

BILL ANALYSIS

Senate Research Center
88R10150 LHC-F

S.B. 1771
By: King
Local Government
4/17/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1771 codifies an optional (and industry standard) utility property tax valuation method for multi-county nonprofit electric cooperatives. Additionally, it restores property tax appraisal uniformity for nonprofit electric cooperatives with multiple county service areas; thus, eliminating unnecessary utility and taxpayer costs.

Specifically, the bill provides an optional equal and uniform method with a rebuttable presumption that electric cooperatives' utility property be valued at a traditionally acceptable rate for electric cooperatives (i.e., a percentage of their net book). As such, nonprofit electric cooperatives will continue to pay property taxes consistent with these valuation levels. The bill also provides for an optional and elective 20 percent of net book valuation methodology.

Problem to be addressed:

Nonprofit electric cooperative utilities have paid personal property taxes utilizing a methodology employed by central appraisal districts for many years. In 2019, a single third-party private consulting appraisal firm deviated (without explanation) from the standard method of valuing nonprofit electric cooperatives and this created inconsistent property tax appraisals from county to county. This change resulted in some nonprofit electric cooperatives and their members seeing total valuation increases of over 100 percent year-to-year from 2018 to 2019. Numerous appeals and lawsuits were filed to challenge the private third-party appraisal consulting firm's valuations adding unnecessary costs to the valuation process. Ultimately, county taxpayers and nonprofit electric cooperative utility members paid these added costs. As a nonprofit, all costs incurred in the process are paid by the nonprofit electric cooperative's members who are also the same taxpayers in each county; effectively duplicating expenses for cases that almost always settle at traditional, standard values (not the levels aggressively appraised by the private third-party appraisal consulting firm). When these cases settle for values consistent with the traditional methodology (instead of the private third-party consulting firm's valuation), the affected tax districts must refund the excess tax payment back to the nonprofit electric cooperative. This affects the county's tax collection process and extends the instability. This bill was written to resolve this controversy in a way which will allow for transparency, stability, and consistency among all parties.

Current law and how legislation addressed the issue differently:

- There is no current law that deals specifically with the valuation of electric cooperatives. Current law under which electric cooperatives' utility properties are appraised is Chapters 1 and 23, Tax Code.
- Provides consistency in the valuations of electric cooperatives that persisted until 2019. There will be less revenue instability for affected tax districts.

As proposed, S.B. 1771 amends current law relating to the appraisal for ad valorem tax purposes of property owned by certain electric cooperatives.

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 Subchapter B, Chapter 23, Tax Code, by adding Section 23.1212, as follows:

Sec. 23.1212. PROPERTY OWNED BY ELECTRIC COOPERATIVE; VALUE. (a) Defines "electric cooperative" and "presumptive appraised value."

(b) Authorizes an electric cooperative that owns taxable real or personal property in more than one appraisal district to elect to have the property appraised for a tax year as provided by this section.

(c) Requires an electric cooperative, to elect appraisal of property for a tax year under this section, to submit a written request not later than the applicable deadline for filing a rendition statement or property report under Section 22.23 (Filing Date) to the chief appraiser of each appraisal district for which the election is made. Requires that the request state the net book value on January 1 of that tax year of the electric cooperative's taxable property in the appraisal district for which the request is submitted as determined on the basis of the electric cooperative's books and records.

(d) Requires a chief appraiser who receives a request timely submitted under this section, except as provided by Subsection (e), to appraise the property that is the subject of the request at the property's presumptive appraised value.

(e) Authorizes a chief appraiser to increase the appraised value of an electric cooperative's real and personal property to an amount greater than the presumptive appraised value if the increase is supported by clear and convincing evidence.

SECTION 2. Provides that this Act applies only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2023.