

SENATE AMENDMENTS

2nd Printing

By: Bohac

H.B. No. 3169

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the imposition of the sales and use tax on taxable items
3 sold or provided under certain contracts.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 151.0565(a)(1) and (2), Tax Code, are
6 amended to read as follows:

7 (1) "Destination management services" means the
8 following services when provided under a qualified destination
9 management services contract:

- 10 (A) transportation vehicle management;
- 11 (B) booking and managing entertainers;
- 12 (C) coordination of tours or recreational
13 activities;
- 14 (D) meeting, conference, or event registration;
- 15 (E) meeting, conference, transportation, or
16 event staffing;
- 17 (F) event management; [~~and~~]
- 18 (G) meal coordination;
- 19 (H) shuttle system services, including vehicle
20 staging, radio communications, signage, and routing services; and
- 21 (I) airport meet-and-greet services, including
22 the provision of airport permits, manifest management services,
23 portage, and passenger greeting services.

24 (2) "Qualified destination management company" means

1 a business entity that:

2 (A) is incorporated or is a limited liability
3 company;

4 (B) receives at least 80 percent of the entity's
5 annual total revenue from providing or arranging for the provision
6 of destination management services;

7 (C) maintains a permanent nonresidential office
8 from which the destination management services are provided or
9 arranged;

10 (D) has at least three full-time employees;

11 (E) maintains a general liability insurance
12 policy with a limit of at least \$1 million [~~spends at least one~~
13 ~~percent of the entity's annual gross receipts to market the~~
14 ~~destinations with respect to which destination management services~~
15 ~~are provided~~];

16 (F) has at least 80 percent of the entity's
17 clients [~~described by Subdivision (3)(A)~~] located outside this
18 state;

19 (G) other than office equipment used in the
20 conduct of the entity's business, does not own equipment used to
21 directly provide destination management services, including motor
22 coaches, limousines, sedans, dance floors, decorative props,
23 lighting, podiums, sound or video equipment, or equipment for
24 catered meals;

25 (H) does not prepare or serve beverages, meals,
26 or other food products, but may procure catering services on behalf
27 of the entity's clients [~~is not doing business as a caterer~~];

- 1 (I) does not provide services for weddings;
- 2 (J) does not own or operate a venue at which
3 events or activities for which destination management services are
4 provided occur; and
- 5 (K) [~~is not a subsidiary of another entity that,~~
6 ~~and~~] is not a member of an affiliated group, as that term is defined
7 by Section 171.0001, another member of which:
- 8 (i) prepares or serves beverages, meals, or
9 other food products [~~is doing business as, or owns or operates~~
10 ~~another entity doing business as, a caterer~~]; or
- 11 (ii) owns or operates a venue described by
12 Paragraph (J).

13 SECTION 2. The change in law made by this Act does not
14 affect tax liability accruing before the effective date of this
15 Act. That liability continues in effect as if this Act had not been
16 enacted, and the former law is continued in effect for the
17 collection of taxes due and for civil and criminal enforcement of
18 the liability for those taxes.

19 SECTION 3. This Act takes effect September 1, 2013.

3rd Reading

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 21 2013

BY: Caura

Atay Law
Secretary of the Senate

1 Amend H.B. No. 3169 (Senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION ____ . Section 151.319(f), Tax Code, is amended to
5 read as follows:

6 (f) In this section, "newspaper" means a publication that
7 is printed on newsprint, the average sales price of which for
8 each copy over a 30-day period does not exceed \$3 [~~\$1.50~~], and
9 that is printed and distributed at a daily, weekly, or other
10 short interval for the dissemination of news of a general
11 character and of a general interest. "Newspaper" does not
12 include a magazine, handbill, circular, flyer, sales catalog, or
13 similar printed item unless the printed item is printed for
14 distribution as a part of a newspaper and is actually
15 distributed as a part of a newspaper. For the purposes of this
16 section, an advertisement is news of a general character and of
17 a general interest. Notwithstanding any other provision of this
18 subsection, "newspaper" includes:

19 (1) a publication containing articles and essays of
20 general interest by various writers and advertisements that is
21 produced for the operator of a licensed and certified carrier of
22 persons and distributed by the operator to its customers during
23 their travel on the carrier; and

24 (2) a publication for the dissemination of news of a
25 general character and of a general interest that is printed on
26 newsprint and distributed to the general public free of charge
27 at a daily, weekly, or other short interval.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 21 2013

BY:

Eddie Lucio, Jr.

