

BILL ANALYSIS

H.B. 2165
By: Rose
Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

H.B. 22, 65th Legislature, Regular Session, 1977, provided for special appraisal, for property tax purposes, of land that is used principally for ecological laboratories by public or private universities, enabling the state's institutions of higher education to conduct important research by gaining access to private land. Given that 97 percent of land in Texas is private, the value of this access is significant. Many private landowners also contribute directly to funding research. Continuance of the ecological laboratory program is not only vital for the hundreds of students getting advanced degrees relating to ecological research, but also for the professors who count on this research and who train the students and publish valuable work.

Current law allows for such land to be designated as "qualified open-space land" for purposes of property tax appraisal. What the law does not provide is any guidance about how much ecological research must be conducted for land to qualify for this tax exemption nor any guidance on how to appraise the land. This ambiguity has led to lawsuits filed by Bexar County, Travis County, Hays County, and Blanco County.

The House Committee on Ways & Means, 80th Legislature, was charged during the last interim with reviewing the statute regarding the valuation of land used as an ecological laboratory by public or private colleges or universities. This interim study charge also included a directive to clarify what constitutes an ecological laboratory and to set standards for qualifying an ecological laboratory for appraisal as open-space land.

In its interim report, the committee made a number of recommendations to assist in the resolution of these ambiguities. The committee recommended that the legislature define the terms "ecological research" and "devoted principally to ecological research" in the Tax Code. The committee recommended also that the Tax Code list application requirements for landowners to submit to a chief appraiser.

H.B. 2165 provides statutory guidance to chief appraisers in determining whether land qualifies as that which is principally devoted to ecological research and how that land is to be appraised.

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

H.B. 2165 amends the Tax Code to clarify the meaning of "qualified open-space land" as the term relates to property tax appraisal. The bill establishes that, in addition to land that is devoted principally to agricultural use or to production of timber or forest products, qualified open-space land also means land that is devoted principally to ecological research, rather than used principally as an ecological laboratory, by a public or private college or university.

H.B. 2165 defines "devoted principally to ecological research" to mean that as of January 1 the land is subject to a written agreement that is signed by the owner of the land or the owner's designee and an authorized official of a public or private college or university, allows the college or university to engage in ecological research on the land throughout the year, subject to reasonable notice, and provides that other uses of the land are subordinate to ecological research. The bill defines "authorized official of a public or private college or university" to mean an administrative official of a public or private college or university who has the authority to enter into a binding contract on behalf of the college or university.

H.B. 2165 defines "ecological research" to mean ecological research in furtherance of farming, ranching, or wildlife management purposes. The bill provides that the term includes such activities as site visits, surveys, data and sample collection, monitoring, site manipulation, and periods of idleness between those activities. The bill establishes that ecological research does not require the physical presence of a researcher on the land for a greater number of days in a calendar year than is necessary for scientifically valid ecological research.

H.B. 2165 authorizes a chief appraiser to require that an annual application for the appraisal of land as devoted principally to ecological research be submitted on the appropriate form prescribed by the comptroller of public accounts. The bill prohibits the chief appraiser from approving such application unless the owner provides the chief appraiser with a written statement, signed by a supervising faculty member from the public or private college or university allowed to engage in ecological research on the land that affirms that at least three ecological research projects will be conducted on the land during the tax year for which the appraisal is sought, that the ecological research to be conducted on the land is in furtherance of farming, ranching, or wildlife management purposes, that other uses of the land are subordinate to the ecological research, and that site visits to the land will be conducted in a number that is scientifically valid and generally acceptable in the field of ecological research.

H.B. 2165 specifies that land, including any improvement to the land, that is actually used in the occupancy of a residence homestead, is not eligible for appraisal as land devoted principally to ecological research.

H.B. 2165 requires the entire tract of land that is subject to the written agreement between the owner and the applicable public or private college or university to be appraised as land devoted principally to ecological research if at least three ecological research projects are being conducted on any portion of the land in the current tax year and the land is otherwise eligible for such appraisal. The bill requires the chief appraiser, on approval of an application for appraisal of land as land devoted principally to ecological research, to classify the land in the native pasture category and appraise the land accordingly.

H.B. 2165 authorizes the chief appraiser to require an owner of land previously qualified as land devoted principally to ecological research to submit, before April 1 of each year, a report signed by a supervising faculty member of the public or private college or university that confirms and documents that each element in the written statement was properly implemented in the prior year. The bill requires the chief appraiser not later than May 1, if the owner of the land fails to submit an annual report or if the chief appraiser determines that a report does not provide the required documentation, to notify the owner that appraisal as land devoted principally to ecological research is denied for the prior year. The bill requires the chief appraiser to include in the notice an explanation of the owner's right to protest the denial. The bill requires the chief appraiser, if the owner does not file a timely protest or if the final determination of the protest is that the land was not eligible for appraisal as land devoted principally to ecological research, to change or correct the appraisal records as necessary. The bill requires the assessor for each taxing unit to prepare and deliver, as soon as practicable, a bill for any additional taxes on the land and interest due.

H.B. 2165 provides that the denial of appraisal of land as land devoted principally to ecological

research in a previous year does not disqualify the land for such appraisal in the current year. The bill specifies that land that has been appraised for at least two of the preceding three years as land devoted principally to ecological research qualifies for such appraisal regardless of the manner in which the land was used in any prior year, if the land is otherwise eligible for such appraisal.

EFFECTIVE DATE

January 1, 2010.