

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 22, 2009

**TO:** Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

**IN RE: HB2150** by Kleinschmidt (Relating to the eligibility of land for ad valorem tax appraisal as qualified open-space land.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2150, As Introduced: a negative impact of (\$353,000) through the biennium ending August 31, 2011.

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
2010	\$0
2011	(\$353,000)
2012	(\$416,000)
2013	(\$449,000)
2014	(\$487,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from Foundation School Fund 193	Probable Revenue Gain/(Loss) from School Districts - Net Impact	Probable Revenue Gain/(Loss) from Counties	Probable Revenue Gain/(Loss) from Cities
2010	\$0	\$0	\$0	\$0
2011	(\$353,000)	(\$118,000)	(\$138,000)	(\$158,000)
2012	(\$416,000)	(\$92,000)	(\$148,000)	(\$169,000)
2013	(\$449,000)	(\$105,000)	(\$160,000)	(\$182,000)
2014	(\$487,000)	(\$117,000)	(\$173,000)	(\$196,000)

Fiscal Analysis

The bill would amend Chapter 23 of the Tax Code to remove the requirement that land be appraised as qualified open-space land at the time wildlife-management use began as a condition for receiving an appraisal based on wildlife-management use.

The bill would also provide that a temporary cessation of agricultural use at the required degree of intensity would not end the eligibility of the land for appraisal as qualified agricultural land if the owner intended to return the land to agricultural use within two years and the cessation does not exceed two years in any seven-year period.

The bill would take effect January 1, 2010.

## Methodology

Currently for land to qualify as open-space land it has to have been devoted principally to an agricultural use other than wildlife management for five of the previous seven years. Once land qualified as open-space land, the use could be changed to wildlife management. This bill would allow the history of use to be wildlife management in addition to traditional agricultural uses. A tract of land devoted principally to wildlife management for five of the previous seven years could qualify as open-space land so long as other wildlife management use requirements are met. These requirements include minimum acreages ranging from 12.5 in many urban areas to 100 acres in far west Texas. A possible result could be that large acreage residential and other tracts meeting minimum acre requirements for wildlife management use could begin wildlife management activities and after five years could qualify as open-space land. Currently, 85 percent of the state's land area already qualifies as open-space land. Less than 2 percent of the state's qualified open-space land is reported to be in wildlife management. On average across the state, properties that could establish a history of wildlife management use and qualify as open-space land would have a 90 percent reduction in tax liability. The reduction is even larger in urban areas where the difference in market and open-space values are greater.

Because it is probable that tracts of land could establish a history of five years of wildlife management use on the effective date of the bill, there would be a cost to the state and units of local government. It is estimated that approximately 10,000 acres statewide could qualify as open-space land and would be taxed at the lower productivity value. The projected city, county, and school district tax rates were applied to the value losses in each year to estimate their respective levy losses. Because of the operation of the hold harmless provisions of HB 1, 79th Legislature, Third Called Session (2006), the portion of the cost related to school district compresses rates is transferred to the state. A portion of the school district debt (facilities funding) and enrichment costs is also transferred to the state after a one-year lag because of the operation of the funding formulas. All costs were estimated over the five year projection period.

Larger losses would occur after 2014 because property owners would begin establishing a five-year history of wildlife management use after the effective date of the bill. If 100,000 acres statewide established a history of use and qualified as open-space land in 2015, the cost to the state would be approximately \$5 million. The impact would accumulate as more acres established the history of use and became qualified.

The bill also allows a property owner to stop agricultural uses including wildlife management for up to two years without losing qualification as open-space land. The owner must intend to return to agricultural use to the degree of intensity required to qualify as open-space land and cannot cease agricultural use for more than two years in any seven-year period. Qualified open-space lands are currently allowed to lay idle for periods of time which are typical in the area; this bill specifies that those periods can be up to two years. This provision of the bill has no fiscal impact to the state or units of local government.

## Local Government Impact

The estimated fiscal implication to units of local government is reflected in the table above.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, MN, SD, SJS