

- SUBJECT:** Residential value basis for tax appraisal of homestead property
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 10 ayes — Oliveira, Otto, Bohac, Hartnett, Hilderbran, C. Howard, P. King, Paxton, Taylor, Villarreal
- 0 nays
- 1 absent — Peña
- WITNESSES:** For — Jim Robinson, Texas Association of Appraisal Dists; (*Registered, but did not testify:* John Brusniak, Brusniak / Blackwell; Joff Crozier, Rural Rental Housing Association of Texas; Aurora Flores-Ortiz, Texas Association of Counties; Daniel Gonzalez, Texas Association of Realtors; Billy Howe, Texas Farm Bureau; Cheryl Johnson, Galveston Co. Tax Office & Taxpayers; James LeBas, Texas Oil and Gas Association, Texas Chemical Council, Koch Companies, Association of Electric Companies of Texas; Donald Lee, Texas Conference of Urban Counties; Lance Lively, NFIB Texas; Mark Mendez, Tarrant County; Ned Muñoz, Texas Association of Builders; Cindy Segovia, Bexar County Commissioners Court; Sheryl Swift, Galveston County Tax Office; David Thompson, Houston Independent School District)
- Against — None
- BACKGROUND:** Tax Code, sec. 23.01 requires that property be appraised for ad valorem taxation purposes at its market value. Market value must be determined by application of generally accepted appraisal methods and techniques. The same or similar appraisal methods and techniques must be used to appraise the same or similar kinds of property, but each property must be appraised based on the individual characteristics that affect its market value.
- DIGEST:** HB 3613 would amend the Tax Code, sec. 23.01 to require that the market value of a residence homestead be determined solely on the basis of the property's value as a residence homestead, regardless of whether the residential use of the property by the owner was considered to be the highest and best use of the property.

HB 3613 would take effect only if a constitutional amendment authorizing the Legislature to provide for the ad valorem taxation of a residence homestead solely on the basis of the property's value as a residential homestead were approved by the voters.

The bill would take effect on January 1, 2010, and would apply only to an ad valorem tax year that began on or after that date.

**SUPPORTERS
SAY:**

Determining the highest and best use of a particular piece of property is a generally accepted property appraisal technique used to help determine the market value of real property. Among real estate professionals, highest and best use is the use that is legally permissible, physically possible, financially feasible, and most profitable. The term is not defined by the Tax Code.

Some Texas homeowners have seen their real property appraisals rise between 200 and 400 percent, not because the value of their homes increased, but because the highest and best use of the land itself dramatically increased. While those properties whose use is restricted by zoning regulations are somewhat protected from dramatic changes in highest and best use — for example, from residential to commercial — those areas of the state not covered by zoning regulations are susceptible to dramatic appraisal increases based solely on the changes of land use in the area.

Texas already protects some kinds of property from large appraisal increases due to highest and best use. Agricultural and timber land are taxed on the productive value of the land, but no protection exists for residential properties.

HB 3613 and its accompanying proposed constitutional amendment, HJR 36 by Otto, would protect Texas homesteads from increases due to highest and best use by ensuring that they would be appraised only on the basis of the property's value as a residence homestead. These protections are especially necessary to protect homeowners whose neighborhoods are in transition from a residential to commercial use.

HB 3613 would apply only to residential homesteads, not second homes or investment properties. The bill is narrowly tailored so that only those homesteads in areas that were in transition and allowed by applicable zoning regulations to make that transition would be affected. This would

ensure that vulnerable homestead owners in need of protection received it at a minimal cost to tax revenues.

**OPPONENTS
SAY:**

According to the LBB, allowing homestead residential property to be valued based solely on its residential use and exempted from a highest and best use valuation could reduce taxable property values and thereby reduce local tax revenue. Also, when school district's property values per student are lower, the state must provide additional funding to that district under the Foundation School Fund's equalization formulas. The state cannot afford to increase its obligations to the Foundation School Fund when the next biennium is expected to have even less available revenue than the current one.

NOTES:

HB 3613 is enabling legislation for HJR 36 by Otto, which is on today's Constitutional Amendments Calendar. The companion to HJR 36, SJR 48 by Williams, was adopted by the Senate by 30-0 on April 24.

SB 20 by Williams, which contains a provision identical to HB 3613, was reported favorably, as substituted, by the Senate Finance Committee on April 22.