

SUBJECT: Proportionate reduction in elderly and disabled school tax freeze amount

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 8 ayes — Keffer, Ritter, Otto, Bonnen, Y. Davis, Paxton, Pena, Pitts

0 nays

1 absent — Flores

WITNESSES: For — Carlos Higgins, Texas Silver-Haired Legislature; Jennifer McPhail, ADAPT of Texas; Joe Sanchez, AARP-Texas; Lisa Lum; Worth Wharton; (*Registered, but did not testify*: Dennis Borel, Coalition of Texans with Disabilities; Will Brown, AARP-Texas; Henry L. Edmunds and Lillian Edmunds, AARP-Texas; Ted Melina Raab, Texas Federation of Teachers; Tomas Rodriguez, AARP-Texas; Joseph Cook; Carol Eiland; Ray Vaughn; Margaret Ann White; Peggy Wildman)

Against — None

On — Sarah Mills, Advocacy Inc. and Disability Policy Consortium

BACKGROUND: Tax Code, ch. 11.26, authorized by Texas Constitution, Art. 8, sec. 1-b(d), limits the amount of property taxes imposed by a school district on the residence homestead of a person who is disabled or at least 65 years of age. The dollar amount of the tax may not be increased as long as the property remains the residence homestead of the person or the person's surviving spouse. If the person who qualifies for the limitation dies, the limitation remains in place for a surviving spouse who was age 55 or older at the time of the person's death. The tax freeze amount is adjusted based on improvements that increase the value of the property or when the elderly or disabled person moves to a different, more valuable homestead.

In its third called session in 2006, the 79th Legislature enacted HB 1 by Chisum, which provided for state aid to school districts to reduce school property taxes by 11.3 percent in tax year 2006 and one third (33.3 percent) in tax year 2007 and beyond.

DIGEST:

(The version of HB 5 summarized in the Digest incorporates the floor amendment that Rep. Byron Cook plans to offer to conform the bill with final version of SJR 13 as amended by the House.)

HB 5 would amend the Tax Code to apply the proportionate reduction in a school district's property tax rate from tax year 2006 to tax year 2007 in calculating the maximum amount of school property taxes owed by individuals whose tax bills were frozen because they are disabled or at least 65 years old. If the new calculations resulted in a school property tax bill lower than the amount at which it was frozen, the lower amount would be established as the new cap. A homeowner who was eligible for the limitation prior to tax year 2006 also would receive a proportional tax reduction for tax year 2007 based on a reduction in the school district tax rate that occurred between tax year 2005 and tax year 2006. The adjusted amount also would take into account improvements that increased the value of the homestead.

School districts would be entitled to additional state aid to the extent that adjustments authorized by HB 5 reduced the revenues districts could collect from taxable property.

HB 5 would take effect on the date an official canvass of election returns showed that voters had adopted a constitutional amendment (SJR 13) authorizing the adjustment of property tax freezes for disabled and elderly homeowners based on the reduction in tax rates between the 2006 and 2007 tax years and would apply beginning in tax year 2007.

SUPPORTERS
SAY:

HB 5 is the enabling legislation for SJR 13, the proposed constitutional authorization for the tax freeze adjustment already approved by the Legislature and that will be submitted to the voters at the May 12, 2007, election. If the voters approve SJR 13, HB 5 would implement tax relief for senior citizens and those who receive federal disability payments. It would reduce the amount of their previously frozen school taxes proportionally to reflect the tax reduction enacted by the 79th Legislature in HB 1 for all other Texans. Without this amendment, many homeowners who have had their school district taxes frozen for a number of years would not benefit from property tax relief measures recently enacted by the Legislature.

Many elderly and disabled homeowners live on fixed incomes and should be assured of the benefit that other homeowners already received last year and will receive starting this year from the reduction in school property taxes. The Legislature made a similar adjustment in the tax freeze amount in 1997 when it increased the homestead exemption amount so that everyone would receive tax relief from the change. Should the Legislature make additional school tax reductions, it can propose another constitutional change to authorize another adjustment in the school tax freeze amount.

The primary purpose of offering a school property tax freeze to senior citizens and the disabled is to give budget certainty to people who live on fixed incomes, and the adjusted freeze should operate in the same way. Proposals that would adjust the limitation amount upward if school tax rates subsequently were increased could cause elderly and disabled homeowners to face a substantial increase in their expenses, which might make it financially difficult for some to continue living in their homes.

