

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 20, 2013

TO: Honorable Tracy O. King, Chair, House Committee On Agriculture & Livestock

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1306 by Rodriguez, Eddie (Relating to the eligibility of land for appraisal for ad valorem tax purposes as qualified open-space land.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1306, As Introduced: a negative impact of (\$37,453,000) through the biennium ending August 31, 2015.

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
2014	\$0
2015	(\$37,453,000)
2016	(\$123,651,000)
2017	(\$217,808,000)
2018	(\$278,301,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from Foundation School Fund 193	Probable Revenue (Loss) from School Districts	Probable Revenue (Loss) from Counties	Probable Revenue (Loss) from Cities
2014	\$0	\$0	\$0	\$0
2015	(\$37,453,000)	(\$59,501,000)	(\$29,559,000)	(\$32,752,000)
2016	(\$123,651,000)	(\$79,726,000)	(\$61,785,000)	(\$68,576,000)
2017	(\$217,808,000)	(\$102,913,000)	(\$97,089,000)	(\$107,944,000)
2018	(\$278,301,000)	(\$58,865,000)	(\$101,710,000)	(\$113,273,000)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Other Special Districts</i>
2014	\$0
2015	(\$21,606,000)
2016	(\$45,124,000)
2017	(\$70,851,000)
2018	(\$74,164,000)

Fiscal Analysis

The bill would amend Section 23.51 of the Tax Code, regarding property taxation, appraisal methods and procedure, and definitions.

The bill would revise the qualification standards for appraisal as open space land (agricultural productivity valuation). When determining whether land meets an intensity of agricultural use threshold for qualification, the bill would require a chief appraiser to 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 would be required to 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.

The bill would prohibit the disqualification of a tract of land as qualified open-space land solely on the basis of the size of the tract, provided that the tract is at least 1.5 acres in size (with certain exceptions).

The bill would provide that the term agricultural use also includes the use of land for a not-for-profit community garden. "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.

The bill would take effect on January 1, 2014.

Methodology

Qualified open space land is appraised according to a statutory formula that results in an appraised value that is significantly less than the market value. As a result, any changes in the law that increase the number of acres that are appraised according to this formula result in a fiscal impact to local taxing units and to the state through the school finance formulas. This fiscal impact is greatest when the affected land is near an urban area because the market values are relatively high and the difference between the market values and the reduced statutory appraised values are relatively large.

The bill's revision of the agricultural use intensity standards would require an appraisal district to qualify a tract if the cumulative effect of several different uses (e.g. grazing, crops, orchards) meets an area's accepted degree of intensity even if each of those uses, standing alone, does not meet the local intensity criteria. It would also require an appraisal district to develop and use intensity standards for "unconventional production methods".

The bill would prohibit the disqualification of a tract of land as qualified open-space land solely

on the basis of the size of the tract, provided that the tract is at least 1.5 acres in size. This would allow appraisal districts to automatically disqualify tracts of less than 1.5 acres, but would require that larger tracts be disqualified on other grounds such as a degree of intensity test.

The bill's new intensity standards, inclusion of an acreage standard and inclusion of not-for-profit community gardens in the term "agricultural use" would each increase the number of qualified acres, particularly near urban areas where the fiscal impact is greatest, and would create a cost to local taxing units and to the state through the operation of the school finance formulas.

The fiscal impact was estimated based on the results of a survey of appraisal districts. It was assumed that only one-third of the affected taxpayers would apply and qualify for agricultural use appraisal in the first year the bill would be in effect, another third in the second year and the remainder in the third year as the taxpayers become aware of the changes proposed by the bill. The applicable projected tax rates were applied to estimate the levy loss to special districts, cities and counties, and to estimate the initial school district loss.

Because of the operation of the hold harmless provisions of the Education Code, about 60 percent of the school district cost related to the compressed rate would be transferred to the state in the first year of a taxable property value loss and 100 percent in later years. Because lagged year property values are used in the enrichment formula, school districts lose enrichment funding (state savings) in the first year of a taxable property value reduction. In the second and successive years the enrichment cost and a portion of the school district debt (facilities) cost are transferred to the state through the relevant funding formulas. All costs were estimated over the five year projection period.

Local Government Impact

The fiscal implication to units of local government is included in the tables above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, SZ, SD, SJS