

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 21, 2009

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

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

IN RE: SB20 by Williams (relating to ad valorem taxation.), **Committee Report 1st House, Substituted**

Contingent upon voter approval of a constitutional amendment, Article 2 would reduce appraised values for homesteads in areas that are in transition from residential to a more valuable use. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased. If that amendment is not approved, Article 2 would have no effect. The other articles are not estimated to have a significant fiscal implication to the State.

The bill would amend the Tax Code, regarding property taxation.

Article 1, contingent on voter approval of a constitutional amendment, would allow the consolidation of appraisal review boards in adjoining appraisal districts. If that amendment is not approved, this article would have no effect.

Article 2, contingent on voter approval of a constitutional amendment, would provide that appraisals of residential homesteads be based on the current use of the property as a homestead rather than its highest and best use. If that amendment is not approved, this article would have no effect.

Article 3 would require that appraisal districts in counties with more than 50,000 population appoint an ombudsman to assist property owners in understanding the appraisal process, protest procedures and related matters. The ombudsman would also be required to contact each property owner who files a protest to inform them of the ombudsman's services.

Article 4 would amend Chapter 403 of the Government Code to change the Comptroller's school district Property Value Study from an annual study to a study that must be conducted once every two years except when the study finds that a school district's values are invalid. If a school district's values are invalid, the study would be conducted annually until the study finds that the values are valid. In a year that a study is not conducted in a school district, the school district's value would be considered valid. The two year grace period eligibility requirements would be amended to conform them to the biennial study requirement. The bill would also add a requirement that to be eligible for the grace period the appraisal district that appraises for the school district be in compliance with the scoring requirements of the most recent review of the appraisal district conducted under Section 5.102 of the Tax Code.

The Comptroller would be required to adopt rules governing the conduct of the study and would create a Comptroller's Property Value Study Advisory Committee charged with consulting with the Comptroller prior to the adoption of study rules. The committee would be composed of one member from the Texas House of Representatives appointed by the Speaker, one member from the Texas Senate appointed by the Lieutenant Governor, two members representing appraisal districts appointed by the Comptroller, two members representing school districts appointed by the Comptroller, and three members appointed by the Comptroller who are Texas taxpayers or have expertise in school district taxation or ratio studies. Texas governmental entities would be required to promptly comply with requests from the Comptroller for information, confidential or otherwise, to be used in the study.

Article 4 also would amend Chapter 5 of the Tax Code to require the Comptroller to review each appraisal district's governance, taxpayer assistance, operating standards, appraisal standards, procedures and methods under the provisions of Section 5.102. These reviews would be conducted at least once every two years. The Comptroller would be permitted to adopt rules for these reviews after consulting with the advisory committee discussed above. If after notice the appraisal district does not take remedial action, the Comptroller would be required to notify the Board of Tax Professional Examiners or its successor. The Board of Tax Professional Examiners would be required to take action to ensure that the Comptroller's recommendations are implemented as soon as practicable.

Article 5 would require that tax assessors for school districts estimate the values for each school district and submit them to the districts. Each school district would be required to calculate the effective and rollback tax rates using the estimate and adopt a tax rate before the later of September 30 or the 60th day after the date the estimate of the taxable value of property in the district is received.

Article 6 would disallow appraisal review board communications outside the hearing regarding a factual or hypothetical situation that is similar to a situation that is the subject of the protest.

Article 7 would prohibit the representation of the appraisal review board by a person who serves as legal counsel for the appraisal district.

Article 8 would require a pilot program in Bexar, Dallas, El Paso, Harris, Tarrant and Travis counties to allow owners of properties over \$1 million in value, other than industrial or mineral property, to appeal appraisal review board orders to the State Office of Administrative Hearings. The bill would specify administrative law judges eligibility, training, and designation requirements, appeal notice requirements, and hearing location requirements. The appeal would be trial de novo. The bill would specify the contents of the administrative law judge's determination and the procedure for determining the disposition of the filing fee and other costs. A final order of an administrative law judge could be appealed to district court. The bill would set out other necessary procedures for implementing appeals to the State Office of Administrative Hearings. The bill would require that on or before January 1, 2013, the State Office of Administrative Hearings and the chief appraisers of the affected appraisal districts submit a report to the legislature including the number of appeals filed, settled before hearing, brought on the ground of excessive appraisal, brought on the ground of unequal appraisal, and the number of judicial appeals from the administrative law judges determination and would include recommendations for future legislative action. The pilot program provisions would expire January 1, 2013.

The bill's provisions regarding consolidation of appraisal review boards, appointment of an ombudsman, a pilot program for hearings before the State Office of Administrative Hearings, appraisal review board communications and legal counsel, tax assessor value estimation, and school district rate calculation would affect only protest procedures or property tax processes but would not affect appraisal methods, exemptions or tax rates. As a result they would have no significant effect on tax revenues or state funding.

The bill's requirement that a property tax appraiser consider only the current use of a property and not the highest and best use would create a cost to taxing units and the state by lowering the appraised value from a value based on a more profitable use to a value based on current use. This provision would affect the value of any property in an area which is in transition from one use to another (residential to commercial for example). Information on number or value of properties in transition to a higher and better use (more profitable use) is currently unavailable, so the cost of this provision cannot be estimated.

The Property Value Study has traditionally encouraged appraisal districts to appraise near to market value because of the possibility of school districts receiving reduced state funding and because of the visibility of study findings. The bill would reduce the Property Value Study frequency in most school districts from annual to biennial. Several factors would offset any appraisal district inclination to relax appraisal efforts in non-study years. The Comptroller would study approximately one-half of appraisal districts each year and conduct reviews of appraisal district governance and appraisal operations in the following year. This would provide annual Comptroller oversight in each appraisal district that would

result in taxable values for school funding purposes in one year and a review of appraisal district methods the following year.

The requirement for a biennial rather than an annual study would free up Comptroller resources to do a more thorough Property Value Study in approximately half the school districts each year. An improved study in combination with the biennial methods review could result in more accurate appraisals statewide. Further, the bill would require the Comptroller to perform a study annually in districts with values determined to be invalid in the previous study until such time as the values are determined to be valid. This requirement would further encourage appraisal districts to maintain or improve their appraisal effort.

The bill would continue the state's practice of encouraging appraisal districts to appraise property at high percentages of market value thereby avoiding any significant reductions in appraisal level that would otherwise create a cost to the state through the operation of the hold harmless provisions of HB 1, 79th Legislature, Third Called Session (2006), or through the operation of the state's facilities funding or enrichment formulas.

The bill would take effect January 1, 2010.

Local Government Impact

Passage of Article 2, contingent on voter approval of a constitutional amendment, would reduce appraised values for homesteads in areas that are in transition from residential to a more valuable use. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced. If that amendment is not approved, Article 2 would have no effect. The other articles are not estimated to have a significant fiscal implication to units of local government.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 337 Board of Tax Professional Examiners, 701 Central Education Agency

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