

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 19, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: HB3454 by Otto (Relating to the determination of the value of property for ad valorem tax purposes.), **As Engrossed**

The bill could reduce the amount of market data available for certain kinds of property. Because it is unknown whether the resulting appraisals would result in higher or lower appraised values statewide than under current law, there could be an indeterminate fiscal impact to the state.

The provision of the bill clarifying the treatment of personal property in an income appraisal would create a cost to the state through the operation of the school funding formulas to the extent that appraisal districts are currently double counting the value of personal property.

The provisions of the bill related to the temporary cessation of typical agricultural activities during a drought would create a cost to the state through the operation of the school funding formulas.

The bill would amend Chapter 23 of the Tax Code to require that property tax appraisers take into account all the available evidence regarding the value of the property.

The bill would prohibit consideration of comparable sales that occur more than two years before or after the appraisal date and to require that appropriate adjustments be made to each sale for changes in market value over the time period between the sale date and the appraisal date. The bill would require a property tax appraiser to base a determination of whether a property is comparable to another property subject to appraisal on the similarities with regard to location, square footage, property age, property condition, property access, amenities, views, income operating expenses, occupancy, and the existence of legal burdens affecting marketability.

In addition, the bill would add clarifying language instructing chief appraisers not to separately appraise or include the value of personal property already included in an appraisal based on the income method, and requiring that the market value of real property must include the combined real and personal property value.

The bill would repeal Section 23.014 of the Tax Code relating to the exclusion of tangible, intangible or other property not subject to appraisal as real property.

The bill would add Section 23.522 to the Tax Code to provide that the eligibility of land qualified for agricultural appraisal does not end in situations in which a drought declared by the Governor causes the temporary cessation of typical agricultural activities if the landowner intends to resume the agricultural use when the drought ceases.

The bill would amend Chapter 41A of the Tax Code, regarding property tax appraisal appeals and binding arbitration. Under current law, an appeal through binding arbitration is restricted to appeals that do not involve any matter in dispute other than the determination of the appraised or market value of the property. This bill would remove that restriction and include appeals based on equity.

The bill would provide for an expedited arbitration with not more than one hour of argument and

testimony by each side involved in the protest. The deposit for an expedited arbitration would be \$250, compared to the \$500 deposit for the existing arbitration process. This provision would expire on September 1, 2012.

The bill's prohibition of the use of sales that occur outside of two years of the appraisal date could reduce the amount of market data available in rural areas where sales are scarce. It could also reduce the amount of market data available for certain kinds of property that do not sell frequently. This reduction in market information could cause less accurate and less equitable appraisals for these geographic areas and property categories. Whether the resulting appraisals would result in higher or lower appraised values statewide than under current law is unknown. As a result, the fiscal impact cannot be determined.

The bill's provisions requiring the use of all available market evidence and specifying the property features to be considered in determining whether one property is comparable to another are in line with standard appraisal practice and would not result in any fiscal impact to the state or local taxing units.

To the extent that appraisal districts are currently double counting the value of personal property, the provision clarifying the treatment of personal property in an income appraisal would create a cost to local taxing units and to the state through the operation of the school funding formulas. Because the extent of double taxation of personal property is unknown, the cost cannot be estimated.

The provisions of the bill related to the temporary cessation of typical agricultural activities during a drought would create a cost to taxing units and to the state through the operation of the school funding formulas. Because information regarding the number of acres of land subject to denial of agricultural use appraisal because of drought is unavailable, the cost cannot be estimated.

The provisions of the bill related to arbitration would modify a part of the appeal process and expand the kind of issues that are eligible for arbitration. The substantive rights of property owners would not be affected. The actions of arbitrators in deciding future arbitrations cannot be predicted. As a result, the fiscal impact cannot be estimated.

The bill's provisions related to arbitration would take effect on September 1, 2009 and the other provisions of the bill would take effect on January 1, 2010.

Local Government Impact

The bill could reduce the amount of market data available for certain kinds of property. According to the Comptroller of Public Accounts, the fiscal impact on units of local government cannot be determined because it is unknown whether the resulting appraisals would result in higher or lower appraised values statewide than under current law.

The provision of the bill clarifying the treatment of personal property in an income appraisal would create a cost to local taxing units to the extent that appraisal districts are currently double counting the value of personal property.

The provisions of the bill related to the temporary cessation of typical agricultural activities during a drought would create a cost to local taxing units.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SJS