

- SUBJECT:** Exempting nonprofit business organizations from ad valorem taxation
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 6 ayes — Keffer, Ritter, Otto, Paxton, Pena, Pitts
0 nays
3 absent — Bonnen, Y. Davis, Flores
- WITNESSES:** For — Charlie Dromgoole, Round Rock Chamber of Commerce; Jimmy Hayley, Texas City - La Marque Chamber of Commerce; L. G. Murrell, Jr., Brazosport Chamber of Commerce; Jim Rich, Greater Beaumont Chamber of Commerce; Sandra Shaw; (*Registered, but did not testify:* Liz Dujka, Mansfield Area Chamber of Commerce; Kelly Hau, The Longview Partnership; Bruce Hillegeist, Greater Tomball Area Chamber of Commerce; Beth Journeay, Greater Angleton Chamber of Commerce; Melissa Malecheck, West Chambers County Chamber of Commerce; Terri Ricketts, McKinney Chamber of Commerce; Jenny Senter, Texas City - La Marque Chamber of Commerce; Chris Shields, San Antonio Chamber of Commerce; Duane E. Wilson, North San Antonio Chamber of Commerce; Harold Dean)

Against — None
- BACKGROUND:** Tax Code, ch. 11 specifies certain organizations such as nonprofit and charitable organizations that are exempt from ad valorem taxation in Texas.

U.S. Internal Revenue Code, sec. 501(c)(6) exempts from federal tax certain organizations such as business leagues and chambers of commerce that are not organized for profit.
- DIGEST:** HB 1837 would exempt certain property of nonprofit community business organizations from ad valorem taxation. To qualify, a “nonprofit community business organization” would have to:
- be in existence for at least the five preceding years;
 - be organized as a nonprofit corporation under state law (under the

Texas Non-Profit Corporation Act or Texas Non-Profit Corporation Law) and federal law (under U.S. I.R.C. sec. 501(c)(6));

- maintain a dues paying membership of at least 50 for the preceding three years;
- have a board of directors elected by its members who are not compensated for their service on the board; and
- be supported by membership dues and income related to its primary functions.

In addition, the organization in its local community would have to primarily be engaged in:

- promoting the common economic interests of businesses;
- improving business conditions; or
- providing economic development services.

The bill specifically would define the types of buildings and personal property owned by nonprofit community business organizations that would be exempt from taxation under the bill. The type of property owned by a nonprofit community business organization exempt from taxation would include a building or tangible personal property owned by the organization that exclusively was used by the organization to perform its primary functions. A “building” would include land necessary for the use of, access to, or ornamentation of the building. An organization could allow people to use property exempted from taxation under this bill and retain the exemption only if the use was incidental to use by the organization and if the use was limited to activities benefiting the beneficiaries of the organization.

Certain types of improvements owned by nonprofit community business organizations also would be exempt from taxation under the bill. These would include real property owned by a nonprofit community business organization that was:

- an incomplete improvement that was under active construction or physical preparation and was to be used exclusively by the organization; and
- the land on which that improvement was located.

An incomplete improvement would be considered to be under “physical preparation” if a nonprofit community business organization had:

- engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work that was necessary for the construction of the improvement; or
- conducted an environmental or land use study related to the construction of the improvement.

An incomplete improvement or the land on which an incomplete improvement was located could not be exempt from ad valorem taxation for longer than three years.

The bill would take effect January 1, 2008.

**SUPPORTERS
SAY:**

HB 1837 would provide a narrow exemption from property taxation for chambers of commerce, defined in the bill as “nonprofit community business organizations.” Providing this exemption would allow a local chamber of commerce to direct money that the organization otherwise would have to spend on property taxes to its primary goal of improving the business climate and recruiting companies to the community.

Because the role of a chamber of commerce or similar organization is to support the activities of local business and increase property value and tax revenue in local communities, it is appropriate to grant these organizations this tax exemption. Further, because businesses that fund chambers of commerce already pay state and local taxes, including property taxes, taxing chambers of commerce amounts to a form of double taxation. Chambers of commerce already are exempted from federal and state taxes, and HB 1837 simply would extend this policy to local taxes.

The bill includes stringent criteria that would prevent non-legitimate groups from abusing the exemption and to ensure that only chambers of commerce or similar organizations were eligible. The organization would have to be established for five years, have at least 50 dues paying members, have an unpaid board of directors elected by its members, and be engaged in promoting the economic interest of the community. Other individuals or groups would be able to use exempt property only if that use was incidental to the chamber of commerce’s use of the facility and if the use benefited the organization or its members. In addition, the criteria set forth in the bill also would allow a nonprofit community business organization providing economic development services in its community that did not refer to itself as a “chamber of commerce” to be eligible for property tax exemption.

Providing a chamber of commerce a three-year window on property tax exemption on an incomplete improvement would allow a chamber of commerce to purchase and develop property for use by the organization for a limited time. This window would be limited to three years to prevent an organization from simply purchasing a property and sitting on it for decades without actively developing it and using it for the organization's interests. When the improvement was complete, the property would be exempted in perpetuity for the organization under the bill.

It is unlikely that a chamber of commerce directly would purchase or try to include a convention center or hotel in the exemption provided under this bill, as the bill specifies that only purposes related to economic development would be eligible. The safeguards and requirements laid out under HB 1837 would be sufficient to discourage an application of this exemption to projects that were unrelated to the direct economic development services that chambers of commerce provide in their communities. If a chamber of commerce leased part of its property to an organization that was not engaged in the chamber of commerce's primary function of economic development services, that portion of the property would not be tax exempt.

**OPPONENTS
SAY:**

Providing a property tax exemption for real and personal property of chambers of commerce in the state would reduce taxable property values, shifting the tax burden to other taxpayers and requiring the state to make up the difference for school tax purposes. According to the Legislative Budget Board, HB 1837 would cost local governments, such as school districts and cities, property tax revenue and raise state costs for the Foundation School Fund. However modest, the bill would result in a shift of the state and local tax burden from chambers of commerce to other taxpayers across the state.

The property tax exemptions in Tax Code, ch. 11 should be reserved for churches, shelters, and other nonprofit charitable organizations that serve the community. A chamber of commerce is a voluntary organization supported by its members that engages in advocacy for their benefit. As such, it would be inappropriate for the state to grant tax exemptions to these organizations without extending the exemption to other voluntary organizations. For example, labor unions provide support for members and work to improve the lives of working people in local communities. However, under HB 1837 unions still would have to pay ad valorem taxes. If a chamber of commerce is exempted from property taxes under this bill,

it only would be fair to provide a similar exemption to unions and other voluntary organizations.

NOTES: During the 2005 regular session, a similar bill, HB 2095 by Bonnen, was considered in a public hearing and left pending by the Local Government Ways and Means Committee.