

BILL ANALYSIS

C.S.H.B. 382
By: Murphy
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that while state law provides a property tax exemption to eligible properties that are leased to schools, a property owner's entitlement to such a tax exemption does not extend to property leased to an open-enrollment charter school. C.S.H.B. 382 seeks to address this disparity by entitling a person to an exemption from taxation of the portion of the real property that the person owns and leases to a qualified open-enrollment charter school under certain circumstances.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 382 amends the Tax Code to entitle a person to an exemption from taxation of the portion of the real property that the person owns and leases to a qualified open-enrollment charter school if the real property is used exclusively by the school for educational functions and is reasonably necessary for the operation of the school, the owner certifies by affidavit to the school that the rent for the lease of the real property will be reduced by an amount equal to the amount by which the taxes on the property are reduced as a result of the exemption, the owner provides the school with a disclosure document stating the amount by which the taxes on the real property are reduced as a result of the exemption and the method the owner will implement to ensure that the rent charged for the lease of the property fully reflects that reduction, and the rent charged for the lease of the real property reflects the reduction in the amount of taxes on the property resulting from the exemption through a monthly or annual credit against the rent. The bill exempts a leasehold interest in property for which the owner receives a property tax exemption under the bill's provisions from the application of statutory provisions relating to the requirement for a leasehold or other possessory interest in real property that is exempt from taxation to the owner of the estate or interest encumbered by the possessory interest to be listed in the name of the owner of the possessory interest if the duration of the interest may be at least one year.

EFFECTIVE DATE

January 1, 2018, if the constitutional amendment authorizing the legislature to exempt from property taxation real property leased to certain schools organized and operated primarily for the purpose of engaging in educational functions is approved by the voters.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 382 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.211 to read as follows:

Sec. 11.211. REAL PROPERTY LEASED TO CERTAIN SCHOOLS. (a) A person is entitled to an exemption from taxation of the real property that the person owns and leases to an open-enrollment charter school authorized by Subchapter D, Chapter 12, Education Code, that is qualified as provided by Section 11.21(d) of this code if:

- (1) the real property is used exclusively by the school for educational functions;
 - (2) the real property is reasonably necessary for the operation of the school;
 - (3) the owner certifies by affidavit to the school that the rent for the lease of the real property will be reduced by an amount equal to the amount by which the taxes on the property are reduced as a result of the exemption;
 - (4) the owner provides the school with a disclosure document stating the amount by which the taxes on the real property are reduced as a result of the exemption and the method the owner will implement to ensure that the rent charged for the lease of the property fully reflects that reduction; and
 - (5) the rent charged for the lease of the real property reflects the reduction in the amount of taxes on the property resulting from the exemption through a monthly or annual credit against the rent.
- (b) Section 25.07 does not apply to a leasehold interest in property for which the owner receives an exemption under this section.

SECTION 2. This Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 3. This Act takes effect January

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.211 to read as follows:

Sec. 11.211. REAL PROPERTY LEASED TO CERTAIN SCHOOLS. (a) A person is entitled to an exemption from taxation of the portion of the real property that the person owns and leases to an open-enrollment charter school authorized by Subchapter D, Chapter 12, Education Code, that is qualified as provided by Section 11.21(d) of this code if:

- (1) the real property is used exclusively by the school for educational functions;
 - (2) the real property is reasonably necessary for the operation of the school;
 - (3) the owner certifies by affidavit to the school that the rent for the lease of the real property will be reduced by an amount equal to the amount by which the taxes on the property are reduced as a result of the exemption;
 - (4) the owner provides the school with a disclosure document stating the amount by which the taxes on the real property are reduced as a result of the exemption and the method the owner will implement to ensure that the rent charged for the lease of the property fully reflects that reduction; and
 - (5) the rent charged for the lease of the real property reflects the reduction in the amount of taxes on the property resulting from the exemption through a monthly or annual credit against the rent.
- (b) Section 25.07 does not apply to a leasehold interest in property for which the owner receives an exemption under this section.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

1, 2018, but only if the constitutional amendment proposed by the 85th Legislature, Regular Session, 2017, authorizing the legislature to exempt from ad valorem taxation real property leased to certain schools organized and operated primarily for the purpose of engaging in educational functions is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.