

## **BILL ANALYSIS**

Senate Research Center  
76R10440 GJH-F

S.B. 977  
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Natural Resources  
4/22/1999  
Committee Report (Amended)

### **DIGEST**

Currently, Texas law provides for certain taxes on the timber industry. S.B. 977 would provide exemptions from ad valorem and sales and use taxation of certain timber and certain items in timber operations and the valuation of certain timber land for ad valorem tax purposes.

### **PURPOSE**

As proposed, S.B. 977 provides exemptions from ad valorem and sales and use taxation of certain timber and certain items in timber operations and the valuation of certain timber land for ad valorem tax purposes.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the director of the Texas Forest Service in SECTION 5 (Section 23.9806(e), Chapter 23H, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 6.12(b), Tax Code, to require certain members of the agricultural advisory board to be landowners of the appraisal district whose land qualifies for appraisal under Chapter 23C, D, E, or H, of Chapter 23, and who have been residents of the appraisal district for at least five years.

SECTION 2. Amends Section 11.16(c), Tax Code, to redefine "farm products."

SECTION 3. Amends Section 11.161, Tax Code, as follows:

Sec. 11.161. New heading: IMPLEMENTS OF HUSBANDRY. Provides that implements of husbandry that are used in the production of farm or ranch products or of timber are exempt from ad valorem taxation.

SECTION 4. Amends Section 23.76(g), Tax Code, to make a conforming change.

SECTION 5. Amends Chapter 23, Tax Code, by adding Subchapter H, as follows:

#### **SUBCHAPTER H. APPRAISAL OF RESTRICTED-USE TIMBER LAND**

Sec. 23.9801. DEFINITIONS. Defines "aesthetic management zone," "critical wildlife habitat zone," "management plan," "regenerate," "streamside management zone," and "qualified restricted-use timber land."

Sec. 23.9802. QUALIFICATION FOR APPRAISAL AS RESTRICTED-USE TIMBER LAND. Provides that land qualifies for appraisal as provided by this subchapter if the land is in an aesthetic management zone, critical wildlife habitat zone, or streamside management zone. Provides that land qualifies for appraisal as provided by this subchapter if certain conditions exist. Provides that land ceases to qualify for appraisal under Subsection (b) on the 10th anniversary of the date the timber was harvested under Subsection (b)(1). Provides that this subsection does not disqualify the land from qualifying for appraisal under this section in a tax year following that anniversary based on the circumstances existing in that subsequent tax year.

Sec. 23.9803. APPRAISAL OF QUALIFIED RESTRICTED-USE TIMBER LAND. Provides that the appraised value of qualified restricted-use timber land is one-half of the appraised value

of the land as determined under Section 23.73(a). Prohibits the appraised value determined under Subsection (a) from exceeding the lesser of certain other values. Requires the chief appraiser to determine the market value of qualified restricted-use timber land and to record both the market value and the appraised value in the appraisal records.

Sec. 23.9804. APPLICATION. Requires a person claiming that the person's land is eligible for appraisal as provided by this subchapter to file a valid application with the chief appraiser. Requires an application, to be valid under Sections 23.9802(a) and (b), to meet certain requirements. Requires the comptroller to include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. Requires the comptroller, in prescribing the contents of the application form, to require that the form permit a claimant who has previously been allowed appraisal under this subchapter to indicate that the previously reported information has not changed and to supply only the eligibility information not previously reported. Requires the form to be filed before May 1. Authorizes the chief appraiser, for good cause shown, to extend the filing deadlines for not more than 15 days. Sets forth requirements for the filing application. Requires the appraisal office to make a sufficient number of printed application forms readily available at no charge. Requires, each year, for the chief appraiser for each appraisal district to publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms. Requires a person whose land is allowed appraisal under this subchapter to notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends. Provides that a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed, if a person fails to notify the appraisal office as required by this subsection. Requires the chief appraiser to make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and to deliver a written notice of imposition of the penalty of the penalty to the person who owns the property. Requires the notice to include a brief explanation of the procedures for protesting the imposition of the penalty. Requires the assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter to add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. Requires the penalty to be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. Provides that the penalty constitutes a lien on the property against which the penalty is imposed and on delinquency accrues penalty and interest in the same manner as a delinquent tax. Requires the chief appraiser to add the difference between the appraised value of the land for any year in which the land was ineligible for appraisal under this subchapter to the appraisal records as provided by Section 25.21 for other property that escapes taxation.

