

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 2, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3787 by Sanford (Relating to the application of the sales and use tax to certain property and services.), **As Introduced**

<p>No fiscal implication to the State is anticipated.</p>
--

The bill would amend Chapter 151, Tax Code to clarify the application of sales and use tax to certain property and services.

Section 151.0028 would be amended clarify that an admission or ticket to an amusement service is within the definition of "amusement services".

Provisions governing the taxation of certain amusement and personal services sold through coin-operated machines would be restructured. Section 151.0028 would be amended to exclude amusement services provided through the use of coin-operated machines operated by the consumer from the definition of amusement services. Section 151.0045 would be amended to exclude services provided through coin-operated machines operated by the consumer from the definition of personal services. Section 151.335, which exempts amusement and personal services provided through coin-operated machines operated by the consumer, would be repealed. Services sold through coin-operated machines that are untaxed under current law would remain untaxed; the basis for the nontaxability would be as an exclusion from the definitions of taxable items, rather than as an exemption.

Section 151.006(a)(1) would be amended to narrow the definition of a sale for resale to tangible personal property or taxable service resold as a taxable item rather than resold with or as a taxable item.

Section 151.006(a)(5) and (c) would be amended to limit the exclusion from the definition of sale for resale of certain items used in the performance of a service not taxed to items used in the performance of a contract with certain governmental and nonprofit organizations exempted from tax under Sections 151.309 and 151.310.

New Subsection (e) would be added to Section 151.006 to exclude from the definition of sale for resale the sale of tangible personal property that will be used, consumed, expended in, or incorporated into an oil or gas well by a purchaser in the performance of an oil well service taxable under Chapter 191 (the oil well service tax).

New Subsection (b-1) would be added to Section 151.302 to provide that a taxable service used to

perform a taxable service is not resold unless purchased for transfer as an integral part of performing a taxable service.

Section 151.338 would be amended to clarify that the exemption of certain environment and conservation services is of the amount charged for separately itemized labor and does not apply to materials furnished by the service provider to the purchaser as part of the service. The amendment would also provide an exception for certain lump-sum charges for labor and materials for certain services purchased by certain health care and oncology centers, which would exempt 65 percent of the lump-sum charges without requirement of separate itemization of labor and materials charges.

This bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect October 1, 2019.

The bill would amend Chapter 151 to reduce ambiguity and codify current administrative policy regarding interpretation of statute, and consequently would have no fiscal implications.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK