BILL ANALYSIS

Senate Research Center

S.B. 516
By: Bettencourt et al.
Finance
2/26/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Freeport property is tangible personal property that is used for manufacturing, processing, assembling, fabricating, or processing and stored temporarily in Texas. The freeport exemption was enacted in 1989 with the intent of allowing businesses in Texas to operate on a more equal footing with businesses in other states. This exemption was enacted because many other states offer Freeport exemptions and some do not tax inventory at all. However, because Texas relies so heavily upon property taxes to fund public schools, businesses that hold inventory in Texas longer than the 175 days allowed under the freeport exemption still face a heavy tax burden.

S.B. 516 offers tax relief for these businesses by increasing the time that freeport property may stay in the state without any property tax imposed from 175 to 365 days. If freeport property remains in Texas longer than 365 days, then it becomes taxable.

School property taxes compose roughly 55 percent of the property tax burden and S.B. 516 will provide immediate tax relief to business taxpayers that have freeport-eligible property. The bill will also make the state more attractive to businesses looking to relocate. Texas is one of seven states to tax inventory and some of Texas' biggest competitor states, such as Florida and California, do not tax inventories at all. As an example of the need to extend the duration of the freeport exemption, the aerospace industry last session sought legislation to extend the freeport exemption for them for up to two years to enable some of their operations to remain in Texas.

The freeport exemption is a local option exemption, meaning it is up to the discretion of each taxing unit to grant. School districts that grant the freeport exemption are compensated by the state for the lost revenue. Other local taxing entities may also grant the exemption, but they are not compensated by the state for their revenue loss. This bill does not make any changes to which taxing units elect to grant the exemption, so no taxing units will be required to grant the exemption if they do not currently do so.

S.B. 516 will probably have a fiscal cost to the state. The amount will be difficult to estimate due to uncertainty about how the proposal will effect business decisions. Since businesses will have 365 days to keep freeport property in the state before it becomes taxable, they may elect to keep property in the state for longer, or change their business processes to utilize inventory that must be held for a longer period. Additionally, businesses may choose to move Freeport-eligible property to the state that is currently held in other states. As a baseline, the current 175-day freeport exemption costs the state between $600 and $700 million per biennium. The actual additional cost of doubling the duration should not exceed $200 to $300 million dollars per biennium.

As proposed, S.B. 516 amends current law relating to increasing the period of time for exempting freeport goods from ad valorem taxation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 11.251(e), (g), and (k), Tax Code, as follows:

(e) Increases the period of time for exempting freeport goods from ad valorem taxation from 175 days to 365 days.

(g) and (k) Makes conforming changes to these subdivisions.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: January 1, 2016, contingent upon approval by the voters of the constitutional amendment proposed by the 84th Legislature, Regular Session, 2015, extending the number of days that certain tangible personal property to be transported outside of this state is exempt from ad valorem taxation.