

BILL ANALYSIS

C.S.H.B. 3121
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to a recent report, Texas is one of the most important locations for the global aerospace and aviation industry. However, interested parties assert that the state's property tax structure, and specifically the freeport goods exemption, does not recognize the importance of this industry to the state. To qualify for the exemption, goods may only be in the state for a maximum of 175 days, and the parties contend that this limited window has unintentionally put key parts of the Texas aerospace sector at a competitive disadvantage. The parties note that, because of the complexity of today's high-tech manufacturing processes and the fact that aerospace suppliers require inventory to be onsite for much longer periods of time, companies must sometimes consider using out-of-state options for the storage of inventory, outsourcing some parts of their manufacturing processes, or relocating their entire operation to another state, which may result in the inefficiency of moving inventory and maintaining multiple locations or the loss of jobs to other states.

C.S.H.B. 3121 seeks to provide tax relief to these manufacturers who must hold inventory for extended periods of time to support the design, assembly, completion, and shipment of complex goods.

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. 3121 amends the Tax Code to authorize the governing body of a taxing unit, in the manner provided by law for official action, to extend the date by which freeport goods that are aircraft parts must be transported outside Texas for those goods to qualify for a property tax exemption to a date not later than the 730th day after the date the person acquired or imported the property in Texas. The bill limits the application of such an extension to the exemption from property taxation by the taxing unit adopting the extension. The bill applies the extension to the tax year in which the extension is adopted if officially adopted before June 1 of a tax year or the tax year immediately following the tax year in which the extension is adopted if officially adopted on or after June 1 of a tax year and to each tax year following the year of adoption of the extension.

EFFECTIVE DATE

January 1, 2014, if the constitutional amendment authorizing a political subdivision of Texas to extend the number of days that aircraft parts that are exempt from property taxation due to their location in Texas for a temporary period may be located in Texas for purposes of qualifying for the tax exemption is approved by the voters.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3121 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. Section 11.251, Tax Code, is amended by amending Subsections (b), (c), (e), (g), and (k) and adding Subsection (l) to read as follows:

(b) A person is entitled to an exemption from taxation by a taxing unit of the appraised value of that portion of the person's inventory or property consisting of freeport goods as determined under this section for the taxing unit.

(c) The exemption provided by Subsection (b) is subtracted from the market value of the inventory or property determined under Section 23.12 to determine the taxable value of the inventory or property for the taxing unit.

(e) In determining the market value of freeport goods that in the preceding year were assembled, manufactured, repaired, maintained, processed, or fabricated in this state or used by the person who acquired or imported the property in the repair or maintenance of aircraft operated by a certificated air carrier, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the freeport goods but were not themselves freeport goods or that were not transported outside the state before the expiration of 175 days, or the greater number of days adopted by the taxing unit as authorized by Subsection (l), after they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held in this state by the property owner during the preceding year in determining whether the component parts were transported out of this state before the expiration of 175 days, or the greater number of days adopted by the taxing unit as authorized by Subsection (l).

(g) If the property owner or the chief appraiser demonstrates that the method

HOUSE COMMITTEE SUBSTITUTE

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(c) The exemption provided by Subsection (b) is subtracted from the market value of the inventory or property determined under Section 23.12 to determine the taxable value of the inventory or property for the taxing unit.

(e) In determining the market value of freeport goods that in the preceding year were assembled, manufactured, repaired, maintained, processed, or fabricated in this state or used by the person who acquired or imported the property in the repair or maintenance of aircraft operated by a certificated air carrier, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the freeport goods but were not themselves freeport goods or that were not transported outside the state before the expiration of 175 days, or, if applicable, the greater number of days adopted by the taxing unit as authorized by Subsection (l), after they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held in this state by the property owner during the preceding year in determining whether the component parts were transported out of this state before the expiration of 175 days or, if applicable, the greater number of days adopted by the taxing unit as authorized by Subsection (l).

(g) If the property owner or the chief appraiser demonstrates that the method

provided by Subsection (d) significantly understates or overstates the market value of the property qualified for an exemption under Subsection (b) in the current year, the chief appraiser shall determine the market value of the freeport goods to be exempt by determining, according to the property owner's records and any other available information, the market value of those freeport goods owned by the property owner on January 1 of the current year, excluding the cost of equipment, machinery, or materials that entered into and became component parts of the freeport goods but were not themselves freeport goods or that were not transported outside the state before the expiration of 175 days, or the greater number of days adopted by the taxing unit as authorized by Subsection (1), after they were brought into this state by the property owner or acquired by the property owner in this state.

(k) Property that meets the requirements of Article VIII, Sections 1-j(a)(1) and (2), of the Texas Constitution and that is transported outside of this state not later than 175 days, or the greater number of days adopted by the taxing unit as authorized by Subsection (1), after the date the person who owns it on January 1 acquired it or imported it into this state is freeport goods regardless of whether the person who owns it on January 1 is the person who transports it outside of this state.

