

SUBJECT: Specifying application of sales and use tax to certain property and services

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Burrows, Guillen, Bohac, Cole, Murphy, Noble, E. Rodriguez,
Sanford, Shaheen, Wray

0 nays

1 absent — Martinez Fischer

SENATE VOTE: On final passage, April 26 — 30-0, on Local and Uncontested calendar

WITNESSES: *On House companion bill, HB 3787:*
For — (*Registered, but did not testify:* Meghan Weller, HCA Healthcare)

Against — (*Registered, but did not testify:* Lynette Lucas)

On — (*Registered, but did not testify:* Karey Barton, Comptroller of
Public Accounts)

BACKGROUND: Tax Code sec. 151.302 exempts the sale for resale of taxable items from the sales and use tax. "Sale for resale" is defined under sec. 151.006, and the term includes sale of tangible personal property to a purchaser who acquired the property to transfer it as an integral part of a contract or subcontract with the federal government.

Sec. 151.338 exempts from the sales and use tax certain services involved in protecting the environment or conserving energy.

Sec. 151.3101 exempts amusement services from the sales and use tax if exclusively provided by the state, a political subdivision, or certain other entities. Sec. 151.335 specifies that amusement and personal services provided through coin-operated machines operated by a consumer are exempt.

Some have suggested clarifying current law regarding the exemption of certain goods and services from the sales and use tax.

DIGEST:

SB 1525 would amend the statutory definition of "sale for resale" to specify that the term would include sale of tangible personal property or a taxable service to a purchaser who acquired the property or service to transfer it as an integral part of a contract or subcontract for the sale, other than the lease or rental, of tangible personal property with an entity or organization exempt from taxes. The term would not include the sale of tangible personal property to a purchaser who acquired the property to use, consume, or expend it in, or incorporate it into, an oil or gas well to perform taxable services.

The bill would specify that environment and conservation services exempt from the sales and use tax included labor to repair, remodel, maintain, or restore tangible personal property if the charge for the labor was itemized separately from the charge for materials furnished. The exemption would not apply to the charge for materials furnished by the service provider as part of the service.

The bill would exempt from the sales and use tax 65 percent of a lump-sum charge for labor and materials for environment and conservation services if:

- the services were required by a commission, agency, court, or political, governmental, or quasi-governmental entity to protect the environment or conserve energy; and
- the labor and materials were purchased for a health care facility or an oncology center.

SB 1525 would repeal Tax Code 151.335 exempting from the sales and use tax amusement and personal services provided through coin-operated machines. The bill would amend the statutory definitions of "amusement services" and "personal services" to specify that those terms did not include services provided through coin-operated machines.

The bill would state that its amendments would be a clarification of existing law and would not imply that existing law could be construed as inconsistent with the law as amended by the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect October 1, 2019.