

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 3, 2007

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB604 by Howard, Donna (Relating to the appraisal for ad valorem tax purposes of certain land used for wildlife management under a conservation easement.), **As Engrossed**

Passage of the bill would lower the appraisal of property converted to wildlife management land without the current requirement of being appraised as qualified open-space land at the time the land is converted to wildlife management use. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased.

The bill would amend Section 23.51 of the Tax Code to allow certain land to qualify for appraisal as wildlife management land without the current requirement of being appraised as qualified open-space land at the time the land is converted to wildlife management use.

The bill would include as a wildlife management use, actively using land to protect an endangered species under a federal permit if the land is included in a habitat preserve and is subject to a conservation easement that restricts the use of the land to protect an endangered species.

The proposed new class of wildlife management land would not be subject to minimum size requirements as determined by Comptroller rule.

The bill would repeal Section 23.225 of the Tax Code to remove current language that requires the chief appraiser to consider the effects of restrictions on land use relating to conservation easements and the preservation of endangered species when determining the value of the land.

Because the state is constitutionally prohibited from imposing a state property tax, there would be no direct fiscal impact on the state; however, 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 could cause a change in school district taxable values reported to the Commissioner of Education by the Comptroller.

Under current law, to qualify for agricultural appraisal under the wildlife management use, land must be qualified for agricultural appraisal under Chapter 23, Subchapter D, Tax Code (also called 1-d-1, or open space agricultural appraisal) at the time the owner changes use to wildlife management. The land must have been qualified and appraised as agricultural land during the year before the year the owner changes to the wildlife management use. For example, an owner who wishes to qualify for wildlife management use in 2007 must be able to show that the land was qualified for and appraised as agricultural land in 2006.

Currently, wildlife management use is a revenue neutral use of land. The owner who switches from another agricultural use to wildlife management use must pay the same amount of property taxes that would have been paid if the land had remained in its former agricultural use. Passage of this bill would result in an undetermined amount of acreage being appraised at an undefined productivity value after being appraised at a higher market value in the preceding year and could result in a loss of revenue to taxing units where the described land is located, if the owner elected to actively use the land to protect an endangered species.

The amount of loss would depend on the taxable (market) value of the land in the year preceding conversion to the wildlife management use and the taxable (productivity) value assigned to the land by the appraisal district based on the wildlife management use. The potential amount of revenue loss could also be determined by language in the bill concerning "other law that restricts the use of the land in order to accomplish that purpose." Subsequent state and federal laws could expand the application of the bill. The bill is silent on the methodology to be used in appraising the proposed class of land based on the wildlife management use.

The Comptroller's Property Tax Division does not receive or maintain information from appraisal districts or taxing units that would be helpful in determining the fiscal impact of this bill.

This bill would take effect January 1, 2008.

Local Government Impact

Passage of the bill would lower the appraisal of certain property converted to wildlife management land. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, DB, CT, SD, SJS