

BILL ANALYSIS

C.S.H.B. 1306
By: Rodriguez, Eddie
Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the agricultural valuation provisions of the Texas Constitution and statutory law are not currently being applied fairly. These parties observe that, despite meeting certain applicable requirements, many small farms, vegetable producers, community gardens, farms using sustainable management practices, and diversified farms have been denied agricultural valuation. C.S.H.B. 1306 seeks to address these issues by establishing provisions relating to the eligibility of land for appraisal for property tax purposes as agricultural land.

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

C.S.H.B. 1306 amends the Tax Code to require the comptroller of public accounts to develop guidelines for determining whether land under 10 acres in size used for the production of fruits, vegetables, poultry, hogs, sheep, or goats and located in a taxing unit that is located wholly or partly in a county with a population of one million or more qualifies for appraisal as agricultural land. The bill requires the comptroller, not later than September 1, 2014, to develop these guidelines and to distribute them to each appraisal district.

C.S.H.B. 1306 requires the comptroller, in consultation with the Texas A&M AgriLife Extension Service and individuals selected by the comptroller who are nonprofit community garden stakeholders, to develop guidelines consistent with the definition of nonprofit community garden as provided by the bill for determining whether land qualifies as a nonprofit community garden for appraisal as agricultural land. The bill requires the comptroller, in consultation with the service and the selected individuals, to develop these guidelines and to distribute them to each appraisal district not later than September 1, 2014.

C.S.H.B. 1306 includes among the activities that qualify as agricultural use under provisions relating to the appraisal of agricultural land the production of fruits and vegetables and the use of land for a nonprofit community garden. The bill defines "nonprofit community garden" as land owned or leased by a nonprofit entity and gardened by a cooperative group of people residing in a neighborhood or community for the purpose of providing without profit fresh produce for the benefit of the residents of the neighborhood or community.

C.S.H.B. 1306 applies only to the appraisal of land for property tax purposes for a tax year that begins on or after January 1, 2015.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1306 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 23.51, Tax Code, is amended by amending Subdivisions (1) and (2) and adding Subdivision (9) to read as follows:

(1) "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university. In determining whether agricultural use meets the degree of intensity generally accepted in the area, a chief appraiser shall consider the cumulative effect of all agricultural uses of a tract of land, including producing crops and raising or keeping livestock, and not each use in isolation. A chief appraiser shall distinguish between the degree of intensity required for various agricultural production methods, including organic, sustainable, pastured poultry, rotational grazing, and other unconventional production methods or systems. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian water rights. Notwithstanding the other provisions of this subdivision, land that is currently devoted principally to wildlife management as defined by Subdivision (7)(B) or (C) to the degree of intensity generally accepted in the area qualifies for appraisal as qualified open-space land under this subchapter regardless of the manner in which the land was used in any preceding year. Except as otherwise provided by this subchapter, a tract of land may not be disqualified for appraisal as qualified open-space land under this

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 23.51, Tax Code, is amended by amending Subdivision (2) and adding Subdivision (9) to read as follows:

No equivalent provision.

subchapter solely on the basis of the size of the tract, provided that the tract is at least 1.5 acres in size.

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; producing fruits and vegetables; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; planting cover crops or leaving land idle for the purpose of participating in a governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management. The term also includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than 5 or more than 20 acres. The term also includes the use of land for a not-for-profit community garden.

(9) "Not-for-profit community garden" means land gardened by a cooperative group of people residing in a neighborhood or community for the purpose of providing without profit fresh produce for the benefit of the residents of the neighborhood or community.

No equivalent provision.

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; producing fruits and vegetables; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; planting cover crops or leaving land idle for the purpose of participating in a governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management. The term also includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than 5 or more than 20 acres. The term also includes the use of land for a nonprofit community garden.

(9) "Nonprofit community garden" means land owned or leased by a nonprofit entity, as defined by Section 1.002, Business Organizations Code, and gardened by a cooperative group of people residing in a neighborhood or community for the purpose of providing without profit fresh produce for the benefit of the residents of the neighborhood or community.

SECTION 2. Subchapter D, Chapter 23, Tax Code, is amended by adding Section 23.5215 to read as follows:
Sec. 23.5215. GUIDELINES FOR

QUALIFICATION OF SMALL TRACTS AND NONPROFIT COMMUNITY GARDENS. (a) This subsection applies only to land located in a taxing unit that is located wholly or partly in a county with a population of one million or more. The comptroller shall develop guidelines for determining whether land under 10 acres in size used for the production of fruits, vegetables, poultry, hogs, sheep, or goats qualifies for appraisal under this subchapter. (b) The comptroller, in consultation with the Texas A&M AgriLife Extension Service and individuals selected by the comptroller who are nonprofit community garden stakeholders, shall develop guidelines consistent with the definition provided by Section 23.51(9) for determining whether land qualifies as a nonprofit community garden for appraisal under this subchapter.

No equivalent provision.

SECTION 3. (a) Not later than September 1, 2014, the comptroller shall develop guidelines required by Section 23.5215(a), Tax Code, as added by this Act, and shall distribute those guidelines to each appraisal district.

(b) Not later than September 1, 2014, the comptroller, in consultation with the Texas A&M AgriLife Extension Service and individuals selected by the comptroller who are nonprofit community garden stakeholders, shall develop guidelines required by Section 23.5215(b), Tax Code, as added by this Act, and shall distribute those guidelines to each appraisal district.

SECTION 2. This Act applies only to the appraisal of land for ad valorem tax purposes for a tax year that begins on or after the effective date of this Act.

SECTION 4. This Act applies only to the appraisal of land for ad valorem tax purposes for a tax year that begins on or after January 1, 2015.

SECTION 3. This Act takes effect January 1, 2014.

SECTION 5. This Act takes effect September 1, 2013.