

By: Murphy

H.B. No. 4052

Substitute the following for H.B. No. 4052:

By: Shine

C.S.H.B. No. 4052

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of certain services performed by certain employees from the sales and use tax.

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

SECTION 1. Section 151.057, Tax Code, is transferred to Subchapter H, Chapter 151, Tax Code, redesignated as Section 151.3503, Tax Code, and amended to read as follows:

Sec. 151.3503 [~~151.057~~]. SERVICES BY EMPLOYEES. (a) The following [~~services~~] are exempted from the taxes imposed by [not taxable under] this chapter:

(1) a service performed by an employee for the employee's [~~his~~] employer in the regular course of business, within the scope of the employee's duties, and for which the employee is paid [~~his~~] regular wages or salary;

(2) a service performed by an employee of a temporary employment service [~~as defined by Section 93.001, Labor Code,~~] for a host [~~an~~] employer to supplement the host employer's existing work force on a temporary basis, if:

(A) [~~when~~] the service is normally performed by the host employer's own employees;

(B) [~~7~~] the host employer provides all supplies and equipment necessary to perform the service, other than personal protective equipment provided by the temporary employment service pursuant to a federal law or regulation;

1 (C) the host employer does not rent, lease,
2 purchase, or otherwise acquire for use the supplies and equipment
3 described by Paragraph (B), other than the personal protective
4 equipment described by that paragraph, from the temporary
5 employment service or an entity that is a member of an affiliated
6 group of which the temporary employment service is also a member;
7 [7] and

8 (D) the host employer has the sole right to
9 supervise, direct, and control the work performed by the employee
10 of the temporary employment service as necessary to conduct the
11 host employer's business or to comply with any licensing,
12 statutory, or regulatory requirement applicable to the host ~~[help~~
13 ~~is under the direct or general supervision of the]~~ employer ~~[to whom~~
14 ~~the help is furnished]~~; or

15 (3) a service performed by covered employees of a
16 professional employer organization, either licensed under Chapter
17 91, Labor Code, or exempt from the licensing requirements of that
18 chapter, for a client under a written contract that provides for
19 shared employment responsibilities between the professional
20 employer organization and the client for the covered employees,
21 most of whom must have been previously employed by the client.

22 (b) The comptroller shall prescribe by rule the minimum
23 percentage of covered employees that must have been previously
24 employed by the client, the minimum time period the covered
25 employees must have been employed by the client prior to the
26 commencement of its contract, and such other criteria as the
27 comptroller may deem necessary to properly implement Subsection

1 (a)(3) [~~this section~~].

2 (c) In this section:

3 (1) "Affiliated group" has the meaning assigned by
4 Section 171.0001.

5 (2) "Host employer" means the employer who owns,
6 manages, or controls the property or worksite where an employee of a
7 temporary employment service performs a service.

8 (3) "Temporary employment service" has the meaning
9 assigned by Section 93.001, Labor Code.

10 SECTION 2. The changes in law made by this Act apply only to
11 a service commenced on or after the effective date of this Act. A
12 service commenced before that date is governed by the law in effect
13 on the date the service was commenced, and the former law is
14 continued in effect for that purpose.

15 SECTION 3. This Act takes effect September 1, 2017.