Atty Gen
Secretary of the Senate

1 Amend H.B. No. 3169 (senate committee printing) as follows:

2 (1) Strike page 1, lines ³³~~31~~ through ³⁴~~32~~, and substitute the
3 following:

4 following services [~~when provided under a qualified destination~~
5 ~~management services contract~~]:

6 (2) Strike page 1, line ⁵⁸~~55~~, and substitute the following:
7 of a combination of at least six destination management
8 services;

9 (3) Strike page 2, lines 2 through 4, and substitute the
10 following:

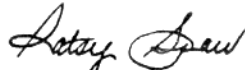
11 (F) during the preceding tax year, had [~~has~~] at
12 least 80 percent of the entity's client contracts for:

13 (i) clients from [~~described by Subdivision~~
14 ~~(3)(A) located~~] outside this state who were determined by a
15 contracting entity outside this state; or

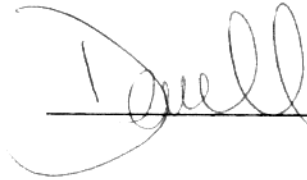
16 (ii) clients from ^{outside this}~~out of~~ state who were
17 program attendees staying in a hotel in this state;

ADOPTED

MAY 21 2013


Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: 

1 Amend H.B. No. 3169 (senate committee report) by adding the
2 following appropriately numbered SECTION and renumbering
3 subsequent SECTIONS accordingly:

4 SECTION _____. Section 151.313, Tax Code, is amended by
5 amending Subsection (a) and adding Subsections (e) and (f) to read
6 as follows:

7 (a) The following items are exempted from the taxes imposed
8 by this chapter:

9 (1) a drug or medicine, other than insulin, if
10 prescribed or dispensed for a human or animal by a licensed
11 practitioner of the healing arts;

12 (2) insulin;

13 (3) a drug or medicine that is required to be labeled
14 with a "Drug Facts" panel in accordance with regulations of the
15 federal Food and Drug Administration, without regard to whether it
16 is prescribed or dispensed by a licensed practitioner of the
17 healing arts;

18 (4) a hypodermic syringe or needle;

19 (5) a brace; hearing aid or audio loop; orthopedic,
20 dental, or prosthetic device; ileostomy, colostomy, or ileal
21 bladder appliance; or supplies or replacement parts for the listed
22 items;

23 (6) a therapeutic appliance, device, and any related
24 supplies specifically designed for those products, if dispensed or
25 prescribed by a licensed practitioner of the healing arts, when
26 those items are purchased and used by an individual for whom the
27 items listed in this subdivision were dispensed or prescribed;

28 (7) corrective lens and necessary and related
29 supplies, if dispensed or prescribed by an ophthalmologist or

1 optometrist;

2 (8) specialized printing or signalling equipment used;
3 by the deaf for the purpose of enabling the deaf to communicate
4 through the use of an ordinary telephone and all materials, paper,
5 and printing ribbons used in that equipment;

6 (9) a braille wristwatch, braille writer, braille
7 paper and braille electronic equipment that connects to computer
8 equipment, and the necessary adaptive devices and adaptive computer
9 software;

10 (10) each of the following items if purchased for use
11 by the blind to enable them to function more independently: a slate
12 and stylus, print enlarger, light probe, magnifier, white cane,
13 talking clock, large print terminal, talking terminal, or harness
14 for guide dog;

15 (11) hospital beds;

16 (12) blood glucose monitoring test strips;

17 (13) an adjustable eating utensil used to facilitate
18 independent eating if purchased for use by a person, including a
19 person who is elderly or physically disabled, has had a stroke, or
20 is a burn victim, who does not have full use or control of the
21 person's hands or arms;

22 (14) subject to Subsection (d), a dietary supplement;

23 and

24 (15) intravenous systems, supplies, and replacement
25 parts designed or intended to be used in the diagnosis or treatment
26 of humans.

