

## **BILL ANALYSIS**

Senate Research Center  
81R27571 CBH-D

H.B. 507  
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Finance  
5/21/2009  
Engrossed

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

Each state mental hospital in Texas has a volunteer services council (council) that advocates for the mentally disabled through community education and active solicitation of donations, goods, and services that cannot be provided by the hospital due to restrictions in law or to limited funds. Fundraising activities sometimes include rummage sales of donated items. The money raised from these sales and other fundraising activities allows a council to pay for such items as birthday gifts, Christmas gifts, holiday parties, computers for patient use, personal grooming items, clothing accessories, special meals, and general entertainment.

Under current law, certain organizations, including 501(c)(3) organizations, are permitted two tax-free sales or auctions in a calendar year; if an organization holds more than two sales per year, however, it must pay sales tax on items sold during the sale.

This bill exempts certain fundraising sales conducted by a nonprofit organization that benefits patients of the second state mental health hospital built in this state from the sales and use tax.

H.B. 507 relates to an exemption from the sales and use tax for certain fund-raising sales conducted by a nonprofit organization that operates to benefit the patients of a state mental hospital.

### **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 151.310, Tax Code, by adding Subsection (c-1) and amending Subsection (d), as follows:

(c-1) Authorizes an organization that qualifies for an exemption under Subsection (a)(2) (relating to the exemption of taxes for an organization qualifying for an exemption from federal income taxes) and that operates to benefit the patients of the second state mental hospital built in this state, notwithstanding Subsection (c) (relating to the authorization for an organization that qualifies for an exemption to hold two tax-free sales or auctions during a calendar year), to hold a tax-free sale or auction under this subsection once during each calendar month and provides that each tax-free sale or auction may continue for one day only. Provides that the sale of a taxable item the sales price of which is \$5,000 or less by a qualified organization at a tax-free sale or auction is exempted from the sales tax imposed by Subchapter C (Imposition and Collection of Sales Tax), except that a taxable item manufactured by or donated to the qualified organization is authorized to be sold tax free regardless of the sales price to any purchaser other than the donor. Provides that the storage, use, or consumption of a taxable item that is acquired from a qualified organization at a tax-free sale or auction and that is exempted under this subsection from the taxes imposed by Subchapter C is exempted from the use tax imposed by Subchapter D (Imposition and Collection of Use Tax) until the item is resold or subsequently transferred.

(d) Authorizes each organization, if two or more organizations jointly hold a tax-free sale or auction under Subsection (c), to hold one additional tax-free sale or auction during

the calendar year in which the joint sale or auction is held. Provides that the employment of and payment of a reasonable fee to an auctioneer to conduct a tax-free auction does not disqualify an otherwise qualified organization from receiving the exemption provided by Subsection (c) or (c-1).

SECTION 2. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. Effective date: upon passage or September 1, 2009.