

BILL ANALYSIS

S.B. 326
By: Duncan
Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Certain tangible personal property defined as "goods-in-transit" are currently exempt from property taxes. According to interested parties, during the implementation of the legislation that created the exemption, it was discovered that certain provisions were inconsistent with the constitutional language authorizing the exemption, which resulted in a more expansive application of exemption eligibility than was originally intended. Among other provisions, S.B. 326 seeks to correct that inconsistency as it relates to the exemption from property taxes of certain tangible personal property stored temporarily at a location in Texas.

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

S.B. 326 amends the Tax Code to prohibit a taxing unit from taxing goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes action on or after September 1, 2011, in the manner required for official action by the governing body, to provide for the taxation of the goods-in-transit. The bill requires 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 and requires the governing body of the taxing unit to conduct a constitutionally required public hearing before acting to tax the exempt property. The bill establishes that, if the governing body provides for such taxation, the tax exemption for goods-in-transit does not apply to that unit and that the goods-in-transit remain subject to taxation by the taxing unit until the governing body, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit or otherwise determines that the exemption will apply to that taxing unit.

S.B. 326 authorizes the tax officials of a taxing unit, if the unit's governing body, before September 1, 2011, 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. The bill makes these provisions, including conforming changes relating to a redefinition by the bill, effective September 1, 2011.

S.B. 326 redefines "goods-in-transit" as it relates to the property tax exemption for certain goods-in-transit, in part, as tangible personal property that is stored under contract of bailment by a public warehouse operator at one or more public warehouse facilities in Texas that are not in any way owned or controlled by the owner of the personal property for the account of the person who acquired or imported the property, rather than as such property that is detained at a location in Texas in which the owner of the property does not have a direct or indirect ownership interest for assembling, storing, manufacturing, processing or fabricating purposes by the person who

acquired or imported the property. The bill makes related conforming changes and limits the applicability of this redefinition to a property tax year that begins on or after January 1, 2012.

S.B. 326 defines "public warehouse operator" and provides for the meanings of "bailee" and "warehouse" by reference to the Business and Commerce Code.

EFFECTIVE DATE

Except as otherwise provided, January 1, 2012.