

SUBJECT: Limiting the number of property tax freeze elections in some jurisdictions

COMMITTEE: Local Government Ways and Means — committee substitute recommended

VOTE: 5 ayes — Hill, Creighton, Puente, Quintanilla, Villarreal

0 nays

2 absent — Elkins, C. Howard

WITNESSES: For — Jack H. Leonhardt, Mayor, City of Windcrest

Against — Cheryl E. Johnson. (*Registered, but did not testify*: Michele Connole, Americans for Prosperity)

BACKGROUND: Texas Constitution, Art. 8, sec. 1-b(h) allows the governing bodies of counties, cities, towns, and junior college districts to freeze the amount of property taxes that can be imposed on residential homesteads owned by people who are disabled and/or at least 65 years old. Property taxes cannot increase as long as the residences are maintained as homesteads by owners who are disabled or at least 65 years old or surviving spouses who were at least 55 years old when the owner died. Once a taxing unit approves a tax freeze, it cannot be repealed or rescinded.

Upon receipt of a petition signed by at least 5 percent of the political subdivision's registered voters, a local governing body must call an election to determine by majority vote whether to freeze taxes for elderly or disabled homeowners. A local governing body also may freeze taxes for elderly or disabled homeowners of its own volition.

Tax Code, sec. 11.261 provides procedures for counties, municipalities and junior college districts to implement the freeze approved under Art. 8, sec. 1-b(h). A different constitutional provision, Art. 8, sec. 1-b(d), applies to the school district tax freeze, which is not discretionary and does not require an election or approval by the local school board.

DIGEST: CSHB 2087 would amend Tax Code, sec. 11.261 to limit the number of petition-driven elections called under Texas Constitution, Art. 8, sec. 1-b(h) to two in a 36-month period. During this period, if voters in the

political subdivision twice failed to approve a tax freeze for elderly or disabled property owners, the district could not hold another freeze election until the third anniversary of the most recent election that failed to approve the freeze. This restriction would apply only to counties, general-law municipalities, and junior college districts. The limitations would not prohibit such governing bodies from establishing freezes themselves or, if otherwise authorized under statute, from calling a freeze election absent a voter petition.

If residents of a home-rule municipality successfully petitioned for another freeze election after two elections had failed to approve the freeze within a 36-month period, the governing body would be required to hold another freeze election but could hold it at the next regularly scheduled municipal election, provided sufficient time existed to prepare the ballot as required by law.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 2087 would prevent local taxing districts from having to pay excessive amounts of money to repeatedly hold the same petition election while still preserving the rights of citizens to be heard.

Although most taxing districts that have put a voter-petitioned freeze election on the ballot have approved the measure, one city has rejected the freeze measure twice in two years. Residents of Windcrest, a city of more than 5,000 residents in Bexar County, voted against the measure that would have cost the city an estimated \$3 million in lost revenue during a nine-year period. Some city officials and residents are concerned about holding future elections after spending a total of \$35,000 for the elections that failed to approve the tax freeze.

CSHB 2087 would not stifle the will of the people. Instead, it would allow the voters to be heard twice on the same issue before putting a temporary moratorium on a freeze election for a three-year period. The committee substitute further would reduce the number of people potentially affected by the waiting period by limiting the bill's effect to general-law municipalities, rather than all municipalities. Further, CSHB 2087 would not limit the number of freeze elections that voters could petition in a home-rule municipality and would allow the governing body to coordinate the election with the next scheduled municipal election, thereby reducing the amount of money spent presenting the measure to voters again.

This bill would balance the rights of voters to participate in the process and the costs to local taxing districts. In some cases, it is the will of the people to allow a taxing district to provide a certain level of services by preserving its base of taxable property. Continuing to hold frequent elections that cost the taxing district money undermines the message sent by the majority in refusing to grant the tax freeze.

OPPONENTS
SAY:

This bill would overly restrict voters' participation in the democratic process and place a limit on voter-led tax initiatives that does not exist for local governments, which can implement a tax freeze under Art. 8, sec. 1-b(h) on their own authority. CSHB 2087 also would attempt to apply a statewide solution to a problem that apparently exists only in one community.

Local taxing districts can repeatedly offer bond initiatives without limit, and voters should have that same right, especially because of the burdens placed on them to get a measure on the ballot. Time restrictions and signature requirements already provide a hurdle for citizens, but if they meet those standards, they should get an opportunity to make their case to the people. Taking away a right sends a bad message to voters about the importance of their role in the democratic process.

OTHER
OPPONENTS
SAY:

The bill should restrict the number of tax freeze elections within a three-year period only if the margin of defeat in both elections was great. Citizens in a community where the freeze failed twice by a margin of 51 percent to 49 percent, for example, should not have to wait three years for another opportunity to put a tax freeze measure before the people.

NOTES:

The committee substitute changed the bill as introduced to require a home-rule municipality to hold unlimited petition-driven freeze elections in a 36-month period but allowing it to hold these elections along with regularly scheduled municipal elections. The substitute also would apply only to counties, junior college districts, and general-rule municipalities, rather than all municipalities as under the original version.

On May 12, Texas voters will consider the approval of Proposition 1 (SJR 13 by Averitt), which would allow for a decrease in the school tax freeze amount for elderly or disabled property owners in proportion to property tax reductions that occurred in 2006 and 2007. The enabling legislation for this proposed amendment, HB 5 by Berman, passed the House and is pending in the Senate Finance Committee. The proposal would apply only

to the school district tax freeze and would not affect the tax freeze for other political subdivisions.