LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 17, 2021

TO: Honorable Paul Bettencourt, Chair, Senate Committee on Local Government

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3833** by King, Phil (Relating to the appraisal of certain real property for ad valorem tax purposes.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3833, As Engrossed : an impact of $0 through the biennium ending August 31, 2023.

Passage of the bill would change the rollback period on which additional tax is owed if the use of certain restricted land changes to a non-qualifying use from five years to three years. As a result ad valorem tax revenue for school districts could be reduced and the related costs to the Foundation School Fund increased through the operation of the school finance formulas.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to *General Revenue Related Funds*
2022	$0
2023	$0
2024	$0
2025	$0
2026	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *Cities*	Probable Revenue Gain/(Loss) from *Counties*	Probable Revenue Gain/(Loss) from *School Districts*	Probable Revenue Gain/(Loss) from *Other Special Districts*
2022	($1,285,000)	($5,902,000)	($19,658,000)	($5,067,000)
2023	($4,091,000)	($18,839,000)	($62,384,000)	($16,348,000)
2024	($4,308,000)	($19,896,000)	($65,503,000)	($17,450,000)
2025	($4,535,000)	($21,011,000)	($68,778,000)	($18,624,000)
2026	($4,775,000)	($22,186,000)	($72,217,000)	($19,875,000)

Fiscal Analysis

The bill would amend Chapter 23 of the Tax Code, regarding property tax appraisal methods and procedures, to revise the conditions under which the provisions regarding appraisal of certain non-exempt real property used for low-income or moderate-income housing would apply. The bill would:

1. strike the requirement that the low-income housing be rented to a low-income or moderate income individual or family satisfying certain low-income housing organizations' income eligibility requirements on the effective date of Section 23.215 of the Tax Code and instead require that the property be held for the

purpose of renting the property to such an individual or family; and
2. add a requirement that the low-income housing be subject to a land use restriction agreement under a specified low-income housing tax credit program that has not expired or been terminated.

A chief appraiser would be required to appraise specified low-income housing 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 by using a specified income method including:
1. using the property's projected income and expenses for the first full year of operation established and utilized in a specified underwriting report;
2. adjusting, as specified, the gross income potential and operating costs for the percentage completed on January 1; and
3. for completed properties that have not reached stabilized occupancy on January 1, adjusting the income and expenses in the underwriting report for actual occupancy.

In appraising the property for the first tax year following the completion of construction and stabilized occupancy, the chief appraiser would be required to determine the appraised value of the property by an income method specified in current law for certain low-income housing.

The bill would amend Chapter 23, Subchapters F, G, and H of the Tax Code, regarding property tax appraisal methods and procedures, to provide that if the use of certain restricted land changes to a non-qualifying use, an additional tax is imposed equal to the difference in the taxes that would have been paid at market value and the taxes that were actually paid over the past three years (rather than five years).

The bill would remove the requirement for interest imposed on a taxpayer who changes the use of land qualified for special appraisal under Subchapters D, E, F, G, and H when a change in use to a non-qualifying activity occurs.

The 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.

Methodology

The bill's provision striking the requirement that the low-income housing be rented to a low-income or moderate income individual or family satisfying certain low-income housing organizations' income eligibility requirements on the effective date of Section 23.215 of the Tax Code and instead requiring that the property be held for the purpose of renting the property to such an individual or family, would expand the special appraisal method proposed by the bill to additional low-income or moderate-income housing. The amount and value of property that would be appraised under these provisions is unknown, but not expected to be significant.

Under Chapter 23 of the Tax Code, qualified land is appraised at a value lower than its market value. Generally, when the use of the land changes to a non-qualifying use, Chapter 23 requires that landowners pay the difference between the market value and the productivity value plus interest for each of the five years preceding a change in the use of the land (rollback). The bill's change in the rollback period from five years to three years would create a cost to local taxing units and to the state through the operation of the school funding formulas because taxing units would no longer receive revenue for the full five years. No rollback information is available for recreational park and scenic land, or public access airport property, or restricted-use timber land; consequently, the cost of the proposed rollback changes on taxing units containing this special appraised restricted land is unknown.

The bill's elimination of the interest charged when a change in use occurs would create a cost to school districts and other local taxing units but not to the state because the interest on rollbacks is not included in the state's school funding formula. The estimated number of acres changing use is based on rollback information from a sample of appraisal districts. The estimated loss is based on average market and productivity values. Information from responding appraisal districts was extrapolated to other districts and the results were projected through the five-year period in the table below. This analysis assumes a September 1, 2021 effective date and only one-third of the annual cost was included in fiscal 2022.

The bill does not eliminate interest for a change in use of land qualified for special appraisal under Subchapter

C of the Tax Code that is similar to the provision that this bill would repeal. Little agricultural land is qualified under Subchapter C because its qualification requirements are much more stringent. Further, because of its requirement that the owner's income be primarily from agricultural operations, the land tends to be further from urban areas, is less likely to be diverted from an agricultural use, and the difference between the special appraised value and the market value is less. For these reasons, and the lack of relevant information, no adjustment for land qualified under Subchapter C was made to the estimated costs in the table and any such adjustment would be insignificant.

Local Government Impact

Passage of the bill would change the rollback period on which additional tax is owed if the use of certain restricted land changes to a non-qualifying use from five years to three years and change the rate at which interest is charged on the additional tax from 7 percent to 5 percent. As a result, ad valorem tax revenue for units of local government could be reduced.

The fiscal impact to units of local government of eliminating the interest for a change in use of land qualified for special appraisal is shown in the table above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, AF, SD, BRI