27 (e) A product is an intravenous system for purposes of this
28 section if, regardless of whether the product is designed or
29 intended to be inserted subcutaneously into any part of the body,
30 the product is designed or intended to be used to administer fluids,
31 electrolytes, blood and blood products, or drugs to patients, or to

1 withdraw tissue samples, blood, or fluids from patients. The term
2 includes access ports, adapters, bags and bottles, cannulae,
3 cassettes, catheters, clamps, connectors, drip chambers, extension
4 sets, filters, in-line ports, luer locks, needles, poles, pumps and
5 batteries, spikes, tubing, valves, volumetric chambers, and items
6 designed or intended to connect qualifying products to one another
7 or secure qualifying products to a patient.

8 (f) A product is a hospital bed for purposes of this section
9 if it is a bed purchased, sold, leased, or rented, regardless of the
10 terms of the contract, not including a stretcher, gurney, or
11 delivery table, that is specially designed for the comfort and
12 well-being of patients and the convenience of health care workers,
13 with special features that may include wheels, adjustable height,
14 adjustable side rails, and electronic buttons to operate both the
15 bed and other nearby devices. The term includes:

- 16 (1) a mattress for the bed;
17 (2) any devices built into the bed or designed for use
18 with the bed;
19 (3) infant warmers;
20 (4) incubators;
21 (5) other beds for neonatal and pediatric patients;

22 and

23 (6) beds specifically designed and marketed for use in
24 the rest, recuperation, and treatment of obese patients, obstetric
25 patients, and burn patients.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 23, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3169 by Bohac (Relating to the imposition of the sales and use tax on taxable items sold or provided under certain contracts.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3169, As Passed 2nd House: a negative impact of (\$9,500,000) through the biennium ending August 31, 2015.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$4,400,000)
2015	(\$5,100,000)
2016	(\$5,500,000)
2017	(\$5,900,000)
2018	(\$6,300,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund 1</i>	Probable Revenue (Loss) from <i>Cities</i>	Probable Revenue (Loss) from <i>Transit Authorities</i>	Probable Revenue (Loss) from <i>Counties and Special District</i>
2014	(\$4,400,000)	(\$800,000)	(\$300,000)	(\$100,000)
2015	(\$5,100,000)	(\$900,000)	(\$300,000)	(\$200,000)
2016	(\$5,500,000)	(\$1,000,000)	(\$300,000)	(\$200,000)
2017	(\$5,900,000)	(\$1,100,000)	(\$400,000)	(\$200,000)
2018	(\$6,300,000)	(\$1,200,000)	(\$400,000)	(\$200,000)

Fiscal Analysis

The bill would amend Chapter 151, Tax Code, with respect to taxation of destination management services, health care supplies, and newspapers.

Section 151.0565(a)(1) would be amended to include transportation vehicle management, transportation, shuttle service services, and airport meet-and-greet services within the definition of destination management services and to strike from that definition the limitation that such

services be provided under a qualified destination management services contract.

Section 151.0565(a)(2) would be amended: 1) to limit the definition of qualified destination management company to one that receives at least 80 percent of revenue from a combination of at least six destination management services; 2) to require that a qualified destination management company maintain a general liability insurance policy with a limit of at least \$1 million; 3) to modify the requirement that at least 80 percent of the entity's clients be located outside this state to state that during the preceding tax year at least 80 percent of the entity's client contracts be for clients outside this state who were determined by a contracting entity outside this state or for clients from outside this state who were program attendees staying in a hotel in this state; 4) to delete the requirement that such a company spend at least one percent of its annual gross receipts to market the destinations with respect to which it provides services; 5) to clarify the prohibition of such a company from preparation or service of food or beverages; and 6) to prohibit such a company from operation of a venue at which events or activities for which destination management services are provided occur.

Subdivision (15) of Section 151.313(a) would be amended to expand the exemption of intravenous systems, supplies, and replacement parts used in the treatment of humans to include such items designed or intended to be used in diagnosis or treatment.

A new Subsection (e) of Section 151.313 would be added to expand the definition of "intravenous system" to include, regardless of whether the product is designed or intended to be inserted subcutaneously into any part of the body, a product designed or intended to be used to administer fluids, electrolytes, blood and blood products, or drugs to patients, or to withdraw tissue samples, blood, or fluids from patients.

A new Subsection (f) of Section 151.313 would be added to describe a "hospital bed" and to expand the definition to include a mattress, devices built into or designed for use with the bed, infant warmers, incubators, other beds for neonatal and pediatric patients, and beds specifically designed and marketed for use in the rest, recuperation, and treatment of obese patients, obstetric patients, and burn patients.

