LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 10, 2011

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

IN RE: **HB1056** by Villarreal (Relating to the ad valorem taxation of property used to provide low-income or moderate-income housing and clarifying legislative intent.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1056, As Introduced: a negative impact of ($8,760,000) through the biennium ending August 31, 2013.

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
2012	$0
2013	($8,760,000)
2014	($10,477,000)
2015	($10,820,000)
2016	($11,283,000)

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*
2012	$0	$0	$0	$0
2013	($8,760,000)	($3,068,000)	($3,413,000)	($5,078,000)
2014	($10,477,000)	($1,705,000)	($3,499,000)	($5,197,000)
2015	($10,820,000)	($1,849,000)	($3,623,000)	($5,372,000)
2016	($11,283,000)	($2,019,000)	($3,787,000)	($5,606,000)

Fiscal Analysis

The bill would amend Section 11.182 of the Tax Code to extend the Community Housing Development Organization (CHDO) exemption to those organizations who do not qualify, but are 100 percent owned and controlled by an organization that does qualify, and the organization or the legal owner of the property filed its initial application for the exemption between January 1, 2002 and December 31, 2003. The bill would define "owned" as having legal or equitable title. The bill would redefine a CHDO to the federal definition, except that these organizations would not be required to receive HOME program funds, could have boards appointed wholly by state and local governments, and would not have to comply with the federal standards of accountability to qualify.

Provisions under Section 25.07 of the Tax Code regarding leasehold and other possessory interests in exempt property would not apply to these organizations. The bill would strike the requirement that the organization must control 100 percent of the interest in the general partner if the project is owned by a limited partnership. Qualifying properties owned by a tax credit partnership or limited liability company, when the general partner is controlled by a CHDO which holds equitable title to the property pursuant to an option to acquire the property on terms negotiated between the parties, would be exempt.

Exemption applications, audit reports, and notifications of property sold/bought would go to the "reviewing entity" and not the chief appraiser. If an exemption for a multifamily residential rental housing project has been denied by an appraisal district, the organization would be permitted to file a new application and follow current procedure, but the Texas Department of Housing and Community Affairs (TDHCA) would be substituted for the chief appraiser as the deciding entity. TDHCA would be required to create a form for applications and to notify the chief appraiser of the exemption determination. CHDOs and taxing units would be permitted to appeal TDHCA's determination instead of appealing to the Appraisal Review Board.

The bill would also amend Section 11.1825 of the Tax Code to add the proposed language exempting entities that are 100% owned by organizations that do qualify and other proposed amendments discussed above. The bill would provide that property owned for rehabilitating a housing project does not have to fulfill the original ownership requirement of at least five years if the owner acquired the housing project from a person that foreclosed on the property. The requirement that the property owner must have filed the initial exemption application between January 1, 2002 and December 31, 2003 would not be added in Section 11.1825 of the Tax Code. Non-multifamily residential applicants would be authorized to submit applications to the chief appraiser while multifamily residential applications would go to TDHCA. TDHCA would be required to develop rules for protesting application determinations.

The bill would take effect September 1, 2011.

Methodology

The bill would increase the amount of property that is eligible for exemption under Sections 11.182 and 11.1825 of the Tax Code by broadening the ownership types that are allowable and making other changes in the treatment of potentially exempt low-income housing. The value of additional low-incoming housing that would be exempt under the bill was estimated based on information from appraisal districts and the Texas Department of Housing and Community Affairs.

Projected tax rates were applied to estimate the levy loss to cities and counties, and to estimate the initial school district loss. Because of the operation of the hold harmless provisions of HB 1, 79th Legislature (2006), the school district cost related to the compressed rate is transferred to the state. The enrichment cost and a portion of the school district debt (facilities) cost are transferred to the state after a one-year lag because of the operation of the enrichment and facilities funding formulas. All costs were estimated over the five year projection period.

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, KK, SD, SJS