

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 14, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1544 by Guillen (Relating to the eligibility of land to continue to be appraised for ad valorem tax purposes as qualified open-space land if the land is temporarily used for sand mining operations; authorizing a fee.), **As Passed 2nd House**

The bill would have an indeterminate fiscal impact to the state because the amount of fees collected for determination letters and the value and number of acres that would qualify for continued special open space appraisal under the specific parameters of the bill are unknown.

Additionally, enactment of the bill would provide that the eligibility of land for special open space appraisal does not end because the land is used for a sand mining operation for a limited time. 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 amend Subchapter D, Chapter 23 of the Tax Code, regarding appraisal of agricultural land, to add a new section 23.527 that would provide that the eligibility of land for special open space appraisal does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

1. the landowner intends to resume the agricultural use of the land to that degree of intensity;
2. the land is used for a sand mining operation; and
3. the land is reclaimed according to the standard best practices as provided by this bill.

The landowner would be required to notify the appraisal office in writing not later than the 30th day after the date sand mining operations begin that the owner intends to ensure that the above requirements are met. The Texas Commission on Environmental Quality (TCEQ) would be required to establish a process to allow a landowner who submits notification to the appraisal office to obtain a letter of determination from the executive director stating whether the land was reclaimed according to the best practices adopted by TCEQ. TCEQ could charge a fee for the determination letter in an amount not exceeding their administrative cost.

The bill would only apply to sand mining operations that overlie the Carrizo-Wilcox Aquifer, and are located either within 30 miles of a municipality with a population of more than 500,000 or within one mile of a residential building.

TCEQ would be authorized to collect fees not exceeding their administrative cost for determination letters for site reclamation permits. Because the fee amount is unknown, the state fiscal impact associated with these fees cannot be determined.

Special open space appraisal of agricultural land results in an appraised value that is significantly lower than the land's market value. Consequently, the bill's provisions that would keep land used in sand mining qualified for special appraisal that would otherwise be appraised at its higher market value would create a cost to local taxing units and to the state through the school funding formulas. The value and number of acres that would qualify for continued special open space appraisal under the specific parameters of the bill are unknown. Therefore, the cost cannot be estimated.

This bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2021.

Local Government Impact

Enactment of the bill would provide that the eligibility of land for special open space appraisal does not end because the land is used for a sand mining operation for a limited time. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced. The value and number of acres that would qualify for continued special open space appraisal under the specific parameters of the bill are unknown. Therefore, the cost cannot be estimated.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office, 455 Railroad Commission, 582 Commission on Environmental Quality

LBB Staff: JMc, LBO, KK, SD, BRI, AJL