

BILL ANALYSIS

C.S.H.B. 1133
By: Otto
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that, for more than 30 years, Texas has exempted property used in the manufacturing process from the sales and use tax, with roundly successful results. Texas continues to be a national leader in manufacturing output and jobs. C.S.H.B. 1133 proposes a sales and use tax refund for property used in connection with cable television service, Internet access service, or telecommunications services, with the intention of spurring new economic activity, creating new jobs, improving broadband services, and restoring Texas' competitive advantages over other states when it comes to investment in such services.

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

C.S.H.B. 1133 amends the Tax Code to entitle a provider of cable television service, Internet access service, or telecommunications services to a refund of the sales and use tax imposed on the sale, lease, or rental or storage, use, or other consumption of tangible personal property if the property is sold, leased, or rented to or stored, used, or consumed by a such a provider, or a subsidiary of such a provider, and the property is directly used or consumed by the provider or subsidiary in or during the distribution of cable television service, the provision of Internet access service, or the transmission, conveyance, routing, or reception of telecommunications services. The bill establishes property directly used or consumed in or during the provision, creation, or production of a data processing service or information service as ineligible for a refund.

C.S.H.B. 1133 sets the amount of the refund for a calendar year at either the amount of the tax paid by the provider or subsidiary during the calendar year on property eligible for a refund, if the total amount of tax paid by all providers and subsidiaries that are eligible for a refund is not more than \$50 million for the calendar year, or at a prorated share of \$50 million, if the total amount of tax paid by all eligible providers and subsidiaries is more than \$50 million for the calendar year. The bill makes the refund inapplicable to local sales and use taxes. The bill expands the definition of "qualified property" as it relates to the limitation on the appraised value of certain property under the Texas Economic Development Act to include tangible personal property for which the sales and use tax refund set out by the bill is not claimed.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1133 may differ from the original in minor or nonsubstantive ways, the

following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3186 to read as follows:

Sec. 151.3186. PROPERTY USED IN CABLE TELEVISION, INTERNET ACCESS, OR TELECOMMUNICATIONS SERVICES.

(a) In this section, "provider" means a provider of cable television service, Internet access service, or telecommunications services.

(b) The sale, lease, or rental or storage, use, or other consumption of tangible personal property is exempted from the taxes imposed by this chapter if:

(1) the property is sold, leased, or rented to or stored, used, or consumed by a provider, or a subsidiary, affiliate, or partner of a provider; and

(2) the property is directly used or consumed in or during the provision, creation, or production of cable television service, Internet access service, or telecommunications services by the provider, subsidiary, affiliate, or partner described by Subdivision (1).

No equivalent provision.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3186 to read as follows:

Sec. 151.3186. PROPERTY USED IN CABLE TELEVISION, INTERNET ACCESS, OR TELECOMMUNICATIONS SERVICES.

(a) In this section, "provider" means a provider of cable television service, Internet access service, or telecommunications services.

(b) A provider is entitled to a refund of the tax imposed by this chapter on the sale, lease, or rental or storage, use, or other consumption of tangible personal property if:

(1) the property is sold, leased, or rented to or stored, used, or consumed by a provider or a subsidiary of a provider; and

(2) the property is directly used or consumed by the provider or subsidiary described by Subdivision (1) in or during:

(A) the distribution of cable television service;

(B) the provision of Internet access service; or

(C) the transmission, conveyance, routing, or reception of telecommunications services.

(c) Notwithstanding Subsection (b), property directly used or consumed in or during the provision, creation, or production of a data processing service or information service is not eligible for a refund under this section.

(d) The amount of the refund to which a provider or subsidiary, as described by Subsection (b)(1), is entitled under this section for a calendar year is equal to:

(1) the amount of the tax paid by the provider or subsidiary during the calendar year on property eligible for a refund under this section, if the total amount of tax paid by all providers and subsidiaries described by Subsection (b)(1) that are eligible for a refund under this section is not more than \$50 million for the calendar year; or

(2) a pro rata share of \$50 million, if the total amount of tax paid by all providers and subsidiaries described by Subsection (b)(1)

No equivalent provision.

SECTION 2. Section 313.021(2), Tax Code, is amended to read as follows:

(2) "Qualified property" means:

(A) land:

(i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code;

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person applies for a limitation on appraised value under this subchapter;

(iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(iv) on which, in connection with the new building or new improvement described by Subparagraph (ii), the owner or lessee of, or the holder of another possessory interest in, the land proposes to:

(a) make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023; and

(b) create at least 25 new jobs;

(B) the new building or other new improvement described by Paragraph (A)(ii); and

(C) tangible personal property ~~that~~:

(i) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; ~~and~~

(ii) for which a sales and use tax exemption is not claimed under Section 151.3186; and

(iii) except for new equipment described in Section 151.318(q) or (q-1), that is first placed in service in the new building or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.

SECTION 3. The change in law made by this Act does not affect tax liability

that are eligible for a refund under this section is more than \$50 million for the calendar year.

(e) The refund provided by this section does not apply to the taxes imposed under Subtitle C, Title 3.

SECTION 2. Section 313.021(2), Tax Code, is amended to read as follows:

(2) "Qualified property" means:

(A) land:

(i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code;

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person applies for a limitation on appraised value under this subchapter;

(iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(iv) on which, in connection with the new building or new improvement described by Subparagraph (ii), the owner or lessee of, or the holder of another possessory interest in, the land proposes to:

(a) make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023; and

(b) create at least 25 new jobs;

(B) the new building or other new improvement described by Paragraph (A)(ii); and

(C) tangible personal property ~~that~~:

(i) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; ~~and~~

(ii) for which a sales and use tax refund is not claimed under Section 151.3186; and

(iii) except for new equipment described in Section 151.318(q) or (q-1), that is first placed in service in the new building or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.

SECTION 3. Same as introduced version.

accruing before the effective date of this Act. 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 4. This Act takes effect September 1, 2013.

SECTION 4. Same as introduced version.