Sec. 23.9805. ACTION ON APPLICATION. Requires the chief appraiser to determine separately each applicant's right to have the applicant's land appraised under this subchapter. Requires the chief appraiser, after considering the application and all relevant information to take certain action based on law and the facts. Requires the applicant to furnish information not later than the 30th day after the date of the request or the chief appraiser shall deny the application, if the chief appraiser requests additional information from the applicant. Authorizes the chief appraiser, for good cause shown, to extend the deadline for furnishing the information by written order for a single period not to exceed 15 days. Requires the chief appraiser to determine the validity of each application for appraisal records for review and determination of protests as provided by Chapter 41. Requires the chief appraiser to deliver a written notice of the denial to the applicant not later than the fifth day after the date the chief appraiser makes the determination, if the chief appraiser denies the application. Requires the chief appraiser to include with the notice a brief explanation of the procedure for protesting the denial.

Sec. 23.9806. APPLICATION DENIAL BASED ON ZONE LOCATION. Requires the chief appraiser to first request a determination letter from the director of the Texas Forest Service as to the type, location, and size of the zone, if any, in which the land is located, before a chief appraiser may deny an application under Section 23.9805 on the ground that the land is not located in an aesthetic management zone, critical wildlife habit zone, or streamside management zone. Authorizes the chief appraiser to notify the landowner and each taxing unit in which the land is located that a determination letter has been requested. Provides that the director's letter is conclusive as to the type, size, and location of the zone for purposes of appraisal of the land under this subchapter. Requires the chief appraiser to approve the application and allow appraisal under

this subchapter if the applicant is otherwise entitled to have the applicant's land appraised under this subchapter if the land is located in a zone described in the determination letter. Requires the director of the Texas Forest Service, by rule, to adopt procedures under this section. Requires the procedures to allow certain persons of each taxing unit in which the land is located to present information to the director before the director issues the determination letter. Provides that Chapters 41 and 42 do not apply to a determination under this section by the director of the Texas Forest Service of the type, size, and location of a zone.

Sec. 23.9807. CHANGE OF USE OF LAND. Provides that if the use of land that has been appraised as provided by this subchapter changes to a use that qualifies the land for appraisal under Subchapter E, an additional tax is imposed on the land equal to the sum of the difference between certain taxes and interest at an annual rate of seven percent calculated from the date on which the difference would become due. Provides that if the use of land that has been appraised as provided by this subchapter changes to a use that does not qualify the land for appraisal under Subchapter E or under this subchapter, an additional tax is imposed on the land equal to the sum of the difference between certain taxes and interest at an annual rate of seven percent calculated from the date on which the differences would have become due. Provides that a tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. Provides that the lien exists in favor of all taxing units for which the additional tax is imposed. Provides that the additional tax imposed by this section does not apply to a year for which the tax has already been imposed. Provides that the additional tax applies only to that part of the parcel, if the change of use applies to only part of a parcel that has been appraised by this subchapter. Provides that a determination that a change in use of the land has occurred is made by the chief appraiser. Requires the chief appraiser to deliver a notice of the determination to the owner of the land as soon as possible after making the determination and to include in the notice an explanation of the owner's right to protest the determination. Requires the assessor for each taxing unit to prepare and deliver a bill for the additional taxes and interest as soon as practicable after the change of use occurs, if the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due. Provides that the taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land. Provides that the harvesting of timber from the land before the expiration of the period provided by Section 23.9802(c) constitutes a change of use of the land for purposes of this section. Provides that the sanction provided by Subsection (a) or (b) does not apply if the change of use occurs as a result of certain actions.

SECTION 6. Amends Section 25.02(a), Tax Code, to make conforming changes.

