

BILL ANALYSIS

C.S.H.B. 3621
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas child-care centers are closing in droves as they hemorrhage employees to industries that are able to pay higher wages. Using data from the Health and Human Services Commission, Children At Risk found that Texas lost nearly a quarter of its child-care providers between March 2020 and September 2021, creating hundreds more child-care deserts across the state. The Texas child-care shortage has devastating affects on early childhood education, economic growth, and employment opportunities for parents. According to the U.S. Chamber of Commerce Foundation, Texas' economy loses more than \$9 billion every year due to inadequate child care. C.S.H.B. 3621 seeks to address this issue by providing a pathway for certain licensed child-care providers to receive property tax relief, regardless of whether they own or rent the property in which their child-care facilities are located.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3621 amends the Tax Code to entitle a person to an exemption from county or municipal taxation of all or part of the appraised value of the real property the person owns and operates as a qualifying child-care facility or the portion of the real property that the person owns and leases to a person who uses the property to operate a qualifying child-care facility if the governing body of the county or municipality in the manner required by law for official action by the governing body adopts the exemption. The bill defines "child-care facility" and "qualifying child-care facility" as follows:

- "child-care facility" as a facility licensed by the Health and Human Services Commission to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers; and
- "qualifying child-care facility" as a child-care facility:
 - the owner or operator of which participates in the Texas Workforce Commission's (TWC) Texas Rising Star Program for that facility; and
 - at which at least 20 percent of the total number of children enrolled at the facility receive subsidized child-care services provided through the child-care services program administered by TWC.

The bill authorizes the governing body of a county or municipality to adopt the exemption as a percentage, which may not be less than 50 percent of the property's appraised value. To qualify for the exemption, the property must be reasonably necessary for the operation of the child-care facility and used exclusively to provide developmental and educational services for children attending the child-care facility, unless the use is for another function that is incidental to the use of the property for providing those services to those children and benefits those children or the facility's staff and faculty. The bill establishes that property is not ineligible for the exemption if a portion of the property is used for functions other than those described by the bill; however, the exemption does not apply to the value of the portion of the property that is used for those other functions.

C.S.H.B. 3621 requires a person who claims an exemption for the portion of the real property the person owns and leases to a person who uses the property to operate a qualifying child-care facility to include with the exemption application an affidavit certifying the following to the chief appraiser for the appraisal district that appraises the property that is the subject of the application:

- the person has provided to the child-care facility a disclosure document stating the amount by which the taxes on the property are reduced as a result of the exemption and the method the person will implement to ensure that the rent charged for the lease of the property fully reflects that reduction;
- the rent charged for the lease reflects the reduction in the amount of taxes on the property resulting from the exemption through a monthly or annual credit against the rent; and
- the person does not charge rent for the lease of the property in an amount that exceeds:
 - for property that consists of space in a commercial property, the rent charged by the person to other tenants of the commercial property for similar space; or
 - for property other than property that consists of space in a commercial property, the average rent charged for comparable rental property.

The bill prohibits a person from claiming an exemption for the portion of the real property that the person owns and leases to a person who uses the property to operate a qualifying child-care facility if the person claims a residence homestead property tax exemption for the property or if any part of the leased property is used by another person as a principal residence.

C.S.H.B. 3621 makes statutory provisions relating to a leasehold or other possessory interest in exempt property inapplicable to a leasehold interest in property for which the owner receives an exemption under the bill's provisions but subjects an exemption provided by the bill to statutory provisions providing for the continued application of an exemption without claiming the exemption in subsequent years until the property changes ownership or the person's qualifications for the exemption changes. The bill authorizes the comptroller of public accounts to adopt rules and forms necessary for the administration of the bill's provisions. The bill applies only to property taxes imposed for a tax year beginning on or after the bill's effective date.

EFFECTIVE DATE

January 1, 2024, if the constitutional amendment authorizing a local option exemption from property taxation by a county or municipality of all or part of the appraised value of real property used to operate a child-care facility is approved by the voters.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3621 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute replaces the introduced version's provision that defined "qualifying child-care facility" as a child-care facility that is accredited by a nationally recognized accrediting organization for child-care or early childhood education facilities or programs approved by

TWC and the Department of Family and Protective Services as applying criteria for accreditation adequate to ensure the quality of an accredited facility or program, such as the National Association for the Education of Young Children or the National Early Childhood Program Accreditation Commission with a provision defining the term as a child-care facility the owner or operator of which participates in TWC's Texas Rising Star Program for that facility and at which at least 20 percent of the total number of children enrolled at the facility receive subsidized child-care services provided through the child-care services program administered by TWC.

The substitute revises a provision in the introduced entitling a person to an exemption from taxation of qualifying real property by conditioning the exemption on the governing body of a county or municipality in the manner required by law for official action by the governing body adopting the exemption and clarifying that the exemption from county or municipal taxation on all or part of the appraised value of the applicable real property, where the introduced did not include that condition or clarification. The substitute changes the language of the constitutional amendment proposed to the voters included in the bill's effective date from authorizing the legislature to exempt from property taxation real property used to operate a child-care facility, as in the introduced, with authorizing a local option exemption from property taxation by a county or municipality of all or part of the appraised value of real property used to operate a child-care facility.

The substitute includes a provision absent from the introduced authorizing the governing body of a county or municipality to adopt the exemption as a percentage, which may not be less than 50 percent, of the property's appraised value.

While both the introduced and the substitute prescribe application requirements for a person claiming an exemption for the portion of the real property the person owns and leases to a person who uses the property to operate a qualifying child-care facility, the substitute includes provisions that were not in the introduced requiring the person to include certification in its affidavit that the person does not charge rent for the lease of the property in an amount that exceeds, for commercial property, the rent charged by the person to other tenants of the commercial property for similar space or, for non-commercial property, the average rent charged for comparable rental property. The substitute includes a prohibition, which did not appear in the introduced, against a person claiming an exemption on that basis if the person claims a residence homestead property tax exemption for the property or if any part of the leased property is used by another person as a principal residence.