

BILL ANALYSIS

C.S.S.B. 1296
By: Wentworth
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, most non-profit organizations qualify for an ad valorem tax exemption from city, county, and school district taxes for land and buildings that are used by the organization either by statute or under the Texas Constitution. However, fraternal organizations are the only charitable organizations that only receive an exemption from ad valorem taxation if the exemption is adopted by either the governing body of the taxing unit or by a majority vote of the taxing unit's qualified voters. Statutory change is necessary to extend that exemption to fraternal organizations in the same way it is available to all other charitable organizations.

CSSB 1296 deletes the requirement that a local governing body or the voters of that jurisdiction adopt an exemption from ad valorem taxation for a fraternal organization.

In addition, CSSB 1296 would correct a problem whereby a charitable organization that does not hold title to its property cannot receive the exemption provided to all other charitable organizations. In some cases, as in the Knights of Columbus, a 501(c)(2) non profit holds title for the local charitable organization. Under current law, these organizations cannot receive the exemption, so CSSB 1296 would grant the exemption to a 501(c)(2) organization that holds title for a charitable organization, provided that the exemption would have been granted to the charitable organization if it held title to the property.

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

The bill amends Section 11.184(c), Tax Code, to delete existing text requiring a qualified charitable organization to receive approval under Subsection (b), relating to the prohibition on a tax exemption to a qualified charitable organization unless said exemption is adopted by the governing body of the taxing unit or by favorable vote of the majority of the taxing unit's voters, for tax exemptions for certain buildings and certain real and tangible personal property.

The bill adds Subsections (l), (m), and (n) to Section 11.184, Tax Code.

The bill grants the property tax exemption to a corporation that is not a qualified charitable organization if the organization is exempt from federal income tax and organized as a 501(c)(2); the corporation holds title to the property for, collects income from the property for, and turns over the entire amount of that income, less expenses, to a qualified charitable organization; and the qualified charitable organization would qualify for the exemption if the qualified charitable organization owned the property.

The bill adds language applying current law that requires the corporation seeking the exemption to apply to the Comptroller for a determination of whether the organization is charitable and qualifies for the exemption and must submit the Comptroller's response with the application for exemption submitted to the Chief Appraiser.

The bill adds language applying current law that requires the organization to obtain a new determination letter and reapply for the exemption every fifth tax year.

The bill adds language that this Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

The bill repeals Section 11.184(b) (regarding public or governmental disapproval of a tax exemption for a certain qualified charitable organization), Tax Code.

The bill makes application of this Act prospective.

The bill states an effective date of January 1, 2008.

EFFECTIVE DATE

January 1, 2008.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute differs from the original in that it adds Subsections (l), (m), and (n) to Section 11.184, Tax Code.

The substitute grants the property tax exemption to a corporation that is not a qualified charitable organization if the organization is exempt from federal income tax and organized as a 501(c)(2); the corporation holds title to the property for, collects income from the property for, and turns over the entire amount of that income, less expenses, to a qualified charitable organization; and the qualified charitable organization would qualify for the exemption if the qualified charitable organization owned the property.

The committee substitute adds language applying current law that requires the corporation seeking the exemption to apply to the Comptroller for a determination of whether the organization is charitable and qualifies for the exemption and must submit the Comptroller's response with the application for exemption submitted to the Chief Appraiser.

The committee substitute also adds language applying current law that requires the organization to obtain a new determination letter and reapply for the exemption every fifth tax year.

The substitute adds language that this Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.