

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 8, 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 of precious metals held in a depository in this state from ad valorem taxation.), **As Introduced**

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 depository, to exempt precious metals from property taxation if they are held in a commercial depository in this state. The bill would define "precious metals" and "commercial depository", and make a conforming change.

The Comptroller would be permitted to adopt rules to implement the exemption.

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.

The bill would take effect on the date on which the corresponding constitutional amendment (HJR 95) is approved by the voters. If that amendment is not approved, the bill has no effect.

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