

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**March 26, 2021**

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

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: SB725** by Schwertner (Relating to the qualification of land for appraisal for ad valorem tax purposes as agricultural land and the liability for the additional tax imposed on such land if the use of the land changes as a result of a condemnation.), **As Introduced**

**Passage of the bill would provide that a portion of a parcel of land is not diverted to nonagricultural use because the portion is subject to a right-of-way that is less than 200 feet wide and that was taken by condemnation if the remainder of the land qualifies. 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 Chapter 23 of the Tax Code, regarding appraisal methods and procedures, to provide that a portion of a parcel of land is not diverted to nonagricultural use because the portion is subject to a right-of-way that is less than 200 feet wide and that was taken by condemnation if the remainder of the land qualifies.

The bill would amend Section 23.46 of the Tax Code, regarding additional taxation of land that is sold or diverted to a non-agricultural use, to provide that if the additional taxes are due because the land has been diverted to a non-agricultural use as a result of a condemnation, the additional taxes and interest are the personal obligation of the condemning entity and not the property owner from whom the property was taken.

To the extent that land under current law diverted to nonagricultural use and appraised at market value would qualify for special appraisal lower than market value under the provisions of the bill, there would be a cost to local taxing units and to the state through the school funding formulas. The number of acres that would qualify for reduced appraisal and the amount of the reduction are unknown. Consequently the cost of the bill cannot be estimated.

The bill's provision that would shift the liability for the additional taxes and interest due when land is diverted to a non-agricultural use as a result of a condemnation from the landowner to the condemning entity would have no cost to local taxing units or to the state because the taxing units would continue to receive the additional taxes and interest.

Note: The bill amends Section 23.46 of the Tax Code, which is in Subchapter C. Very little land is currently qualified for special appraisal under Subchapter C of the Tax Code because the eligibility requirements are much more stringent than under Subchapter D of the Tax Code, regarding appraisal of agricultural land. Under current law additional taxes and interest triggered by the change of use of land qualified under Subchapter D do not apply if the change of use is a result of a condemnation.

The bill would take effect on September 1, 2021 and would apply only to a change of use that occurs on or after the effective date.

**Local Government Impact**

Passage of the bill would provide that a portion of a parcel of land is not diverted to nonagricultural use because the portion is subject to a right-of-way that is less than 200 feet wide and that was taken by condemnation if the

remainder of the land qualifies. 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:** JMc, AF, BRI, AJL, SD, WP, SZ, KK, SJS