

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 19, 2021

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3610 by Gervin-Hawkins (Relating to the applicability of certain laws to certain public schools and certain requirements of a charter school that receives certain tax exemptions.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3610, As Engrossed : a negative impact of (\$2,898,000) through the biennium ending August 31, 2023.

In addition to the costs associated with exempting from the property tax the value of real property that is leased to charter schools, provisions of the bill would exempt the portion of real property leased to an independent school district or community college district. 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 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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	(\$2,898,000)
2024	(\$3,779,000)
2025	(\$3,596,000)
2026	(\$3,748,000)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from Foundation School Fund 193	Probable Revenue Gain/(Loss) from Cities	Probable Revenue Gain/(Loss) from Counties	Probable Revenue Gain/(Loss) from School Districts
2022	\$0	\$0	\$0	\$0
2023	(\$2,898,000)	(\$3,308,000)	(\$3,046,000)	(\$10,088,000)
2024	(\$3,779,000)	(\$3,636,000)	(\$3,359,000)	(\$11,058,000)
2025	(\$3,596,000)	(\$3,997,000)	(\$3,703,000)	(\$12,123,000)
2026	(\$3,748,000)	(\$4,185,000)	(\$3,889,000)	(\$12,659,000)

<i>Fiscal Year</i>	<i>Probable Revenue Gain/(Loss) from Other Special Districts</i>
2022	\$0
2023	(\$2,644,000)
2024	(\$2,946,000)
2025	(\$3,283,000)
2026	(\$3,484,000)

Fiscal Analysis

The bill would amend Chapter 12 of the Education Code, regarding charter schools, to expand the definition of an open-enrollment charter school to be a political subdivision for purposes of certain rights under Section 16.061 of the Civil Practice and Remedies Code and a political subdivision for tax exemption status as public property under Section 11.11 of the Tax Code. The bill would provide that property purchased or leased with funds received by a charter holder is exempt from property taxes as provided by Section 11.11 of the Tax Code. The bill would require a property owner that receives a property tax exemption to transfer any tax savings from the exemption to the tenant or reduce the common area maintenance fee.

The bill would amend Chapter 11 of the Tax Code, regarding property taxation and exemptions, by adding Section 11.211 to grant a property tax exemption on the portion of real property that is leased to an independent school district, community college district, or open-enrollment charter school. The property must be used exclusively by the public school for the operation or administration of the school or other educational functions and found reasonably necessary by the school's governing body.

Note: Expanding a property tax exemption to certain leased property specified in the bill would likely require authority in the Texas Constitution to take effect.

Methodology

The bill's provision that a charter school be considered a political subdivision under Tax Code 11.11 and property owned by charter schools be exempt from property taxation as provided for public property under Tax Code 11.11 could create a cost to units of local government and the state through the operation of school funding formulas. Under current law (Tax Code 11.21(d)), property owned by a charter school qualifies for a tax exemption. The value of property owned by eligible charter schools that would be exempt under the bill and that is not already exempt is unknown. Consequently, the cost of this provision cannot be estimated.

The bill's proposed treatment of property leased by charter schools under Tax Code 11.11 could create a cost to units of local government and the state through the operation of school funding formulas if Tax Code 11.11 provided a property tax exemption for leased property. Tax Code 11.11 only provides a property tax exemption for certain public property that is owned by the state or political subdivisions of the state. Since Tax Code 11.11 does not include a provision for property leased by charter schools, this provision would not have an effect or create a cost to taxing units.

Added Section 11.211, exempting the portion of real property leased to an independent school district, community college district, or open-enrollment charter school would create a fiscal cost. Taxing units would lose taxable value and the associated property tax revenue to the new exemption resulting in a cost to local taxing units, and to the state through the operation of the school funding formulas.

Limited information is available about the amount and value of real property leased by independent school districts and community college districts due to taxing authority and ability to issue bonds to purchase land or build new facilities. As such, the impact of these provisions cannot be estimated. The bill could provide a savings for independent school districts and community college districts that lease land and are not currently exempt to partially offset their estimated tax revenue losses; however, the amount of any offset cannot be estimated. There would not be any offset for cities, counties, or other special districts.

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.

The estimated cost to the Foundation School Program is \$2.9 million in fiscal year 2023, \$3.8 million in fiscal year 2024, \$3.6 million in fiscal year 2025, and \$3.7 million in fiscal year 2026.

Local Government Impact

The estimated costs to units of local government of exempting from ad valorem taxation property leased to charter schools is shown in the table above.

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Source Agencies: 304 Comptroller of Public Accounts

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