

BILL ANALYSIS

C.S.H.B. 3223
By: Bohac
Local Government Ways and Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, under Section 23.23 of the Tax Code, a ten percent (10%) cap exists to limit the annual increase in appraised value of a residence homestead. C.S.H.B. 3223 amends this statute to apply only for school taxes and places a five percent (5%) cap on all real property, including both residential and nonresidential property, for all other taxing units. By limiting the rate at which property appraisals can grow, C.S.H.B. 3223 allows property to reach market value over a longer length of time. This bill also seeks to prevent taxing entities from being able to increase revenue through tax appraisal hikes instead of raising the tax rate and being held accountable. All changes to the Tax Code made by C.S.H.B. 3223 expire December 31, 2005, at which time all sections of the code affected by this bill return to their present state.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

ARTICLE 1

SECTION 1.01. Amends Section 1.12(d) of the Tax Code to make it apply to real property instead of homesteads, which will be referred to in Sections 23.23 and 23.231.

SECTION 1.02. Clarifies that Section 23.23, which currently deals with the 10 percent cap on the appraised value of a residence homestead for all taxing units, now deals solely with a 10 percent cap on the appraised value of a residence homestead for school taxes.

SECTION 1.03. Adds the appropriate language in Section 23.23(a) to make the current 10 percent cap on the appraised value of a residence homestead apply only to school taxes.

SECTION 1.04. Adds Section 23.231 to the Tax Code which creates a 5 percent cap on the annual appraised value of real property for taxation by units other than school districts. Specifically, this section does the following:

- States that the appraised value of real property for taxation by a taxing unit other than a school district for a tax year may not exceed the lesser of the market value of the property, or the sum of 5 percent the appraised value of the property for the last year in which the property was appraised for taxation times the number of years since the property was last appraised, the appraised value of the property for the last year in which the property was appraised, and the market value of all new improvements to the property.
- Requires the chief appraiser to appraise the property at its market value and include in the appraisal records both the market value and the appraisal value subject to the 5 percent cap.
- States that the 5 percent cap takes effect on January 1 of the tax year following the first tax year in

which the owner owns the property on January 1, or, if the property qualifies as the residence homestead of the owner in the tax year in which the owner acquires the property, the limitation takes effect on January 1 of the tax year following that tax year. The bill also states that the limitation expires on January 1 of the tax year following the year in which the owner of the property ceases to own the property.

- States that if the property qualifies for a residence homestead exemption when the ownership of the property is transferred to the owner's spouse or surviving spouse, the limitation expires on January 1 of the first tax year following the year in which the owner's spouse or surviving spouse ceases to own the property.
- States that if the property is not a residence homestead and is owned by two or more persons, the limitation expires on January 1 of the first tax year following the year in which the ownership of at least a 50 percent interest in the property is sold or otherwise transferred.
- Exempts land designated for agriculture use, timber land, recreational, park, and scenic land, as well as public access airport property.
- Defines "new improvement" as an improvement to real property that is made after the appraisal of the property for the most recent year in which the property was appraised for taxation and that increases the market value of the property. This does not include ordinary maintenance of an existing structure or the grounds or another feature of the property.
- States that this 5 percent cap applies only to the appraisal of real property for taxation for a tax year that begins on or after January 1, 2004. For purposes of applying the limitation in the first tax year after the 2003 tax year in which the property is appraised for taxation, the property is considered to have been appraised for taxation in the 2003 tax year at a market value equal to the appraised value of the property for that tax year, a person who acquired real property in a tax year before the 2003 tax year is considered to have acquired the property on January 1, 2003, and a person who qualified the property for a residence homestead exemption for any portion of the 2003 tax year is considered to have acquired the property in the 2003 tax year.
- States that this section expires December 31, 2005.

ARTICLE 2

SECTION 2.01. This section contains the current language found in Section 1.12(d) of the Tax Code, removing the new language that is added by SECTION 1.01 of this bill dealing with real property and restoring it back to residence homesteads. This section has an effective date of January 1, 2006 and will allow the statute to return to its original language once the new changes expressed in this bill expire on December 31, 2005.

SECTION 2.02. This section contains the current language found in Section 23.23 of the Tax Code, removing the new language that is added by SECTION 1.02 of this bill dealing with the limitation on appraised value of a residence homestead for school taxes and restoring it back to all taxing units. This section has an effective date of January 1, 2006 and will allow the statute to return to its original language once the new changes expressed in this bill expire on December 31, 2005.

SECTION 2.03. This section contains the current language found in Section 23.23(a) of the Tax Code, removing the new language that is added by SECTION 1.03 of this bill, and reinstates the 10 percent cap on the appraised value of a residence homestead for all taxing units. This section has an effective date of January 1, 2006 and will allow the statute to return to its original language once the new changes expressed in this bill expire on December 31, 2005.

ARTICLE 3

SECTION 3.01. States that this Act takes effect January 1, 2004, and applies only to the appraisal for ad valorem tax purposes of real property for a tax year that begins on or after January 1, 2004, but only if the constitutional amendment is approved by the voters. This Act has no effect if that amendment is not approved by the voters.

SECTION 3.02. States that Article 2 of this Act takes effect January 1, 2006, and applies only to the appraisal for ad valorem tax purposes of a residence homestead for a tax year that begins on or after that date. This Section would return all affected sections of the Tax Code back to their present state by this date.

EFFECTIVE DATE

Article 1 of this Act takes effect January 1, 2004 and expires December 31, 2005 if the constitutional amendment authorizing the legislature to limit the maximum average annual increase in the appraised value of real property for ad valorem tax purposes to five percent (5%) or more is approved by the voters. Article 2 of this Act takes effect January 1, 2006.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3223 modifies the introduced bill by having the 5 percent cap on all real property not apply to school taxing units. School districts would still be subject to the current 10 percent cap for residence homesteads, but there will be no new negative impact. It also states that the new 5 percent cap expires December 31, 2005, and makes provisions for all affected sections of the Tax Code to return to their current language on January 1, 2006. This was added to protect the current 10 percent cap on residence homesteads, should this issue not be readdressed by the Legislature within the next two years. The substitute also makes non-substantive technical changes.