SECTION 7. Amends Section 25.22(a), Tax Code, to prohibit the chief appraiser from submitting the records until the chief appraiser has delivered the notices required by Section 23.9805(d).

SECTION 8. Amends Sections 31.01(c) and (d), Tax Code, to require the tax bill or a separate statement accompanying the tax bill to state the market value and the taxable value for purposes of deferred or additional taxation as provided by Section 23.9807 as applicable. Requires each tax bill to also state the amount of penalty, if any, imposed pursuant to Section 23.9804. Makes conforming changes.

SECTION 9. Amends Section 41.01(a), Tax Code, to make a conforming change.

SECTION 10. Amends Section 41.03, Tax Code, to require a taxing unit to first seek a determination letter from the director of the Texas Forest Service, if a taxing unit challenges a determination that land qualifies for appraisal under Chapter 23H, on the ground that the land is not located in an aesthetic management zone, critical wildlife habitat zone, or streamside management zone. Requires the appraisal review board to accept the letter as conclusion proof of the type, size, and location.

SECTION 11. Amends Section 41.41(a), Tax Code, to make a conforming change.

SECTION 12. Amends Section 41.44(a), Tax Code, to make a conforming change.

SECTION 13. Amends Section 151.3111(b), Tax Code, to delete text regarding machinery and equipment with a purchase price greater than \$50,000 used exclusively in a commercial timber operation. Makes

conforming changes.

SECTION 14. Amends Chapter 151H, Tax Code, by adding Section 151.3162, as follows:

Sec. 151.3162. TIMBER ITEMS. Defines “original producer.” Sets forth items that are exempt from the tax imposed by this chapter. Provides that two or more corporations that operate timber activities on the same or adjacent tracts of land that are entirely owned by the same individual or a combination of the individual and the individual’s spouse or children are considered to be a single original producer for the purposes of Subsection (b)(3). Provides that the exemption provided by Subsection (b) takes effect January 1, 2008. Provides that until that date, a person is entitled to a credit or refund of a portion of the taxes paid under this chapter on an item that after January 1, 2008, will be exempted from the taxes imposed by this chapter under Subsection (b). Sets forth the procedures for determining amount of the credit or refund . Authorizes a taxpayer entitled to a credit or refund under Subsection (d) to elect to receive either a credit or a refund. Requires a taxpayer who elects to receive a credit to claim the credit on the return for a period that ends not later than the first anniversary of the date on which the taxable event occurred. Requires a taxpayer who elects to receive a refund to apply to the comptroller for the refund before or during the calendar year following the year in which the tax on the item was paid.

SECTION 15. Amends Section 151.317(c)(2), Tax Code, to redefine “commercial use.” Makes conforming changes.

SECTION 16. Amends Section 152.091, Tax Code, as follows:

Sec. 152.091. New heading: FARM OR TIMBER USE. Provides that the taxes imposed by this chapter do not apply to the sale or use of a machine, trailer, or semitrailer for use primarily for timber operations. Provides that the exemption provided by this subsection applies only if the person purchasing the machine, trailer, or semitrailer to be leased presents the tax assessor-collector a form prescribed and provided by the comptroller showing certain items, including verification by the lessee that the equipment is for timber operations. Makes conforming changes.

SECTION 17. Repealer: Section 151.3161, Tax Code (Timber Operations).

SECTION 18. (a) Effective date: September 1, 1999, except as provided by Subsections (b) and (c) of this Section.

(b) Provides that Sections 11.16(c) and 11.161, as amended by this Act and Chapter 23H, Tax Code, as added by this Act take effect January 1, 2000.

(c) Provides that SECTION 13-17 of this Act take effect October 1, 2001.

SECTION 19. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

SECTION 14.

Amends Chapter 151H, Tax Code, by adding Section 151.3162 regarding timber items. Deletes proposed to changes to Section 151.316, Tax Code, regarding agriculture and timber items.

SECTION 18.

Amends the SECTION to provide that certain SECTIONS of this Act take effect October 1, 2001. Deletes text regarding the effective date of certain SECTIONS of this Act.