, to use the average length of

time a component part has held by the owner of the component parts during the preceding year at a location in this state that was not owned by or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state that was not owned by or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state or outside this state before the expiration of 175 days.

(f) Requires the chief appraiser, if the property owner was not engaged in transporting goods-in-transit to another location in this state or outside this state for the entire preceding year, to calculate the percentage of the market value described in Subsection (d) for the portion of the year in which the property owner was engaged in transporting goods-in-transit to another location in this state or outside this state.

(g) Requires the chief appraiser, if the property owner of the chief appraiser demonstrates that method provided by Subsection (d) significantly understates or overstates the market value of the property qualified for an exemption under Subsection (b) in the current year, to determine the market value of the goods-in-transit owned by the property owner on January 1 of the current year, excluding 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.

(h) Authorizes the chief appraiser by written notice delivered to a property owner who claims an exemption under this section to require the property owner to provide copies of property records so the chief appraiser can determine the amount and value of goods-in-transit and that the location in this state where the goods-in-transit were detained for assembling, storing, manufacturing, processing, or fabricating purposes was not owned by or under the control of the owner of the goods-in-transit. Provides that if the property owner fails to deliver the information requested in notice before the 31st day after the date the notices is delivered to the property owner, the property owner forfeits the right to claim or receive exemption for that year.

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

(j) Authorizes the governing body of a taxing unit, in the manner required for official action by the governing body, to provide for taxation of goods-in-transit exempt under Subsection (b) and not exempt under other law. Requires the official action to tax the goods-in-transit to 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), Article VIII, Texas Constitution, as proposed by S.J.R. No. 6, 77th Legislature, Regular Session 2001. Provides that if the governing body of a taxing unit provides for 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.

(k) Provides that a property owner who receives the exemption from taxation provided by Subsection (b) is not eligible to receive the exemption from taxation provided by Section 11.251 for the same property.

SECTION 2. Amends Section 26.012(15), Tax Code, to make a conforming and a non substantive change.

SECTION 3. Makes application of this Act prospective

SECTION 4. This Act takes effect January 1, 2006.

EFFECTIVE DATE

January 1, 2006.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 121 defines "business use-item".

CSHB 121 adds Subsection (a)(3)(e) "does not include inventory held retail sale at the location of storage or a business-use item used or possessed by the owner and returned to the same use after being stored.

CSHB 121 removes the Section 3 of the original bill.