Section 151.319(f) would be amended to increase the limitation on the average sales price of a publication that meets the definition of "newspaper" from \$1.50 to \$3.00. Section 151.319(a) of this code exempts a newspaper from sales and use tax.

The bill would take effect September 1, 2013.

Methodology

The elimination of the requirement to market destinations and modification of other criteria for qualification as a destination management company is not expected to significantly alter the set of affected entities, and shuttle services and airport meet-and-greet services are not taxable services. The amendments of Section 151.0565 accordingly would not have significant fiscal implications.

The Section 151.313 amendment of the definition of "intravenous system" would include some currently taxable items. Similarly, the amendment of the definition of "hospital bed" would include currently taxable items such as bed alarms, sheets, mattress pads, cushions, pillows, pillowcases, blankets, adjustable over bed tables, and trapeze bars. Estimates were developed from comptroller records on sales tax remittances from medical equipment suppliers, hospitals, clinics and offices of physicians, and audit experience.

The amount of sales tax revenue that may currently be collected from sales of newspapers with an average price between \$1.50 and \$3.00 cannot be determined, but is expected to be negligible.

Local Government Impact

There would be a corresponding loss of sales and use tax revenue to local taxing jurisdictions.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 9, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3169 by Bohac (Relating to the imposition of the sales and use tax on taxable items sold or provided under certain contracts.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 151, Tax Code, with respect to taxation of destination management services.

Section 151.0565(a)(1) would be amended to include transportation vehicle management, transportation, shuttle service services, and airport meet-and-greet services within the definition of destination management services when provided under a qualified destination management services contract.

Section 151.0565(a)(2) would be amended to require that a qualified destination management company maintain a general liability insurance policy with a limit of at least \$1 million, to delete the requirement that such a company spend at least one percent of its annual gross receipts to market the destinations with respect to which it provides services, to clarify the prohibition of such a company from preparation or service of food or beverages, and to prohibit such a company from operation of a venue at which events or activities for which destination management services are provided occur.

The elimination of the requirement to market destinations and modification of other criteria for qualification as a destination management company is not expected to significantly alter the set of affected entities, and shuttle services and airport meet-and-greet services are not taxable services. The bill accordingly would not have significant fiscal implications.

The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 30, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3169 by Bohac (relating to the imposition of the sales and use tax on taxable items sold or provided under certain contracts.), **Committee Report 1st House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend Chapter 151, Tax Code, with respect to taxation of destination management services.

Section 151.0565(a)(1) would be amended to include transportation vehicle management, transportation, shuttle service services, and airport meet-and-greet services within the definition of destination management services when provided under a qualified destination management services contract.

Section 151.0565(a)(2) would be amended to require that a qualified destination management company maintain a general liability insurance policy with a limit of at least \$1 million, to delete the requirement that such a company spend at least one percent of its annual gross receipts to market the destinations with respect to which it provides services, to clarify the prohibition of such a company from preparation or service of food or beverages, and to prohibit such a company from operation of a venue at which events or activities for which destination management services are provided occur.

The elimination of the requirement to market destinations and modification of other criteria for qualification as a destination management company is not expected to significantly alter the set of affected entities, and shuttle services and airport meet-and-greet services are not taxable services. The bill accordingly would not have significant fiscal implications.

The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION
Revision 1

April 16, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3169 by Bohac (Relating to the imposition of the sales and use tax on taxable items sold or provided under certain contracts.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend Section 151.0565 of the Tax Code, regarding the sales tax liability of a qualified destination management company. The bill would add a subsection defining which activities are considered as marketing a destination.

The bill would be a clarification of existing law and therefore would have no significant impact on state sales and use tax revenue.

The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 15, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3169 by Bohac (Relating to the imposition of the sales and use tax on taxable items sold or provided under certain contracts.), **As Introduced**

The fiscal implications of the bill cannot be determined at this time

Local Government Impact

The fiscal implications of the bill cannot be determined at this time

Source Agencies:

LBB Staff: UP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

83RD LEGISLATIVE REGULAR SESSION

April 30, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3169 by Bohac (relating to the imposition of the sales and use tax on taxable items sold or provided under certain contracts.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: UP, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

83RD LEGISLATIVE REGULAR SESSION

April 18, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3169 by Bohac (Relating to the imposition of the sales and use tax on taxable items sold or provided under certain contracts.), **As Introduced**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: UP, KK