HB 5 would ensure that all eligible homeowners received the full measure of tax relief granted by the 79th Legislature. Unlike homeowners who first became eligible for the tax freeze in tax year 2006, homeowners whose tax bills were frozen in previous years have not received any benefit from the reduction in taxes that took place between the 2005 and 2006 tax years. This bill would treat equally all disabled and elderly homeowners, regardless of when they became eligible for the tax freeze.

**OPPONENTS
SAY:**

The property tax reduction enacted recently by the Legislature was intended to provide tax relief to those Texans whose tax bills have soared in recent years as a result of rising property values and increases in local school property tax rates. Senior citizens and disabled homeowners generally have been shielded from these increases by having their property tax bills frozen, regardless of their income or ability to pay local school district taxes. These individuals already have received significant tax relief, especially those whose residence homesteads have increased substantially in value since their tax bills were frozen. There is no need to provide a special additional benefit to these individuals by reducing their taxes even more.

The property tax freeze already benefits individuals owning wealthier homes more than those with modest residences. Any future reduction

should be targeted only to the elderly and disabled under a certain income level.

OTHER
OPPONENTS
SAY:

While school property tax rates may continue to drop after 2007, HB 5 and SJR 13 would not allow for any corresponding reductions in the tax freeze amount. As a result, the Legislature would have to repeatedly change the law and seek voter approval to amend the Constitution to allow seniors and disabled citizens to benefit from future tax cuts. The Legislature should amend the law and the Constitution one time to allow for automatic tax freeze reductions in the future.

It would be fairer to all property owners if the tax freeze amount were allowed to float. While elderly and disabled homeowners deserve to receive the extra tax relief this bill would grant, they also should have to assume the proportionate tax burden when rates inevitably rise — at least until the amount reached the level at which their taxes originally were frozen. Elderly and disabled homeowners still would receive tax relief under such a system because, unlike other property owners, their tax bills would never rise above the amount they paid for 2006.

Elderly and disabled residents who participate in school tax rollback elections would have no incentive to vote against higher taxes if their tax burden remained unchanged regardless of the outcome.

NOTES:

HB 5 is the enabling legislation for SJR 13 by Averitt, the proposed constitutional amendment that will be submitted to the voters on Saturday, May 12, 2007. The House adopted SJR 13 as amended by 146-0 on February 19, and the Senate concurred with the House amendment by 29-0 on February 22. If approved by the voters, SJR 13 would authorize the Legislature to reduce the elderly and disabled school tax freeze amount proportionately to reflect the school district tax rate reduction from tax year 2005 to tax year 2007.

The original version of HB 5, as reported without amendment by the Ways and Means Committee, would allow an automatic, proportional reduction in the tax bills of seniors and the elderly if the Legislature reduced school district tax rates in the future. It reflects the original version of HJR 1 by Berman and SJR 13 as originally adopted by the Senate. Rep. Cook's proposed floor amendment to HB 5 would reduce proportionately the school tax freeze amount based only on the school district tax reductions that took place in 2006 and 2007 and would distinguish between tax

calculation methods for homeowners whose tax bills first were frozen in 2006 and those whose bills were frozen in prior tax years. It reflects the amendment to SJR 13 that the House adopted and to which the Senate concurred.

According to the Legislative Budget Board, offsetting the lost property tax revenue from HB 5/SJR 13 would cost the state \$276 million in general revenue-related funds for fiscal 2008-09.

Senate companion bills SB 321 by Deuell and SB 582 by Patrick are pending in the Senate Finance Committee.

During the first called session of the 79th Legislature in 2005, the House approved HJR 24 by Berman, which was substantially similar to HJR 1 as introduced this session, but it died in the Senate. During the third called session of the 79th Legislature in 2006, the House approved HJR 26 by Berman. As reported from committee, HJR 26 would have allowed the elderly and disabled tax freeze amount to rise or fall proportionately with changing school tax rates, up to the original freeze amount, but as introduced and as amended and approved by the House, HJR 26 was substantially similar to HJR 1 as introduced this session and would have allowed only a reduction in the freeze amount. HJR 26 died in the Senate Finance Committee.

On January 12, Gov. Perry declared legislation authorizing the reduction of property taxes for the elderly and disabled to reflect any reduction in school tax rates to be an emergency matter for immediate consideration by the Legislature.