LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 26, 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: **HB388** by Murphy (relating to the exemption from ad valorem taxation of real property leased to and used by certain schools.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB388, Committee Report 1st House, Substituted: a positive impact of $192,000 through the biennium ending August 31, 2021, contingent upon passage of a constitutional amendment authorizing the exemption. Additionally, there would be a negative impact of ($16,356,000) for the biennium ending 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	$0
2021	$192,000
2022	($7,772,000)
2023	($8,584,000)
2024	($9,482,000)

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*
2020	$0	$0	$0	$0
2021	$192,000	($9,437,000)	($2,559,000)	($2,739,000)
2022	($7,772,000)	($2,495,000)	($2,812,000)	($3,001,000)
2023	($8,584,000)	($2,818,000)	($3,091,000)	($3,289,000)
2024	($9,482,000)	($3,181,000)	($3,397,000)	($3,604,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *Other Special Districts*
2020	$0
2021	($1,923,000)
2022	($2,136,000)
2023	($2,373,000)
2024	($2,636,000)

Fiscal Analysis

The bill would amend Chapter 11 of the Tax Code, regarding property taxation and exemptions, to grant a property tax exemption on the portion of the real property a person owns and leases to a qualified open-enrollment charter school if:
- the portion of the real property is used exclusively by the school for the operation or administration of the school or the performance of other educational functions by the school; and the real property is reasonably necessary for those purposes; and
- the owner of the portion of the real property that is leased to the school certifies by affidavit to the school that:
- if the lease agreement requires the school to pay the taxes imposed on the real property as a portion of the total consideration paid to the property owner under the agreement, the owner will reduce the total consideration required to be paid by the school under the lease agreement by an amount equal to the amount by which the taxes on the real property are reduced as a result of the exemption by providing a monthly or annual credit against the total consideration due under the agreement; or
- if the lease agreement requires the school to pay the taxes imposed on the real property directly to the collector for the applicable taxing unit or to the owner or the property manager separately from the payment of rent to the property owner under the agreement, the school is no longer required to pay the taxes to the collector, owner, or property manager, as applicable, and the rent charged to the school under the agreement is not affected unless a term of the agreement specifically provides for a change in the amount of the rent.

The charter school would be required to qualify as a school under current law (Section 11.21(d), Tax Code).

The bill specifies that Section 25.07 of the Tax Code, regarding leasehold and other possessory interests in exempt property, does not apply to a leasehold interest in real property for which the owner receives the bill's proposed exemption.

The bill would take effect on January 1, 2020, contingent on voter approval of a constitutional amendment (HJR 31).

Methodology

The bill's proposed exemption of the portion of real property leased to charter schools and reimbursement of the resulting tax savings to the charter schools through a rent credit would create a fiscal cost. The non-charter (regular) school district and other taxing units would lose taxable value and the associated property tax revenue to the new exemption resulting in a cost to the regular school district, other taxing units, and to the state through the operation of the school funding formulas.

The value of real property leased by charter schools was estimated based on information from the

Texas Charter Schools Association, the Texas Education Agency, and appraisal districts.

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).

Local Government Impact

The estimated fiscal implication to units of local government is reflected in the table above and is contingent upon passage of a constitutional amendment authorizing the exemption.

Source Agencies: 304 Comptroller of Public Accounts

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