

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: Under Texas Constitution, Art. 8, sec. 1- b(d), the amount of property taxes imposed by a school district on the residence homestead of a person who is age 65 or older or disabled may not be increased while the property remains the residence homestead of the person or the person's spouse. If the person age 65 or older who qualifies for the limitation dies, the limitation remains in place for a spouse who was age 55 or older at the time of the person's death.

The limitation does not apply to most improvements that increase the value of the property. The Legislature may provide for transfer of all or a proportionate amount of the tax freeze amount for a qualifying person who establishes a different residence homestead. When the Legislature increased the homestead exemption by \$10,000 in 1997, it also amended Art. 8, sec. 1-b(d) to require a reduction in the tax freeze amount for those who previously had received it to reflect the higher homestead exemption.

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:

HJR 1 would amend Texas Constitution, Art. 8, sec. 1-b(d) to specify, for homeowners who are age 65 or older or disabled and received a limitation on school property taxes in the tax year preceding a reduction in the school district tax rates, that the limitation amount would have to be reduced for the current and subsequent tax years in proportion to the reduction in the tax rate. A homeowner who was eligible for the limitation in tax year 2006 also would receive a proportional tax reduction for tax year 2007 based on a reduction in the tax rate that occurred between tax year 2005 and tax year 2006.

The amendment would take effect on the date an official canvass of election returns showed that voters had adopted the amendment and would apply beginning in tax year 2007.

The proposal would be presented to the voters at an election on Saturday, May 12, 2007. The ballot proposal would read: "The constitutional amendment authorizing the legislature to provide for a reduction of the limitation on the total amount of ad valorem taxes that may be imposed for public school purposes on the residence homesteads of the elderly or disabled to reflect any reduction in the rate of those taxes."

**SUPPORTERS
SAY:**

HJR 1 would authorize tax relief to senior citizens and to those who received federal disability payments by ensuring that taxes that had been frozen for these citizens were reduced proportionally to reflect any tax reduction enacted by the Legislature for all other Texans. For example, if a school district reduced its tax rate by one third, a tax bill that previously was frozen at \$1,000 would drop in the following tax year to \$667, where it would remain frozen. Without this amendment, many homeowners who have had their school district taxes frozen for a number of years would be unlikely to 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.

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.

The Legislature needs to approve HJR 1 or its Senate companion, SJR 13 by Averitt, now so that it can be placed on the ballot for the Saturday, May 12, 2007, uniform election. Many cities, school districts, and other jurisdictions will hold local elections that day, so there should be little additional expense from including a statewide referendum on this proposed constitutional amendment. Waiting until the November 6, 2007, election would be too late for the elderly and disabled to benefit from a tax freeze adjustment for the 2007 tax year.

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:

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 additional tax relief under such a system because, unlike other property owners, their tax bills would never rise above the amount they paid for 2006. Moreover, 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:

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.

The companion measure, SJR 13 by Averitt, passed the Senate by 29-0 on February 14 and was reported favorably, without amendment, by the House Ways and Means Committee on February 15, making it eligible to be considered in lieu of HJR 1. In addition to authorizing a proportionate school tax freeze reduction, the introduced version of SJR 13 would have specified that state appropriations made to reduce school property taxes would not have counted against the constitutional state spending limit. A Senate amendment removed the provision concerning the constitutional state spending limit, and the version of SJR 13 approved by the Senate is identical to HJR 1.

HJR 60 by Chisum, which is similar to the introduced version of SJR 13, is pending in the House Ways and Means Committee.

HB 5 by Berman, the enabling legislation for HJR 1, was reported favorably, without amendment, by the House Ways and Means Committee on February 15. HB 5 would guarantee that school districts would be entitled to state aid to compensate for any revenue loss due to the adjustment in the elderly and disabled school tax freeze. According to the Legislative Budget Board, offsetting the lost property tax revenue from HB 5/HJR 1 would cost the state \$276 million in general revenue-related funds for fiscal 2008-09.

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, 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 and would have allowed only a reduction in the freeze amount. HJR 26 died in the Senate Finance Committee.

During the third called session in 2006, the House adopted an amendment to HB 1 by Rep. Naishtat that would have reduced the elderly and disabled tax freeze amount in proportion to any general school tax reduction. This provision was included in the enacted version of HB 1, but since it was contingent on approval during the third called session of a constitutional amendment authorizing the change, which did not occur, the provision did not take effect.