

## **BILL ANALYSIS**

Senate Research Center

H.B. 3198  
By: Darby (Estes)  
Finance  
6/30/2017  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In order to reduce urban sprawl and help preserve family farms and ranches, the Texas Constitution and current law provide for an exemption from generally applicable ad valorem appraisal procedures. Qualifying open-spaced land is appraised according to an income capitalization formula, which bases the ad valorem taxes on the income from the land under ordinary, prudent management practices, instead of on its market value. If the land use changes so that the land no longer qualifies for the open-space land valuation, the county appraisal district imposes an additional, retroactive tax equal to the difference between the ad valorem taxes assessed under the open-space appraisal method and taxes that would have been assessed based on the land's market value for the five years preceding the change, plus interest at a rate of seven percent.

Under the Texas Constitution, land must be "devoted to farm, ranch, or wildlife management purposes" or timber production to be eligible for appraisal as open-space land. For 35 years, county appraisal districts treated surface acreage used for oil and gas exploration and production just like the surrounding farm and ranch land. However, in the last few years, a handful of counties have begun taking the position that land used for oil and gas production (drilling pads, roads, tank batteries, etc.) loses its eligibility for appraisal as open-space land. In these counties, landowners have lost eligibility to have land appraised under the open-space land exemption and owed five years of taxes with interest. Because the mineral estate is the dominant estate, a landowner ordinarily has little, if any, say in whether such facilities are built or where they are located. The adverse effects of losing open-space land exemptions due to oilfield activity are particularly harmful where the surface and minerals are severed, because in such situations the surface owner loses the open-space land exemption without any corresponding gain in the form of royalties.

H.B. 3198 seeks to soften the blow to landowners that has resulted from county appraisal districts changing their interpretation of the law after 35 years of consistency by providing that the five years of back taxes and interest that are normally due when open-space land use changes are not due from a surface owner whose land use change is the result of oil and gas exploration and production activities. (Original Author's / Sponsor's Statement of Intent)

H.B. 3198 amends current law relating to the eligibility of land to continue to be appraised for ad valorem tax purposes as qualified open-space land if the land begins to be used for oil and gas operations.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 23, Tax Code, by adding Section 23.524, as follows:

Sec. 23.524. OIL AND GAS OPERATIONS ON LAND. Provides that the eligibility of land for appraisal under this subchapter (Appraisal of Agricultural Land) does not end

because a lessee under an oil and gas lease begins conducting oil and gas operations over which the Railroad Commission of Texas has jurisdiction on the land if the portion of the land on which oil and gas operations are not being conducted otherwise continues to qualify for appraisal under this subchapter.

SECTION 2. Provides that the change in law made by this Act does not affect an additional tax imposed as a result of a change of use of land appraised under Subchapter D, Chapter 23 (Appraisal Methods and Procedures), Tax Code, that occurred before the effective date of this Act.

SECTION 3. Effective date: September 1, 2017.