LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 2, 2017

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB1275** by Taylor, Van (Relating to the appraisal for ad valorem tax purposes of certain nonexempt property used for low-income or moderate-income housing.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1275, As Introduced: a negative impact of ($90,000) through the biennium ending August 31, 2019, increasing to ($22,832,000) beginning in fiscal year 2020.

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
2018	$0
2019	($90,000)
2020	($22,832,000)
2021	($24,187,000)
2022	($25,630,000)

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	($90,000)	($27,488,000)	($8,091,000)	($8,276,000)
2020	($22,832,000)	($6,634,000)	($8,607,000)	($8,712,000)
2021	($24,187,000)	($7,298,000)	($9,155,000)	($9,170,000)
2022	($25,630,000)	($8,013,000)	($9,738,000)	($9,652,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *Other Special Districts*
2018	$0
2019	($6,106,000)
2020	($6,485,000)
2021	($6,888,000)
2022	($7,316,000)

Fiscal Analysis

The bill would amend Chapter 23 of the Tax Code, regarding property tax appraisal methods and procedures, to revise the conditions under which the provisions regarding appraisal of certain non-exempt real property used for low-income or moderate-income housing would apply. The bill would:

1. strike the requirement that the low-income housing be rented to a low-income or moderate income individual or family satisfying certain low-income housing organizations' income eligibility requirements on the effective date of Section 23.215 of the Tax Code, regarding appraisal of certain non-exempt property used for low-income or moderate-income housing, and instead require that the property be held for the purpose of renting the property to such an individual or family; and
2. add a requirement that the low-income housing be subject to a land use restriction agreement under a specified low income housing tax credit program that has not expired or been terminated.

A chief appraiser would be required to appraise specified low-income housing property that is under active construction or lease up on January 1 of the tax year in which the property is appraised by:

1. using a specified underwriting report to estimate the property's gross income potential and operating costs, and
2. adjusting, as specified, the gross income potential and operating costs for the percentage completed on January 1; and
3. for properties undergoing lease up, adjusting for actual occupancy.

In appraising the property for the first tax year following the completion of active construction and stabilization of the property, the chief appraiser would be required to determine the appraised value of the property by an income method specified in current law for certain low-income housing. In a subsequent year the chief appraiser would be required to determine the appraised value of the property by adjusting the appraised value for the preceding year by the percentage change in the net income of the property in the preceding year as compared to the year preceding that year. The chief appraiser would be required to use generally accepted appraisal standards based on information contained in specified audits or reports in determining the percentage change in net income.

For the 2018 tax year a chief appraiser would be required, for property that was not under active construction in 2017, to determine the appraised value by adjusting the average appraised value for the preceding three-year period by the percentage change in the net income of the property in the 2017 tax year as compared to the 2016 tax year. This provision would expire on January 1, 2019.

The bill would provide for an additional tax on low-income property appraised under the bill if the property sells and is no longer subject to a land use restriction and no longer eligible for low-income housing appraisal. The additional tax would be the difference between the actual taxes

imposed for each of the three years preceding the year the property is sold and the taxes that would have been imposed had the property been appraised at the sale price in each of those years, indexed by the percentage change in net income calculated as previously described.

The bill would provide for determinations, notices and protests regarding loss of eligibility for the special appraisal provided by the bill. If the final determination is that additional taxes are due, the bill provides for the additional tax bill, deadlines, and delinquency. A property owner would not be permitted to protest based on a specified unequal appraisal provision if the appraised value is determined based on the percentage change in net income previously described.

A property appraised under the bill would be ineligible for use as a comparable in any other appraisal.

The bill would take effect January 1, 2018

Methodology

The bill's provision striking the requirement that the low-income housing be rented to a low-income or moderate income individual or family satisfying certain low-income housing organizations' income eligibility requirements on the effective date of Section 23.215 of the Tax Code, regarding appraisal of certain non-exempt property used for low-income or moderate-income housing, and instead requiring that the property be held for the purpose of renting the property to such an individual or family, would expand the special appraisal method proposed by the bill to additional low-income or moderate-income housing.

The bill would require, for the 2018 tax year, a chief appraiser, for property that was not under active construction in 2017, to determine the appraised value by adjusting the average appraised value for the preceding three-year period by the percentage change in the net income of the property in the 2017 tax year as compared to the 2016 tax year. This averaging provision would mean that a property that was vacant land, or under construction in the first two years of the three year average would be appraised at a value substantially less than its current market value. The requirement to use the percentage change in net income method to determine the appraised value in future years would lock in the low value for future years.

These provisions would create a cost to local taxing units and the state through the school finance formulas. The taxable value loss estimate was based on information from appraisal districts and the Texas Department of Housing and Community Affairs. Projected tax rates were applied to the taxable value losses through the five-year projection period to estimate tax revenue losses to school districts, special districts, cities and counties. Under provisions of the Education Code, the school district tax revenue loss is partially transferred to the state. Projected school funding rates were applied to estimate the state loss and the net school district loss.

In the first year of a taxable value loss, state recapture is reduced (a state loss). Because of the use of lagged year property values, in the second and successive years of a taxable value loss, state recapture is further reduced and the previous year's school district loss related to the Tier 1 rate is generally transferred to the state through the Tier 1 funding formulas (a state loss).

In the school district enrichment formula (Tier 2), property values do not reflect the first-year value loss because of the one-year value lag. Because the formula does reflect a tax collections decline in that year, school districts lose Tier 2 funding creating a state gain. In the second and successive years a large portion of the previous year's enrichment loss is transferred to the state (a state loss).

The school district debt (facilities) funding formula does not reflect the first-year taxable value loss because of lagged property values. In the second and successive years a small portion of the previous year's school district facilities loss is transferred to the state (a state loss)

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: UP, KK, SD, SJS