

BILL ANALYSIS

S.B. 947
By: Duncan
Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2001, the 77th Legislature, Regular Session, passed, and the voters endorsed, S.J.R. 6 authorizing the legislature to exempt from ad valorem taxation all "goods-in-transit." Last session, the legislature adopted H.B. 621 to implement the property tax exemption allowed for 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, language regarding the arrangement under which property is required to 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.

This amendment would provide greater consistency between the enabling statute and constitutional provisions and 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. 947 provides that only those goods held under a contract for bailment by a public warehouse operator qualify for property tax exemption.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 11.253(a), Tax Code, as added by Chapter 830 (H.B. 621), Acts of the 80th Legislature, Regular Session, 2007, by amending Subdivision (2) and adding Subdivisions (5) and (6), to redefine "goods-in-transit" and to define "bailee," "warehouse," and "public warehouse operator."

SECTION 2. Amends Section 11.253, Tax Code, as added by Chapter 830 (H.B. 621), Acts of the 80th Legislature, Regular Session, 2007, 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 the taxing unit, notwithstanding Subsection (j) (relating to the governing body providing for taxation of goods-in-transit) or official action that was taken under

that subsection before September 1, 2009, to tax goods-in-transit exempt under Subsection (b) (relating to an exemption from taxation) and not exempt under other law, from taxing such goods-in-transit in a tax year that begins on or after January 1, 2010, unless the governing body of the taxing unit takes action on or after September 1, 2009, 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 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 governing body providing for taxation of exempt property), Article VIII (Taxation and Revenue), Texas Constitution. Provides that if the governing body 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, notwithstanding Subsection (j-1), if under Subsection (j) the governing body of a taxing unit, before September 1, 2009, 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, to continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

SECTION 3. Makes application of Section 11.253(a)(2), Tax Code, as amended by this Act, prospective to January 1, 2010.

SECTION 4. (a) Effective date, except as provided by Subsection (b) of this section: January 1, 2010.

(b) Effective date, Section 2: September 1, 2009.

EFFECTIVE DATE

September 1, 2009