

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 2, 2015

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2591 by Phillips (Relating to the appraisal for ad valorem tax purposes of certain dealer's heavy equipment.), **As Introduced**

The bill would result in increases in the market value of heavy equipment special inventory which would be partly offset by the bill's treatment of certain leases or rentals as subsequent sales which are excluded from the heavy equipment special inventory market value determination. Overall, the bill would create a gain to the state through the operation of the school funding formula; this gain would decrease over time as lease and rental agreements are restructured for a term of 12 months or less and to include a purchase option which does not have to be exercised.

The bill would amend Section 23.1241 of the Tax Code, relating to appraisal methods and procedures and dealer's heavy equipment inventory, to remove leases and rentals from the definition of "dealer."

The bill would modify the definition of "dealer's heavy equipment inventory," to include leases and rentals of heavy equipment subject to a purchase option with a term of 12 months or less (rather than leases and rentals); these types of leases and rentals also would be added to the definition of "subsequent sale" if at the time of the lease or rental, the item has been the subject of a lease or rental from the same dealer's heavy equipment inventory in the same calendar year. The bill also modifies the definition of "dealer's heavy equipment inventory" to provide that the current inclusion of items of heavy equipment that a dealer holds for sale applies to those items held for sale at retail. The bill would modify the calculation of the market value of dealer's heavy equipment inventory to provide that a sale is considered to occur when possession of an item of heavy equipment is transferred from the dealer to the purchaser.

The bill also modifies the definition of "sales price" to provide that the current inclusion of the total amount of lease or rental payments applies to leases or rentals with an option to purchase plus any final consideration, excluding interest. The bill would repeal Section 23.1241(b-1) of the Tax Code to strike the calculation of the sales price of an item sold after being leased or rented in the same tax year. The bill amends Section 23.1242 of the Tax Code, relating to prepayment of taxes by heavy equipment dealers, to strike provisions specific to assigning a unit property tax to a lease or rental of heavy equipment and the prepayment of those taxes.

Appraisal districts report there is currently \$2.4 billion of heavy equipment value not on the appraisal roll under current law and another \$2.4 billion in dispute. The bill's provision narrowing the definition of dealer would decrease the number of items of heavy equipment calculated using the heavy equipment special inventory market value calculation. The bill's provisions narrowing

the items included in dealer's heavy equipment inventory would exclude from special inventory heavy equipment items not held for sale at retail and would exclude items of heavy equipment that are leased or rented for a term of over a year or are not subject to a purchase option, decreasing the number of items of heavy equipment calculated using the heavy equipment special inventory market value calculation. The bill's provision to include any final consideration, excluding interest, of leases and rentals in the sales price would increase the heavy equipment special inventory market value.

Generally, the market value of heavy equipment special inventory is significantly lower than the inventory market determination under Section 23.12 of the Tax Code under which the market value of heavy equipment excluded from special inventory is determined. Any increases in the market value would be partly offset by the bill's treatment of certain leases or rentals as subsequent sales which are excluded from the heavy equipment special inventory market value determination. The bill would create a gain to local taxing units and to the state through the operation of the school funding formula; this gain would decrease over time as lease and rental agreements are restructured for a term of 12 months or less and to include a purchase option which does not have to be exercised.

The bill would take effect January 1, 2016.

Local Government Impact

The bill would result in increases in the market value of heavy equipment special inventory which would be partly offset by the bill's treatment of certain leases or rentals as subsequent sales which are excluded from the heavy equipment special inventory market value determination. Overall, the bill would create a gain to local taxing units; this gain would decrease over time as lease and rental agreements are restructured for a term of 12 months or less and to include a purchase option which does not have to be exercised.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, SJS