

SUBJECT: Tax exemption for property owned by a religious organization for expansion

COMMITTEE: Local Government Ways and Means — favorable, without amendment

VOTE: 7 ayes — Hill, Hegar, Laubenberg, McReynolds, Mowery, Puente,
Quintanilla

0 nays

WITNESSES: None

BACKGROUND: Texas Constitution, Art. 8, sec. 2(a), provides that all occupation taxes must be equal and uniform upon the same class of subjects within the limits of the authority levying the tax. The Legislature may, by general law, exempt actual places of religious worship or any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society and that yields no revenue to the church or religious society. However, the exemption must not extend to more property than is reasonably necessary for a dwelling place and in no event to more than one acre of land.

Tax Code, sec. 11.20, provides that religious organizations are entitled to an exemption from taxation of:

- real property that is owned by the religious organization, is used primarily as a place of regular religious worship, and is reasonably necessary for engaging in religious worship;
- certain tangible personal property owned by the religious organization;
- real property that is owned by the religious organization and is reasonably necessary for use as a residence for clergy, not to exceed one acre of land for each residence, and tangible personal property that is owned by the religious organization and is reasonably necessary for use of the residence; and
- real property owned by the religious organization consisting of an incomplete improvement that is under active construction or other physical preparation and that is designed and intended to be used as a place of regular religious worship when complete, or the land on which

the incomplete improvement is located that reasonably will be necessary for use of the improvement as a place of worship. The property may not be exempted for more than three years.

An incomplete improvement is under physical preparation if the religious organization has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for construction or has conducted an environmental or land use study.

To qualify as a religious organization, an organization must:

- be organized and operated primarily for the purpose of engaging in religious worship or promoting the spiritual development of individuals;
- be operated in a way that does not result in accrual of distributable profits or realization of private gain;
- use its assets in performing the organization's religious functions or the religious functions of another religious organization; and
- by charter or other regulation, direct that on discontinuance of the organization, the assets are to be transferred to the state, the United States, or other charitable, educational, or religious organization.

DIGEST:

HJR 55 would amend the Texas Constitution, Art. 8, sec. 2(a) to permit the Legislature to exempt from taxation any property owned by a church or by a strictly religious society that owned an actual place of religious worship if the property was owned for the purpose of expansion of the place of religious worship or construction of a new place of religious worship and the property yielded no revenue to the church or religious society. The Legislature could provide eligibility limitations for the exemption and could impose sanctions.

The proposal would be presented to the voters at an election on Tuesday, November 4, 2003. The ballot proposal would read: "The constitutional amendment to authorize the legislature to exempt from ad valorem taxation property owned by a religious organization for purposes of expanding or constructing a religious facility."

**SUPPORTERS
SAY:**

HJR 55 would permit the Legislature to prohibit local entities from taxing non-revenue generating property owned by religious organizations for future

expansion. Because of the growth communities across Texas are experiencing, churches are preparing for the future by purchasing property for expansion. Current law punishes that farsightedness.

Under current law, taxing units in several counties are taxing property owned by churches for future expansion, even if it does not generate any revenue for the church. There is a three-year exemption for land that is under active construction or other physical preparation, but after three years the land can and is being taxed.

HJR 55 appropriately would allow the Legislature to eliminate the three-year time limit that a church had to build on a church property that was contiguous to the tract of land on which the place of worship was located before it became eligible for taxation. It would permit a church to plan for its future without having to sell property to pay its taxes. Finally, HJR 55 would permit the Legislature to close a loophole that permits local entities to tax church property.

HJR 55 would authorize that Legislature to provide eligibility limitations for the exemption and to impose sanctions for religious organizations that wrongfully took advantage of it. Therefore, concerns about abuse of the exemption are misplaced.

**OPPONENTS
SAY:**

As with any tax exemption, there would be potential for abuse under HJR 55. A religious organization that owned land near a place of worship that was not used for parking or any other function easily could claim that they intended to expand or build a place of worship on that property. However, 15 years might pass before the structure was built, or it might not be built at all.

NOTES:

The enabling bill for HJR 55, HB 1278 by Zedler, would amend the Tax Code to include the land that the religious organization owned for the purpose of expansion of the place of regular religious worship or construction of a new place of regular religious worship within the land for which a religious organization was entitled to an exemption, if the religious organization owned other property that qualified for an exemption for certain reasons, and the land produced no revenue. A tract of land that was not contiguous to the tract of land on which the religious organization's place of regular religious worship was located could not be exempted under the provisions described above for

more than three years, and the bill would impose tax penalties, plus interest, on land that was sold or otherwise transferred to another person in a year in which the land received the exemption.