LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 6, 2023

TO: Honorable Morgan Meyer, Chair, House Committee on Ways & Means

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3621** by Talarico (Relating to an exemption from ad valorem taxation of real property used to operate a child-care facility.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3621, As Introduced : a negative impact of ($98,794,000) through the biennium ending August 31, 2025.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to** ***General Revenue Related Funds***
2024	$0
2025	($98,794,000)
2026	($117,217,000)
2027	($131,379,000)
2028	($141,734,000)

All Funds, Five-Year Impact:

Fiscal Year	**Probable Savings/(Cost) from** ***Foundation School Fund*** **193**	**Probable Revenue Gain/(Loss) from** ***Recapture Payments Atten Crdts*** **8905**	**Probable Revenue Gain/(Loss) from** ***School Districts***
2024	$0	$0	$0
2025	($98,794,000)	$54,829,000	($137,290,000)
2026	($117,217,000)	$73,139,000	($156,698,000)
2027	($131,379,000)	$87,963,000	($168,127,000)
2028	($141,734,000)	$98,623,000	($179,369,000)

Fiscal Analysis

The bill would amend Chapter 11 of Tax Code, relating to Taxable Property and Exemptions, to provide an exemption from property taxation of real property used to operate child-care facilities. The bill would provide definitions and applies to property, including a portion thereof, a person owns to operate a qualified child-care facility, or the person owns and leases for use exclusively as a child-care facility providing developmental and educational services for children.

The bill would require a person who claims the exemption as the owner of leased property to provide with the application an affidavit certifying that a lease disclosure document stating the amount by which the taxes on the property are reduced as a result of the exemption has been provided to the lessee and that the reduction in taxes is fully reflected in the rent charged through a monthly or annual credit against the rent.

The bill would state that Section 25.07 (Leasehold and other Possessory Interests in Exempt Property) does not apply to a leasehold interest in property for which the owner receives an exemption under this section.

The bill would allow the Comptroller to adopt rules and forms for the administration of this section.

The bill would take effect January 1, 2024, contingent on the approval by voters of a constitutional amendment authorizing the legislature to exempt from ad valorem taxation real property used to operate a child-care facility (HJR 149).

Methodology

This analysis utilizes data from the Child Day Care Licensing Data Book from the Texas Health and Human Services for fiscal year 2022 and assumes data is representative of the child-care facilities addressed by the bill. Categories of operations concerning temporary shelters or school-age programs were not included.

To estimate the appraised property value of a child-care facility, the appraised commercial real property value (category F1) in Texas as reported in the School District Property Value Study in 2022 (preliminary) was divided by the number of entities reported for category F1 to give a per-property appraised value; this result was reduced to reflect the possibility of generally lower property values of child-care facilities vs. commercial properties such as office buildings. The adjusted per-property value was then multiplied by the number of child-care facilities and projected jurisdiction tax rates to yield revenue loss. Child-care population and facility growth were projected based on projected overall population growth of 0 to 4 year-olds. An adjustment was made to account for high value properties contained in category F1 as well as the potential rural/urban property value deviations.

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 (FSP) is $98.8 million in fiscal year 2025, increasing to $141.7 million in fiscal year 2028. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of $54.8 million in fiscal year 2025, increasing to $98.6 million in fiscal year 2028. The decrease in recapture is reflected as a savings in the table above because recapture is appropriated as a method of finance for the FSP in the General Appropriations Act.

Local Government Impact

Contingent upon passage of a constitutional amendment, the bill would provide an exemption from property taxation of real property used to operate child-care facilities which could reduce taxable value. However, the no-new-revenue and voter-approval tax rates as provided by Section 26.04, Tax Code could be higher as a consequence of the reduction in taxable property value proposed by the bill.

The fiscal impact to school districts is shown in the table above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, BRI, AF, SD