(1) The governing body of a taxing unit, in the manner provided by law for official action, may extend the date by which freeport goods must be transported outside the state to a date not later than the 730th day after the date the person acquired or imported the property in this state. An extension adopted by official action under this subsection applies only to the exemption from ad valorem taxation by the taxing unit adopting the extension and applies to:

(1) the tax year:

(A) in which the extension is adopted if officially adopted before June 1 of a tax year; or

(B) immediately following the tax year in which the extension is adopted if officially adopted on or after June 1 of a tax year; and

(2) each tax year following the year of adoption of the extension **until rescinded by**

provided by Subsection (d) significantly understates or overstates the market value of the property qualified for an exemption under Subsection (b) in the current year, the chief appraiser shall determine the market value of the freeport goods to be exempt by determining, according to the property owner's records and any other available information, the market value of those freeport goods owned by the property owner on January 1 of the current year, excluding the cost of equipment, machinery, or materials that entered into and became component parts of the freeport goods but were not themselves freeport goods or that were not transported outside the state before the expiration of 175 days, or, if applicable, the greater number of days adopted by the taxing unit as authorized by Subsection (1), after they were brought into this state by the property owner or acquired by the property owner in this state.

(k) Property that meets the requirements of Article VIII, Sections 1-j(a)(1) and (2), of the Texas Constitution and that is transported outside of this state not later than 175 days, or, if applicable, the greater number of days adopted by the taxing unit as authorized by Subsection (1), after the date the person who owns it on January 1 acquired it or imported it into this state is freeport goods regardless of whether the person who owns it on January 1 is the person who transports it outside of this state.

(1) The governing body of a taxing unit, in the manner provided by law for official action, may extend the date by which freeport goods **that are aircraft parts** must be transported outside the state to a date not later than the 730th day after the date the person acquired or imported the property in this state. An extension adopted by official action under this subsection applies only to the exemption from ad valorem taxation by the taxing unit adopting the extension and applies to:

(1) the tax year:

(A) in which the extension is adopted if officially adopted before June 1 of a tax year; or

(B) immediately following the tax year in which the extension is adopted if officially adopted on or after June 1 of a tax year; and

(2) each tax year following the year of adoption of the extension.

the governing body in the manner provided by law for official action.

SECTION 2. Section 11.253(a)(2), Tax Code, is amended to read as follows:

(2) "Goods-in-transit" means tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is stored under a contract of bailment by a public warehouse operator at one or more public warehouse facilities in this state 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;

(C) is transported to another location in this state or outside this state not later than 175 days, or the greater number of days adopted by a taxing unit as authorized by Subsection (1), after the date the person acquired the property in or imported the property into this state; and

(D) does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

No equivalent provision.

SECTION 3. Section 11.253, Tax Code, is amended by amending Subsections (b), (c), (e), and (g) and adding Subsection (l) to read as follows:

(b) A person is entitled to an exemption from taxation by a taxing unit of the appraised value of that portion of the person's property that consists of goods-in-transit as determined under this section for the taxing unit.

(c) The exemption provided by Subsection (b) is subtracted from the market value of the property determined under Section 23.01 or 23.12, as applicable, to determine the taxable value of the property for the taxing unit.

(e) In determining the market value of goods-in-transit that in the preceding year were stored in this state, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-

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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, or the greater number of days adopted by the taxing unit as authorized by Subsection (l), after the date they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held by the owner of the component parts during the preceding year at a location in this state that was not owned by or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state or outside this state before the expiration of 175 days, or the greater number of days adopted by the taxing unit as authorized by Subsection (l).

(g) If the property owner or the chief appraiser demonstrates that the method provided by Subsection (d) significantly understates or overstates the market value of the property qualified for an exemption under Subsection (b) in the current year, the chief appraiser shall determine the market value of the goods-in-transit to be exempt by determining, according to the property owner's records and any other available information, the market value of those goods-in-transit owned by the property owner on January 1 of the current year, excluding 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, or the greater number of days adopted by the taxing unit as authorized by Subsection (l), after the date they were brought into this state by the property owner or acquired by the property owner in this state.

(l) The governing body of a taxing unit, in the manner provided by law for official action, may extend the date by which goods-in-transit must be transported outside the state to a date not later than the 730th day after the date the person acquired the property in or imported the property into this state. An extension adopted by official

No equivalent provision.

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action under this subsection applies only to the exemption from ad valorem taxation by the taxing unit adopting the extension and applies to:

(1) the tax year:

(A) in which the extension is adopted if officially adopted before June 1 of a tax year; or

(B) immediately following the tax year in which the extension is adopted if officially adopted on or after June 1 of a tax year; and

(2) each tax year following the year of adoption of the extension until rescinded by the governing body in the manner provided by law for official action.

SECTION 4. This Act applies only to a tax year beginning on or after the effective date of this Act.

SECTION 5. This Act takes effect January 1, 2014, but only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, to authorize a political subdivision of this state to extend the number of days that **certain tangible personal property** that is exempt from ad valorem taxation due to its location in this state for a temporary period may be located in this state for purposes of qualifying for the tax exemption is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

SECTION 2. Same as introduced version.

SECTION 3. This Act takes effect January 1, 2014, but only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, to authorize a political subdivision of this state to extend the number of days that **aircraft parts** that are exempt from ad valorem taxation due to their location in this state for a temporary period may be located in this state for purposes of qualifying for the tax exemption is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.