

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 29, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: SB326** by Duncan (Relating to the exemption from ad valorem taxation of certain tangible personal property stored temporarily at a location in this state.), **As Engrossed**

To the extent that the bill would make some personal property taxable that might otherwise be exempt, taxable property values could be increased and the related costs to the Foundation School Fund could be decreased through the operation of the school finance formulas.

To the extent that the bill would require a hearing and official taxing unit action in order to tax qualified personal property, taxable property values could be decreased and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas.

The bill would amend Chapter 11 of the Tax Code, regarding property taxation and exemptions, to change the definition of "goods-in-transit" to require that the personal property be stored under a contract of bailment by a public warehouse operator at one or more public warehouses that are not in any way owned or controlled by the owner of the personal property. The terms "assembling," "manufacturing," "processing," and "fabricating," with regard to the property being stored, would be deleted from the definition as acceptable activities to qualify for the personal property exemption. Storage would be the only acceptable activity.

The bill would add definitions for "bailee" and "warehouse," assigning the same meanings as in Section 7.102 of the Business and Commerce Code, and would define "public warehouse operator" to mean a person that is both a bailee and a warehouse and stores tangible personal property owned by other persons solely for the account of those persons and not for the operator's account.

The bill would require taxing units to take an official action on or after September 1, 2011 after holding a public hearing if they choose to tax personal property that would otherwise qualify for the goods in transit exemption. Without taking such action, a taxing unit would not be permitted to tax the qualified personal property after January 1, 2012, even if the taxing unit had taken official action to tax the personal property under previous law unless the taxes were pledged for payment of debt.

By removing assembly, manufacturing, processing and fabricating from the activities that would qualify personal property for the exemption and by clarifying that the personal property must be stored in a public warehouse that is not in any way owned or controlled by the owner of the personal property, the bill would likely make some personal property taxable that might otherwise be exempt. This would create a gain to local taxing units and the state. No information exists, however, on the amount of personal property that is currently qualified under the excluded activities or that is in warehouses that are owned or controlled by the owner of the personal property. As a result, the potential gain cannot be estimated.

The bill's provisions regarding actions taken by taxing units would likely create a loss to taxing units and to the state by requiring a hearing and official taxing unit action in order to tax qualified personal property even in taxing units that have already been through this procedure under existing law. The future actions of taxing units cannot be predicted and, consequently, the potential loss cannot be estimated.

The bill would take effect January 1, 2012, with the exception of the provisions regarding actions taken by taxing units which would take effect September 1, 2011.

### **Local Government Impact**

To the extent that the bill would make some personal property taxable that might otherwise be exempt, taxable property values could be increased the related ad valorem tax revenue for units of local government could be increased.

To the extent that the bill would require a hearing and official taxing unit action in order to tax qualified personal property, taxable property values could be decreased and the related ad valorem tax revenue for units of local government could be reduced.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD, SJS