

BILL ANALYSIS

C.S.H.B. 2637
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, if a manufacturer delivers a locomotive manufactured in Texas to a purchaser in Texas or to an agent or common carrier arranged by the purchaser in Texas, the comptroller of public accounts treats the sale as a Texas receipt for purposes of the franchise tax. The parties suggest that most states source receipts based on the ultimate destination of the product and have alternative apportionment relief provisions that allow a jurisdiction to equitably resolve sourcing issues related to products with unique facts and circumstances. As such, the parties conclude a change in the treatment of locomotives for apportionment sourcing purposes is needed to address the distortive treatment of locomotive sales by Texas manufacturers and to equitably resolve the sourcing issues related to this unique product. C.S.H.B. 2637 seeks to implement such a change.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2637 amends the Tax Code to establish that the portion of a taxable entity's receipts from the sale of locomotives sold for use in interstate commerce that are receipts from business done in Texas, for purposes of determining the amount of the entity's franchise tax liability, is determined by multiplying the taxable entity's total receipts from such sales by a fraction, the numerator of which is the number of miles of railway track in Texas and the denominator of which is the number of miles of railway track in the United States. The bill defines "locomotive" as self-propelled railroad equipment consisting of one or more units designed to operate on stationary steel rails or electromagnetic guideways.

EFFECTIVE DATE

January 1, 2016.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2637 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 171.106, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) A taxable entity's margin that is derived from receipts from the sale of locomotives sold for use in interstate commerce is apportioned to this state to determine the amount of the tax imposed under Section 171.002 by multiplying the taxable entity's total margin from receipts from the sale of locomotives sold for use in interstate commerce by a fraction, the numerator of which is the number of miles of railway track in this state and the denominator of which is the number of miles of railway track in the United States. In this subsection, "locomotive" means self-propelled railroad equipment consisting of one or more units designed to operate on stationary steel rails or electromagnetic guideways.

SECTION 2. This Act applies only to a report originally due on or after the effective date of this Act.

SECTION 3. This Act takes effect January 1, 2016.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 171.106, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) The portion of a taxable entity's receipts from the sale of locomotives sold for use in interstate commerce that are receipts from business done in this state is determined by multiplying the taxable entity's total receipts from the sale of locomotives sold for use in interstate commerce by a fraction, the numerator of which is the number of miles of railway track in this state and the denominator of which is the number of miles of railway track in the United States. In this subsection, "locomotive" means self-propelled railroad equipment consisting of one or more units designed to operate on stationary steel rails or electromagnetic guideways.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.