

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Certain lands used by Texas farmers and ranchers can qualify for designation and appraisal as land for agricultural use under current law. Land owners benefit from lower appraisals, referred to as the agricultural valuation, because such appraisals alleviate the property tax burden faced by ranchers and farmers so that they may remain engaged in agriculture. However, the agricultural valuation may also be used by individuals who hold land for recreational or investment purposes and who may not need the same relief from property taxes as the farmers and ranchers. If such individuals are provided with the opportunity to share the tax burden, it may result in increased tax revenue and a lower tax burden on other property owners.

As proposed, S.B. 1576 creates a new appraisal category for ad valorem tax purposes for qualified recreational land. This bill provides that qualified recreational land would be subject to appraisal at 20 percent of the land's market value. This bill also serves as the enabling legislation for S.J.R. 51, which proposes a constitutional amendment to allow for ad valorem taxation of recreational land on the basis of a percentage, but not less than 20 percent, of the land's market value.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter F, Chapter 23, Tax Code, to read as follows:

SUBCHAPTER F. APPRAISAL OR LAND RESTRICTED TO RECREATIONAL, PARK,
AND SCENIC USE

SECTION 2. Amends Chapter 23, Tax Code, by adding Subchapter I, as follows:

SUBCHAPTER I. APPRAISAL OF RECREATIONAL LAND

Sec. 23.9851. DEFINITION. Defines "qualified recreational land," and "appurtenances to the land."

Sec. 23.9852. QUALIFICATION FOR APPRAISAL AS RECREATIONAL LAND. Sets forth certain conditions for land to qualify for appraisal as recreational land as provided by this subchapter (appraisal).

Sec. 23.9853. APPRAISAL OF QUALIFIED RECREATIONAL LAND. (a) Provides that the appraised value of qualified recreational land is equal to 20 percent of the land's market value.

(b) Requires the chief appraiser to determine the market value of the qualified recreational land and to record both market value and appraised value in the appraisal records.

Sec. 23.9854. APPLICATION. (a) Requires a person claiming that the person's land qualifies for appraisal to file a valid application with the chief appraiser.

(b) Requires an application for appraisal to be on a form provided by the appraisal office and prescribed by the comptroller of public accounts (comptroller), and to contain the information necessary to determine the validity of the claim.

(c) Requires the comptroller to include a notice on the form of the penalties prescribed by Section 37.10 (Tampering with Governmental Record), Penal Code, for making or filing an application containing a false statement. Requires the comptroller, in prescribing the contents of the application form, to require that the form permit a claimant who has previously been allowed appraisal to indicate that the previously reported information has not changed and to supply only the eligibility information not previously recorded.

(d) Requires the form to be filed before May 1. Authorizes the chief appraiser, for good cause shown, to extend the filing deadline for not more than 15 days.

(e) Provides that the land is ineligible for appraisal for the year that a person fails to timely file a valid application. Provides that the land continues to qualify for appraisal in subsequent years without a new application once an application has been filed and appraisal is allowed unless the ownership of the land changes or the land's eligibility for appraisal ends. Authorizes a chief appraiser, who has good cause to believe that the land's eligibility for appraisal has ended, to require a person allowed appraisal in a previous year to file a new application to confirm that the land qualifies for appraisal through a certain procedure.

(f) Requires the appraisal office to make a sufficient number of printed application forms readily available at no charge.

(g) Requires the chief appraiser for each appraisal district to publicize the requirements of this section and the availability of the application form in a manner reasonably designed to notify all of the district's residents every year.

(h) Requires a person whose land qualifies for appraisal to notify the appraisal office in writing before May 1 after the land ceases to qualify for an appraisal. Provides that a penalty is imposed on the property of a person who fails to notify the appraisal office as required by this subsection equal to 10 percent of the difference between the taxes imposed on the property in each year it was erroneously allowed appraisal and the taxes that would otherwise have been imposed.

(i) Requires the chief appraiser to make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and to deliver a written notice of imposition of the penalty to the person who owns the property. Requires the notice to include a brief explanation of the procedures for protesting the imposition. Requires the assessor for each taxing unit that imposed taxes on the property on the basis of appraisal to add the amount of the penalty to the unit's tax bill for taxes on the penalized property. Requires the penalty to be collected at the same time and in the same manner as the taxes on the penalized property. Provides that the amount of the penalty constitutes a lien on the penalized property and on delinquency accrues penalty and interest in the same manner as a delinquent tax.

(j) Requires the chief appraiser, if the chief appraiser discovers that appraisal has been erroneously allowed in any of the five preceding years because of the failure of the person whose land was appraised to give notice that the land ceased to qualify, to add the difference between the appraised value of the land and the market value for any year in which the land was ineligible for appraisal to the appraisal records as provided by Section 25.21 (Omitted Property) for other property that escapes taxation.

Sec. 23.9855. LATE APPLICATION FOR APPRAISAL AS RECREATIONAL LAND.

(a) Requires the chief appraiser to accept and approve or deny an application for appraisal after the filing deadline if it is filed before approval of the appraisal records by the appraisal review board.

(b) Provides that an owner whose late application is approved is liable for a penalty of 10 percent of the difference between the amount of taxes imposed on the property and the amount that would have been imposed if the property were taxed at market value.

(c) Requires the chief appraiser to make an entry on the appraisal records indicating the person's liability for the penalty and to deliver written notice of the imposition of the penalty and an explanation of the reason for its imposition.

