

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 25, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB27** by Springer (relating to the consideration of the use of property or a comparable property in certain appeals of an appraisal review board order.), **Committee Report 1st House, Substituted**

The bill's provisions regarding the determination of highest and best use, and the bill's prohibition of the consideration of use restrictions that prohibit the continuation of the current property use, could prevent properties from being appraised at lower values by comparing them to properties that are being used in a less productive manner. By preventing this kind of appraisal comparison, this bill could prevent future taxable value losses creating a gain to the state through the school finance formulas. Because the future decisions of appraisers, appraisal review boards and courts cannot be predicted, the gain cannot be estimated. Included below as an example, however, is a table showing possible gains from the bill and is for illustrative purposes only.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Hypothetical Fiscal Impact of the Appraisal Procedures Provided in the Bill as Opposed to the Acceptance by Texas Courts of the Prohibited Appraisal Procedures:

The table below was provided by the Comptroller's office and is for illustrative purposes only. It was developed with the following assumptions and caveats:

1. The actual gains cannot be estimated because the outcome of future appraisals, appraisal review board protests, and litigation cannot be predicted. Again, the state and local gains shown here should be regarded only as an example. Actual gains could be considerably higher or lower.
2. The value reductions obtained by commercial property taxpayers using the appraisal procedures that would be prohibited by the bill have been extrapolated to all of Texas. Avoidance of these reductions would create the estimated gains shown.
3. The first year gain reflects the acceptance by Texas courts of the appraisal procedures prohibited by the bill in a limited number of cases. Second and later years' cost growth is based on the assumed incremental use of the equal and uniform provisions of the Texas Tax Code by commercial property taxpayers to obtain value reductions comparable to those obtained by the successful litigants.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$333,000
2020	\$84,091,000
2021	\$221,482,000
2022	\$703,142,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from Foundation School Fund 193	Probable Revenue Gain/(Loss) from School Districts	Probable Revenue Gain/(Loss) from Counties	Probable Revenue Gain/(Loss) from Cities
2018	\$0	\$0	\$0	\$0
2019	\$333,000	\$101,042,000	\$29,742,000	\$28,581,000
2020	\$84,091,000	\$186,702,000	\$79,093,000	\$75,211,000
2021	\$221,482,000	\$646,550,000	\$252,396,000	\$237,503,000
2022	\$703,142,000	\$1,151,903,000	\$536,952,000	\$499,995,000

Fiscal Year	Probable Revenue Gain/(Loss) from Other Special Districts
2018	\$0
2019	\$22,446,000
2020	\$59,601,000
2021	\$189,909,000
2022	\$403,413,000

Fiscal Analysis

The bill would amend Chapter 23 of the Tax Code, regarding property tax appraisal methods and procedures, to provide that a real property used for retail purposes that is the subject of binding arbitration, a State Office of Administrative Hearings proceeding, or a court appeal regarding an appraisal review board order must have the same highest and best use as the subject property to be considered a comparable property. Consideration of a use restriction on the subject property that prohibits the continuation of the current use of the property, or prohibits a competitive use of the property by a subsequent owner or tenant would not be permitted in the determination of the property's highest and best use. This prohibition would not apply to a use restriction imposed or enforceable by a governmental entity.

The bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2017.

Methodology

The bill's provisions regarding the determination of highest and best use, and the bill's prohibition of the consideration of use restrictions that prohibit the continuation of the current property use could prevent properties from being appraised at lower values by comparing them to properties that are being used in a less productive manner. The kind of appraisal comparisons that the bill would prohibit have caused value losses in certain other states and to a lesser extent in Texas. By preventing this kind of appraisal comparison, this bill could prevent future taxable value losses creating a gain to local taxing units and to the state through the school finance formulas. Because the future decisions of appraisers, appraisal review boards and courts cannot be predicted, the gain cannot be estimated. Included above as an example, however, is a table showing possible gains from the bill for illustrative purposes only.

Local Government Impact

The bill's provisions regarding the determination of highest and best use, and the bill's prohibition of the consideration of use restrictions that prohibit the continuation of the current property use, could prevent properties from being appraised at lower values by comparing them to properties that are being used in a less productive manner. By preventing this kind of appraisal comparison, this bill could prevent future taxable value losses creating a gain to local taxing units.

Because the future decisions of appraisers, appraisal review boards and courts cannot be predicted, the gain cannot be estimated. The table above titled "Hypothetical Fiscal Impact of the Appraisal Procedures Provided in the Bill as Opposed to the Acceptance by Texas Courts of the Prohibited Appraisal Procedures:" was provided by the Comptroller's office and is for illustrative purposes only. Actual gains could be considerably higher or lower.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, SJS