

BILL ANALYSIS

Senate Research Center

H.B. 3833
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Local Government
5/14/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, when land that has been appraised with a special use valuation, such as timber or open-space land, is taken out of that use, "rollback" taxes are owed on the difference between the reduced valuation and the market valuation for a set number of years, plus interest calculated from the dates on which the differences would have become due. It has been noted that the interest due following a change in use is excessive for property owners. H.B. 3833 reduces this tax burden by eliminating the interest due on these rollback taxes.

Additionally, last session the legislature reduced the number of years for which rollback taxes were due for open-space and timber land from five years to three. H.B. 3833 seeks to establish consistency in state law by mirroring the changes made last session for land appraised as recreational, park, or scenic land; public access airport property; and restricted-use timber land.

H.B. 3833 also seeks to provide consistency on the appraisal methods used for property under construction as low-income or moderate-income housing.

H.B. 3833 amends current law relating to the appraisal of certain real property for ad valorem tax purposes.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 23.215, Tax Code, as follows:

Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) Provides that this section applies only to real property owned by an organization:

(1) for the purpose of renting the property to a low-income or moderate-income individual or family satisfying the organization's income eligibility requirements, rather than that on the effective date of this section was rented to a low-income or moderate-income individual or family satisfying the organization's income eligibility requirements and that continues to be used for that purpose;

(2) that is or will be financed, rather than that was financed, under the low income housing tax credit program under Subchapter DD (Low Income Housing Tax Credit Program), Chapter 2306 (Texas Department of Housing and Community Affairs), Government Code, and subject to a land use restriction agreement under Subchapter DD; and

(3) and (4) makes no changes to these subdivisions.

(b) Requires the chief appraiser, in appraising property that is under construction or that has not reached stabilized occupancy on January 1 of the tax year in which the property is appraised, to determine the value of the property in the manner provided by Section 11.1825(q) (relating to requiring use of the income method of appraisal and certain restrictions and capitalization rates for the appraisal) using the property's projected income and expenses for the first full year of operation as established and utilized in the underwriting report pertaining to the property prepared by the Texas Department of Housing and Community Affairs under Subchapter DD, Chapter 2306, Government Code, and adjust that value as provided by this subsection to determine the appraised value of the property. Requires the chief appraiser, for a property under construction on January 1, to adjust the value to reflect the percentage of the construction that is complete on January 1. Requires the chief appraiser, for a property on which construction is complete but that has not reached stabilized occupancy on January 1, to adjust the value to reflect the actual occupancy of the property on January 1. Provides that for purposes of this subsection, a property is not considered to be under construction if the purpose of the work being performed on the property is the maintenance or rehabilitation of the property. Deletes existing text requiring the chief appraiser to appraise the property in the manner provided by Section 11.1825(q).

(c) Requires the chief appraiser, in appraising property for the first tax year following the year in which construction on the property is complete and occupancy of the property has stabilized and any tax year subsequent to that year, to determine the appraised value of the property in the manner provided by Section 11.1825(q).

SECTION 2. Amends Sections 23.55(a), (b), (e), (f), (m), and (n), Tax Code, as follows:

(a) Deletes existing text providing that interest at an annual rate of five percent calculated from the dates on which the differences would have become due is imposed on land that has been appraised as provided by Subchapter D (Appraisal of Agricultural Land) if the use of that land changes.

(b) Provides that a tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax, rather than to secure payment of the additional tax and interest, imposed by Section 23.55 (Change of Use of Land) and any penalties and interest incurred if the tax becomes delinquent, rather than imposed by Section 23.55 and any penalties incurred.

(e) Makes conforming changes to this subsection.

(f) Makes nonsubstantive and conforming changes to this subsection.

(m) and (n) Makes conforming changes to these subsections.

SECTION 3. Amends Sections 23.58(c) and (d), Tax Code, to make conforming changes.

SECTION 4. Amends Sections 23.76(a), (b), and (e), Tax Code, as follows:

(a) Deletes existing text providing that interest at an annual rate of five percent calculated from the dates on which the differences would have become due is imposed on land that has been appraised as provided by Subchapter E (Appraisal of Timber Land) if the use of that land changes.

(b) Provides that a tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax, rather than to secure payment of the additional tax and interest, imposed by Section 23.76 (Change of Use of Land) and any penalties and interest incurred if the tax becomes delinquent, rather than imposed by Section 23.76 and any penalties incurred.

(e) Makes conforming changes to this subsection.