(d) Requires the tax assessor for each taxing unit that imposed taxes on the property on the basis of appraisal, after a late application, to add the amount of the penalty to the owner's tax bill for taxes on the penalized property and to collect the penalty at the time and in the manner the collector collects property taxes. Provides that the amount of the penalty constitutes a lien against the penalized property as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Sec. 23.9856. ACTION ON APPLICATION. (a) Requires the chief appraiser to determine separately each applicant's right to have the applicant's land appraised. Requires the chief appraiser, based on the laws and facts and after consideration of the application and all relevant information, to approve the application and allow appraisal, to disapprove the application and request additional information from the applicant in support of the claim, or to deny the application.

(b) Requires an applicant, who has been requested by the chief appraiser to provide additional information, to furnish said information to the chief appraiser within 30 days of the date of request or the chief appraiser will be required to deny the application. Authorizes the chief appraiser to extend the deadline, for good cause shown, for furnishing the requested information by written order for a single period not to exceed 15 days.

(c) Requires the chief appraiser to determine the validity of each filed application for appraisal before the chief appraiser submits the appraisal record for review and determination of protests as provided by Chapter 41 (Local Review), Tax Code.

(d) Requires the chief appraiser, upon denial of an application, to deliver a written notice of the denial to the applicant not later than the fifth day after the chief appraiser's determination. Requires the chief appraiser to include with the notice a brief explanation of the procedures for protesting the denial.

Sec. 23.9857. CHANGE OF USE OF LAND. (a) Provides that an additional tax will be imposed on land that has changed in use since its last appraisal equal to the sum of the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs and the taxes that would have been imposed if the land had been appraised on the basis of market value for those years, and interest at an annual rate of seven percent calculated from the dates on which the differences would have become due (change of use sanction).

(b) Provides that a tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. Provides that the lien exists in favor of all taxing units for which the additional tax is imposed.

(c) Provides that the change of use sanction does not apply to a year for which the tax has already been imposed.

(d) Provides that the change of use sanction applies only to the part or parcel of the land that has changed in use after appraisal, except as otherwise provided by this subsection. Provides that the change of use sanction applies to the entire parcel if the change in use reduces the size of the parcel used for recreational purposes to less than 10 contiguous acres.

(e) Provides that the chief appraiser makes the determination that a change in the use of land has occurred. Requires the chief appraiser to deliver a notice of the determination to the owner of the land as soon as possible and to include in the notice an explanation of the owner's right to protest the determination. Requires the assessor for each taxing unit to prepare and deliver a bill for the additional tax and interest as soon as practicable after the change of use occurs if the owner does not file a timely protest or if the final determination of the protest is that the additional tax is due. Provides that the tax and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(f) Sets forth certain situations under which a change of use occurs that would exempt the owner from the change of use sanction.

(g) Provides that the change of use sanction does not apply if the use of land changes to a use that qualifies for appraisal under Subchapter E (Appraisal of Timberland), Chapter 23, Tax Code.

(h) Provides that the change of use sanction does not apply to land owned by an organization that qualifies as a religious organization under Section 11.20(c) (regarding standards for qualification as a religious organization), Tax Code, if the organization converts the land to a use for which the land is eligible for an exemption under Section 11.20 (Religious Organizations) within five years.

(i) Requires the comptroller of public accounts (comptroller), for purposes of determining whether a transfer of land qualifies for the exemption from the additional tax provided by Subsection (f)(4), to determine the amount of taxes and other revenues likely to be generated as a result of the economic development stemming from an entity's application transferring or proposing to transfer the land or of the individual or entity to which the land is transferred or proposed to be transferred, for deposit in the general revenue fund during the next two state fiscal bienniums. Requires the comptroller to issue a letter to the applicant stating the comptroller's determination that the amount of those revenues is likely to equal or exceed 20 times the amount of additional tax and interest that would be imposed under a change of use sanction if said sanction applied to the transfer, and to send a copy of the letter by regular mail to the chief appraiser.

(j) Authorizes the appraisal district's board of directors, by official board action, to direct the chief appraiser to request the comptroller to determine if the amount of revenues was equal to or in excess of 20 times the amount of additional tax and interest that would be imposed by a change of use sanction within one year of the conclusion of the two state fiscal bienniums for which the comptroller issued a letter as provided under Subsection (i). Requires the comptroller to issue a finding as to whether the amount of revenues met the projected increases. Requires the chief appraiser to review the results of the comptroller's finding and to make a determination as to whether the change of use sanction should be imposed. Requires the change of use sanction, if the chief appraiser determines it is to be imposed, to be based on the date of the transfer of property under Subsection (f)(4).

(k) Provides that the change of use sanction does not apply to land owned by an organization that qualifies as a charitable organization under Section 11.18(c) (regarding qualifications of a charitable organization), Tax Code, and meets other

certain guidelines, if the organization converts the land to a use for which the land is eligible for an exemption under Section 11.18(d)(19) (regarding the provision of housing and other services to persons 62 years of age or older), Tax Code, within five years.

SECTION 3. Amends Section 25.02(a), Tax Code, to include Subchapter I, Chapter 23, as a subchapter that may be used to appraise the value of land which is required to be included in the appraisal records.

SECTION 4. Amends Section 31.01(c), Tax Code, to include the market value of the property appraised under Subchapter I, Chapter 23, Tax Code, and the appraised value of that property for purposes of deferred or additional taxation as provided by Section 23.9857, Tax Code, required to be on a tax bill or a separate statement accompanying the tax bill.

SECTION 5. Amends Section 41.01(a), Tax Code, to make a conforming change.

SECTION 6. Amends Section 41.03(a), Tax Code, to make a conforming change.

SECTION 7. Amends Section 41.41(a), Tax Code, to make a conforming change.

SECTION 8. Amends Section 41.44(a), Tax Code, to make a conforming change.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: January 1, 2008, contingent upon approval by the voters of the constitutional amendment relating to the authorization of the legislature to provide for the ad valorem taxation of land used for recreational purposes on the basis of a percentage of the market value of the land.