

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 13, 2013

TO: Honorable Tommy Williams, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1712 by Lozano (Relating to an exemption from ad valorem and sales and use taxes for property used in connection with an offshore spill response containment system.), **As Engrossed**

<p>No fiscal implication to the State is anticipated.</p>
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This bill would amend Section 11.271 of the Tax Code related to offshore drilling equipment not in use to specify that certain personal property that is used, constructed, acquired, stored, or installed solely as part of an offshore spill response containment system, or that is used solely for the development, improvement, storage, deployment, repair, maintenance, or testing of such a system is entitled to a total exemption from property taxation. To qualify for the exemption, the offshore spill response containment system would be required to be stored while not in use in a county bordering on the Gulf of Mexico or on a bay or other body of water immediately adjacent to the Gulf of Mexico but would not be permitted to explore for or produce oil, natural gas, sulfur or other minerals, except that incidental production related to temporary use as an offshore spill response containment system would be permitted. Personal property that was used, constructed, acquired, stored, or installed in this state on or before January 1, 2013, would not be exempt. The bill would define the type of entity that would be eligible for the exemption.

The bill also would amend Section 151.356 of the Tax Code to exempt a person owning such property from paying sales and use taxes for the purchase, sale, lease, rental, storage, use or consumption of the property.

The bill would define an offshore spill response containment system as:

- 1) a containment system for a response plan to meet or exceed rules or regulations adopted by any environmental protection agency for the control, reduction, or monitoring of air, water, or land pollution in the event of a blowout or loss of control of an offshore well drilled or used for the exploration for or production of oil, natural gas, sulphur, or other minerals;
- 2) having a design capability to respond to a blowout or loss of control of such an offshore well drilled in more than 5,000 feet of water;
- 3) used or intended to be used solely to respond to a blowout or loss of control of an offshore well without regard to the depth of the water in which the well was drilled; and
- 4) except for monitoring functions, is used or intended to be used as a temporary measure to address fugitive oil, natural gas, sulfur, or other minerals after a leak has occurred and is not used or intended to be used after the leak has been contained as a continuing means of production.

The bill would define other terms and make conforming changes.

The bill restricts qualification for the exemptions to an entity formed primarily for the purpose of designing, developing, modifying, enhancing, assembling, operating, deploying, and maintaining an offshore spill response containment system, and excludes from qualification for the exemptions a person who provides services to or for such a system that the person does not own. This fiscal assessment assumes that all of the indicated criteria must be met by an entity in order to qualify for the exemptions.

Ten oil companies are members in the Marine Well Containment Company - organized to provide rapid containment response expertise, training, and capabilities including subsea equipment such as risers, dispersant and hydraulic manifolds, and a capping stack in the event of a blowout or other loss of well control resulting in an underwater oil spill in the Gulf of Mexico. This equipment, as well as any other personal property used to develop, improve, store, deploy, repair, maintain, or test the equipment, including leased property, would be exempt from ad valorem taxation under the bill.

Additionally, the bill exempts from state and local sales and use tax personal property that is used, constructed, acquired, stored, or installed primarily as part of an offshore spill response containment system as well personal property used for development, improvement, deployment, repair, maintenance, or testing of such a system, as well as any services performed on real or personal property used for such purposes.

The Marine Well Containment Company headquarters is in Houston, and as of January 2012 its current containment system equipment was reportedly housed at the ASCO shipyard in Houston. The Houston location of the containment system is only on an interim basis and the company plans permanent location of the containment system either elsewhere in Texas along the Gulf coast or, alternatively, in Alabama. Alabama has provided assurances that they will exempt the property. Further, the bill would not exempt any property currently being taxed in Texas and the exemption is limited to an entity formed primarily for offshore spill response purposes. Consequently the bill's proposed property and sales tax exemptions for the specified offshore spill response containment system would not create a cost to units of local government or to the state.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2013.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, SJS