

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 22, 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: HB2859** by Capriglione (relating to the exemption from ad valorem taxation of precious metal held in a precious metal depository located in this state.), **Committee Report 1st House, Substituted**

**Passage of the bill would exempt precious metals from property taxation if they are held in a commercial depository in this state, contingent upon passage of a constitutional amendment authorizing the exemption. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas.**

The bill would add Section 11.35 to the Tax Code, regarding precious metals held in a depository, to exempt precious metals from property taxation if they are held in a precious metal depository in this state. A taxing unit would be prohibited from taxing precious metal exempted by the bill. The bill would define "precious metal" and "precious metal depository", and make a conforming change.

Precious metals are considered personal property under the Tax Code unless they have been affixed as an integral part of real property. Precious metals that would be held in a depository are not affixed to real property in this manner and, consequently, are personal property. Personal property is currently exempt unless it is part of a business inventory necessary to the production of income, or a local taxing unit's governing body has opted to tax it. A small minority of taxing units have opted to tax certain non income producing personal property (normally vehicles). To the Comptroller's knowledge, no taxing unit currently taxes precious metals that are not necessary to the production of income. For example, a gold coin in the inventory of a coin shop would be taxed while the same gold coin in private hands would not be taxed.

It is possible that, under the bill, a business could hold part of its precious metal inventory in a commercial depository and thereby escape taxation on this inventory, creating a cost to local taxing units and the state through the school funding formulas. The value of precious metals that would be exempted in this manner is unknown. Consequently, the fiscal impact cannot be estimated.

This bill would take effect on January 1, 2020, contingent on voter approval of a constitutional amendment (CSHJR 95).

**Local Government Impact**

Passage of the bill would exempt precious metals from property taxation if they are held in a commercial depository in this state, contingent upon passage of a constitutional amendment authorizing the exemption. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced.

**Source Agencies:** 304 Comptroller of Public Accounts

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