LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 12, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

FROM: John McGeady, Assistant Director   Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB97** by Rodriguez (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 HB97, As Introduced: a negative impact of ($150,000) through the biennium ending August 31, 2021 for Comptroller administrative costs. Additionally, the bill's proposed changes to the definitions of qualified open space land and agricultural use would have a negative impact of ($29,529,000) beginning in fiscal year 2023.

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
2020	($150,000)
2021	$0
2022	$787,000
2023	($29,529,000)
2024	($59,893,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193	Probable Revenue (Loss) from *School Districts*	Probable Revenue (Loss) from *Counties*
2020	($150,000)	$0	$0	$0
2021	$0	$0	$0	$0
2022	$0	$787,000	($34,800,000)	($9,317,000)
2023	$0	($29,529,000)	($42,421,000)	($19,504,000)
2024	$0	($59,893,000)	($55,411,000)	($30,931,000)

Fiscal Year	Probable Revenue (Loss) from *Cities*	Probable Revenue (Loss) from *Other Special Districts*
2020	$0	$0
2021	$0	$0
2022	($9,733,000)	($7,077,000)
2023	($20,313,000)	($14,973,000)
2024	($32,119,000)	($23,999,000)

Fiscal Analysis

The bill would amend Chapter 23 of the Tax Code, regarding property tax appraisal methods and procedures.

The bill would revise the definition of qualified open-space land to require a chief appraiser to distinguish between the degree of intensity required for various agricultural production methods, including organic, sustainable, pastured poultry, rotational grazing, and other uncommon production methods or systems. The bill would revise the definition of agricultural use to include the production of fruits and vegetables.

The Comptroller would be required to consult with the Texas A&M AgriLife Extension Service and selected stakeholders to develop guidelines for determining the conditions under which the cumulative effect of multiple agricultural uses of a tract of land meets the degree of intensity generally accepted in the area, and the conditions under which land under 10 acres in size used for the production of fruits, vegetables, poultry, hogs, sheep, or goats qualifies for special open-space appraisal. In developing the guidelines, the Comptroller would be allowed to consider:

- the financial investment of a producer in an agricultural use of a tract of land;
- the degree of active management of a producer in the agricultural use of a tract of land;
- the percentage of a tract of land used by a producer for agricultural uses; and
- any other factor the Comptroller considers appropriate.

The guidelines would be required to provide that land under 10 acres in size that qualifies for special open-space appraisal solely on the basis of the guidelines developed as provided by the bill may not subsequently qualify for special open-space appraisal if the owner changes the use of the land to wildlife management.

The Comptroller would be required to cooperate with appraisal districts to provide educational resources to help implement the guidelines. The Comptroller would be required to distribute the guidelines to appraisal districts not later than September 1, 2020.

This bill would take effect on September 1, 2019 but would apply only to the property tax appraisal of land for a tax year that begins on or after January 1, 2021.

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 proposed changes to the definitions of qualified open space land and agricultural use would increase the number of acres subject to special open space land appraisal. This increase in the number of acres subject to special appraisal would create a cost to local taxing units and to the state through the school funding formulas.

The fiscal impact was estimated based on the results of a survey of appraisal districts. The first effect on taxing unit revenues would occur in fiscal 2022. 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's appraisal provisions would be in effect, another third in the second year and the remainder in the third year as taxpayers become aware of the changes proposed by the bill and take the steps necessary to qualify.

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 the previous year's enrichment loss is generally 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-year 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).

The Comptroller's office estimates that there would be a one-time administrative cost in fiscal year 2020 of $150,000 to hire two contract staff to produce the two sets of guidelines by September 1, 2020 as set forth in the bill. The Comptroller's office currently employs only one full-time licensed agriculture appraiser who is responsible for producing the agriculture portion of the Property Value Study and managing any resulting protests. The bill requires significant interaction with various stakeholders and a relatively short turn-around time to produce the guidelines, necessitating contract staff.

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, 556 Texas A&M AgriLife Research

LBB Staff: WP, KK, SD, SJS, LCO