SECTION 5. Amends Sections 23.86(a) and (b), Tax Code, as follows:

(a) Provides that if land that has been appraised under Subchapter F (Appraisal of Recreational, Park, and Scenic Land) is no longer subject to a deed restriction or is diverted to a use other than recreational, park, or scenic uses, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the three years, rather than five years, preceding the year in which the change of use occurs or the deed restriction expires that the land was appraised as provided by Subchapter F and the tax that would have been imposed had the land not been restricted to recreational, park, or scenic uses in each of those years. Deletes existing text providing that interest at an annual rate of five percent calculated from the dates on which the differences would have become due is imposed on the land if that land is no longer subject to a deed restriction or is diverted to a use other than recreational, park, or scenic uses.

(b) Provides that a tax lien attaches to the land on the date the change of use occurs or the deed restriction expires to secure payment of the additional tax, rather than to secure payment of the additional tax and interest, imposed by Section 23.86 (Additional Taxation for Preceding Years) and any penalties and interest incurred if the tax becomes delinquent, rather than imposed by Section 23.86 and any penalties incurred.

SECTION 6. Amends Sections 23.96(a) and (b), Tax Code, as follows:

(a) Provides that if airport property that has been appraised under Subchapter G (Appraisal of Public Access Airport Property) is no longer subject to a deed restriction, an additional tax is imposed on the property equal to the difference between the taxes imposed on the property for each of the three years, rather than five years, preceding the year in which the deed restriction expires that the property was appraised as provided by Subchapter G and the tax that would have been imposed had the property not been restricted to use as public access airport property in each of those years. Deletes existing text providing that interest at an annual rate of seven percent calculated from the dates on which the differences would have become due is imposed on the land if the land is no longer subject to a deed restriction.

(b) Provides that a tax lien attaches to the property on the date the deed restriction expires to secure payment of the additional tax, rather than the additional tax and interest, imposed by Section 23.96 (Taxation for Preceding Years) and any penalties and interest incurred if the tax becomes delinquent, rather than imposed by Section 23.96 and any penalties incurred.

SECTION 7. Amends Sections 23.9807(a), (b), (c), and (f), Tax Code, as follows:

(a) Provides that if the use of land that has been appraised as provided by Subchapter H (Appraisal of Restricted-Use Timber Land) changes to a use that qualifies the land for appraisal under Subchapter E, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the three, rather than five, years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the taxes that would have been imposed had the land been appraised under Subchapter E in each of those years. Deletes existing text providing that an additional is imposed on the land equal to the sum of the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the taxes that would have been imposed had the land been appraised under Subchapter E in each of those years, and interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) Provides that if the use of land that has been appraised as provided by Subchapter H changes to a use that does not qualify the land for appraisal under Subchapter E or under Subchapter H, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the three, rather than five, years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the taxes that would have been imposed had the land been taxed on the basis of market value in each of those years. Deletes existing text providing that an additional tax is imposed on the land equal to the sum of the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the taxes that would have been imposed had the land been taxed on the basis of market value in each of those years, and interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(c) Provides that a tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax, rather than to secure payment of the additional tax and interest, imposed by Section 23.9807 (Change of Use of Land) and any penalties and interest incurred if the tax becomes delinquent, rather than imposed by Section 23.9807 and any penalties incurred.

(f) Makes conforming changes to this subsection.

SECTION 8. Provides that the change in law made by Section 23.215, Tax Code, as amended by this Act, applies only to an ad valorem tax year that begins on or after January 1, 2022.

SECTION 9. Provides that Section 23.55, Tax Code, as amended by this Act, applies only to a change of use of land appraised under Subchapter D, Chapter 23 (Appraisal Methods and Procedures), Tax Code, that occurs on or after the effective date of this Act.

SECTION 10. Provides that Section 23.58, Tax Code, as amended by this Act, applies only to a loan secured by a lien on open-space land that is contracted for on or after the effective date of this Act.

SECTION 11. Provides that Section 23.76, Tax Code, as amended by this Act, applies only to a change of use of land appraised under Subchapter E, Chapter 23, Tax Code, that occurs on or after the effective date of this Act.

SECTION 12. Provides that Section 23.86, Tax Code, as amended by this Act, applies only to a change of use of land appraised under Subchapter F, Chapter 23, Tax Code, that occurs on or after the effective date of this Act.

SECTION 13. Provides that Section 23.96, Tax Code, as amended by this Act, applies only to a change of use of land appraised under Subchapter G, Chapter 23, Tax Code, that occurs on or after the effective date of this Act.

SECTION 14. Provides that Section 23.9807, Tax Code, as amended by this Act, applies only to a change of use of land appraised under Subchapter H, Chapter 23, Tax Code, that occurs on or after the effective date of this Act.

SECTION 15. Effective date: upon passage or September 1, 2021.