

SUBJECT: Granting exemptions from timberland use change rollback tax sanctions

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

VOTE: 6 ayes — Hill, Hegar, McReynolds, Mowery, Puente, Quintanilla

0 nays

1 absent — Laubenberg

SENATE VOTE: On final passage, May 6 — 31-0, on Local and Uncontested Calendar

WITNESSES: *(On House companion bill, HB 1201:)*

For — Lee Flowers

Against — None

BACKGROUND: The Tax Code allows land used for timber production and agricultural purposes to be appraised for property taxation at its productivity value, which typically is below market value. Sec. 23.76 addresses changes in timberland usage and sec. 23.55 addresses changes in agricultural land usage. Both statutes contain “rollback” provisions that assess back taxes, calculated as the difference between productive and market values, plus interest on land no longer used to produce timber or agricultural commodities, with some exceptions. Both statutes exempt from those sanctions changes in use produced by right-of-way sales, condemnation, transfers for public purposes, and changing land to timber or agricultural production as the case may be. Sec. 23.55 also exempts agricultural land from use change sanctions for erection of residence homesteads, buildings used for religious activities, and non-profit cemeteries meeting certain criteria.

DIGEST: SB 1364 would give timberland the same residence homestead, religious organization, and non-profit cemetery exemptions pertaining to rollback sanctions for changes in land use that currently apply to agricultural land. Identical language in sec. 23.55(I), (l), (j), and (k) would be added to sec. 23.76.

Timberland property tax valuations reflecting productivity value would not be affected by owners' claiming portions of the land as their residence homesteads for property tax purposes. Tax rollback sanctions would not apply to timberland converted within five years to eligible religious uses, including sites for places of worship and parsonages, as well as incomplete improvements and non-revenue producing activities.

Sanctions also would not apply to timberland parcels of five acres or less owned by non-profit cemetery organizations, dedicated for cemetery purposes, and located in unincorporated areas of counties having populations of less than 100,000. Eligible organizations could not have dedicated more than five acres of land for cemetery purposes in the counties during the five preceding years. Parcels would have to be adjacent to cemeteries in existence for more than 100 years. The Health and Safety Code definitions of "cemetery," "cemetery organization," and "cemetery purpose" would apply.

The bill would take effect September 1, 2003. Changes to the Tax Code would apply only to changes in land use occurring on or after that date. Land use changes made prior to that date would be governed by the laws in effect at that time.

**SUPPORTERS
SAY:**

Timber essentially is an agricultural commodity and is being recognized as such by tax and appraisal professionals. Yet much of Texas law still treats timberland differently than land used to raise crops or livestock. Timberland productivity value is not calculated the same way as agricultural land, for example, and timberland valuations typically are much higher than agricultural valuations.

SB 1364 would help bring the two types of land closer to parity in terms of property tax treatment regarding land use changes. It makes no sense to deny timber producers the rollback sanction exemptions granted farmers and ranchers for homesteads, churches, and cemeteries. At best, the statutory differences probably are inadvertent; at worst, they appear discriminatory. It is unfair to penalize an East Texas timberland owner for building a house on his property when his neighbor who owns agricultural land may do so with impunity. Owners of both types of land should have the same protection under the law.

Several chief appraisers among those in the state's 44 timber-producing counties support this bill because they recognize that this disparity is indefensible. Most of them do not perpetuate it in practice. Only a few parcels of timberland change usage each year, affecting a tiny fraction of the state's property valuation. Foregoing these one-time tax penalties would have virtually no adverse impact on local or school property tax revenues.

SB 1364 is about fairness and equal protection, not the validity of individual land usages or the criteria appraisers use to categorize land. Not all timberland is more suitable for homesteads than farmland, and timber harvesting can be disruptive to residences. Timberland is no more subject to tax abuse than any other kind of real property.

**OPPONENTS
SAY:**

Rollback sanctions exist as a disincentive for timberland owners to take timberland out of production. Exempting timberland owners from these sanctions would be detrimental to maintaining the state's timber resources.

Exempting timberland owners from rollback sanctions would cost local governments money and should be postponed. While the actual amounts might be small and sporadic, the current fiscal situation weighs against any tax policy change, however well-intentioned, that would hurt school districts, counties, or cities.

**OTHER
OPPONENTS
SAY:**

Timberland is not quite the same as farm and ranch land and should not be treated as such for tax purposes. Unlike most crops or livestock, timber is not harvested annually or periodically but as infrequently as once every 20 to 25 years. Consequently, timberland can serve purposes that agricultural land cannot. Unlike cultivated land, timberland has aesthetics that could enhance the market value of residences and other real estate improvements. Rollback sanctions should be retained, both for timberland and agricultural land, to discourage abuse of land designations for tax purposes.

NOTES:

The identical companion bill, HB 1201 by McReynolds, was reported favorably, without amendment, by the Local Government Ways and Means Committee on March 28.