LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 27, 2003

TO: Honorable Fred Hill, Chair, House Committee on Local Government Ways and Means

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB1044** by Riddle (Relating to the exemption from ad valorem taxation of certain property used to provide low-income or moderate-income housing.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1044, As Introduced: an impact of $0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	$0
2005	$0
2006	($7,098,000)
2007	($5,829,000)
2008	($3,803,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from *GENERAL REVENUE FUND* 1	Probable (Cost) from *GENERAL REVENUE FUND* 1	Probable (Cost) from *FOUNDATION SCHOOL FUND* 193	Probable Revenue Gain/(Loss) from *School Districts*
2004	$111,451	($111,451)	$0	$0
2005	$104,401	($104,401)	$0	($7,098,000)
2006	$104,626	($104,626)	($7,098,000)	$1,269,000
2007	$107,101	($107,101)	($5,829,000)	$2,027,000
2008	$105,076	($105,076)	($3,803,000)	($681,000)

Fiscal Year	Probable Revenue (Loss) from *Cities*	Probable Revenue (Loss) from *Counties*	Change in Number of State Employees from FY 2003
2004	$0	$0	1.5
2005	($4,084,000)	($1,758,000)	1.5
2006	($3,517,000)	($1,513,000)	1.5
2007	($2,368,000)	($1,019,000)	1.5
2008	($2,854,000)	($1,228,000)	1.5

Fiscal Analysis

The bill would amend the eligibility requirements for property tax exemptions granted to Community

Housing Development Organizations (CHODO) for low and moderate income housing. It would also change the method of appraisal for certain low and moderate income housing. The bill would require additional monitoring and auditing of exempt housing projects, and would require assessment of a penalty if a housing project does not comply with the tax credit program requirements.

The bill would limit property tax exemptions for tax years 2004 and thereafter to CHODOs that had received an exemption in tax year 2003.

The bill would also provide a partial tax exemption to eligible CHODOs constructing or rehabilitating previously nonexempt property for qualified low-income housing. Property qualified for this exemption would be appraised using the income appraisal method, and the capitalization rate used in the appraisal would not be less than 11.75 percent. The partial tax exemption amounts for school districts would be 50 percent of the appraised property value. For other taxing units the exemption amounts would be 75 percent of the appraised property value if at least 75 percent of the units are reserved for low income individuals or families, otherwise the amount would be 65 percent.

In addition, the bill would require that certain nonexempt property used for low or moderate income housing be appraised using the income appraisal method. The capitalization rate used in the appraisal would not be less than 12.5 percent.

The bill would require the Texas Department of Housing and Community Affairs (TDHCA) to conduct audits of exempt low or moderate income housing projects to determine whether the project is in material compliance with the requirements of the low-income housing tax credit program. TDHCA would be entitled to receive a fee for such audits to the extent the agency does not already impose a compliance audit fee. The amount of the fee would be computed by multiplying $25 by the number of units in the project. CHODOs found to be out of compliance, would have 90 days to bring the project into compliance. Otherwise the CHODO would be assessed a penalty. The penalty would be distributed to the related taxing units.

Methodology

Section 403.302 of the Government Code requires the Comptroller to conduct a property value study to determine the total taxable value for each school district. Total taxable value is an element in the state's school funding formula. Passage of this bill would cause a change in school district taxable values reported to the Commissioner of Education by the Comptroller and an increase in state costs to the Foundation School Fund.

The Comptroller of Public Accounts (Comptroller) staff obtained historical costs of the existing exemption for CHODO property from appraisal districts. The historical costs were used to project incremental and cumulative future costs under current law. Because the bill would grandfather CHODO property currently exempt, current cumulative costs were added to the incremental costs to arrive at the total current law costs. Costs were depreciated before accumulation.

This bill would require the income appraisal method be used on qualified property, and the minimum capitalization rate would be 11.75 percent. Because this minimum capitalization rate is above the current market capitalization rate of eight percent, the bill would cause a property value loss. Based on information from Global Insight, Inc. and CCIM/Landauer Investment Trends Quarterly, the Comptroller staff estimated the difference between the market capitalization rate and the 11.75 percent capitalization rate specified in the bill for each year. The differences in the market and proposed capitalization rate were applied to the total current law costs after these costs were reduced by a factor of 50 percent for school districts and 70 percent for other taxing units. The capitalization rate difference resulted in a value loss for each year.

The appropriate taxing units rates were applied to the yearly value losses to estimate a tax levy loss for counties, cities, and school districts. The state offsets the school district losses after a one-year lag through the operation of the school funding formula creating state losses beginning in fiscal 2006.

The bill would also require that the income appraisal method be used on certain nonexempt property providing low or moderate income housing. The appraisal method would result in additional property value losses above the amount included in the table.

In addition to the revenue losses included in the tables, additional revenue losses may be incurred when the income appraisal method is used on certain nonexempt property providing low or moderate income housing, for the proposed new qualifications, and for the reduced percentages of exemption.

TDHCA estimates that it would need an additional 1.5 FTEs at a cost of $74,186, including staff benefits, to implement the requirements. Other estimated costs include rent, equipment, travel and the services of the State Office of Administrative Hearings. The additional costs would be offset by compliance fee revenue.

Local Government Impact

The impact on units of local goverment is shown in the above tables. Taxing units may receive additional revenue from penalties assessed for noncompliance with the tax credit program.

Source Agencies: 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

LBB Staff: JK, JO, SD, WP, DLBe