

SUBJECT: Portability of 65-plus tax freeze; appraised value limits and frequency

COMMITTEE: Select Committee on Revenue and Public Education — committee substitute recommended

VOTE: 7 ayes — Sadler, Hilbert, Brimer, Chisum, Hochberg, Williamson, Wilson
0 nays
4 absent — Craddick, Hernandez, Junell, Stiles

SENATE VOTE: On final passage, April 22 — 30-0

WITNESSES: For — None
Against — None
On — Sheryl N. Cole, Texas Municipal League; Owen Selby

BACKGROUND : Texas Constitution Art. 8, sec. 1 (a) provides that taxation be equal and uniform, and sec. 1 (b) requires that all taxable property be taxed in proportion to its value.

Texas Constitution, Art. 8, sec. 1-b, provides for various mandatory and optional exemptions from the assessed taxable value of residence homesteads, including a \$3,000 general exemption and a \$5,000 exemption for public school taxes. In addition to exemptions from taxable value allowed on the homestead of persons aged 65 and over, the amount of school property taxes paid by such persons may not increase from the time their homestead qualifies for the exemption until they cease to use the property for a homestead or make significant improvements. Spouses aged 55 and older may retain the tax freeze if their spouse aged 65 or older dies. However, persons lose their tax freeze if they move and must establish a new tax freeze amount at their new homestead.

The Property Tax Code, sec. 25.18 requires that property be appraised at

least once every three years. There is no limit on valuation increases, which is based on market value.

DIGEST:

Limits on percentage and frequency of property valuations

CSSJR 43 would allow the Legislature to limit the maximum annual increase in homestead appraisal valuations. A limitation on appraisal increases would take effect for a homestead on the effective date of the amendment's enabling legislation or on January 1 of the tax year following the first tax year that a property owner qualified for an exemption under Art. 8, sec. 1-b. A limitation would expire on January 1 of the first tax year that the owner of the property or the owner's surviving spouse or minor child no longer qualified for a sec. 1-b exemption.

CSSJR 43 also would authorize the Legislature by law to limit the frequency that increases in the appraised value of real property could be recognized for ad valorem tax purposes.

Portability of 65 and older freeze on public school taxes

CSSJR 43 would authorize the Legislature to allow all or a proportionate amount of a public school property tax freeze for persons age 65 and older to be transferred to a different homestead.

Ballot language

The proposed constitutional amendment would be presented to voters at an election on November 4, 1997. The ballot proposal would read: "The constitutional amendment authorizing the legislature to limit increases in value and the frequency of appraisals of residence homesteads for property tax purposes and to provide for the transfer to a different residence homestead of the school property tax freeze on residence homesteads of the elderly."

SUPPORTERS
SAY:

Portability of 65 and older freeze on public school taxes

Persons age 65 and older who currently enjoy a freeze on their school taxes should not be penalized if they choose to move. Current law penalizes persons 65 and over who move to a different residence even though many people in this age category often move to smaller homes because they need less space. Some are also forced to move because they cannot afford to pay other property taxes assessed on their current home. However, by moving, they lose the school tax freeze that they enjoyed.

The tax freeze for seniors is a benefit that should follow individuals, not the property they happened to be living in at the time they turned 65. Senior citizens should not be forced to stay in the same home after they turn 65 just to retain their property tax freeze.

Limits on percentage and frequency of property valuations

The proposed amendment also would permit the Legislature to enact legislation that would contain increases in homestead appraisal valuations by capping the percentage of annual valuation increases and limiting the frequency that appraisals on all property, including homesteads, could be recognized for taxing purposes.

Currently, homes can be reappraised each year, and there is no limit on the increase in appraisal values. This can be particularly onerous for homeowners in fast-growth areas who have seen huge increases in their appraised property value each year, greatly adding to their property tax burden. SB 841 by Cain, the enabling legislation for CSSJR 43, would limit the number of times that a home could be reappraised to no more than once every three years and limit the annual percentage increase to 5 percent a year, which would assure homeowners that their property value could not increase by more than 15 percent every three years. This reasonable limit would allow higher property valuations to be phased in over time and add some needed predictability to the system.

Property taxes in Texas are too high, as evidenced by the governor's initiative to lower school property taxes. To provide needed relief, tax rates could be limited or capped, but this would not prevent "tax creep" as the

total tax bill for many homeowners continues to soar due to sharp hikes in their appraised valuation. CSSJR 43 would establish constitutional authority for the Legislature to limit tax creep without unduly limiting local governments in raising property tax revenue.

A constitutional amendment is needed to authorize the Legislature to limit the increase and frequency of property appraisals because Art. 8, sec. 1 requires that taxation be equal and uniform and that all taxable property be taxed in proportion to its value.

**OPPONENTS
SAY:**

Limits on percentage and frequency of property valuations

The Constitution provides that taxation be equal and uniform and that all taxable property be taxed in proportion to its value, which is only fair. This constitutional amendment would allow the Legislature cap the appraisal valuations on homesteads and allow them to be treated differently than commercial or industrial property. This would be blatantly unfair by causing non-residential property to bear the costs of limitation on homestead valuations. If local governments are forced to raise tax rates to compensate for an artificial limit on appraised values, everyone could end up paying more, especially non-residential property owners.

Capping the percentage valuation increase for homesteads and limiting the frequency of appraisals could be a two-edge sword. Although it could help homeowners in fast growing areas that are experiencing large annual increases in property values, it could hurt those very same people when growth slows. If homestead property can only reappraised every three years and value increases capped at 5 percent a year, as proposed in SB 841, then appraisal districts might be inclined to automatically raise appraisals 15 percent every three years because it would be another three years before they could change the appraised value.

The three-year appraisal lag could actually backfire on homeowners. Three years could be a long time between appraisals, especially since market values could go down. The overall effect could be to cause tax rates to skyrocket to make up the needed tax dollars.

Instead of capping appraisal values and limiting frequency of appraisals, which would artificially skew property values and result in unequal taxation, it would be better to lower the tax rates for homeowners. Under the House version of HB 4, residential property taxes for public school maintenance and operation would drop from \$1.30 per \$100 valuation to 64 cents and the Senate version would lower the tax rate by 17 cents.

The proposed amendment would allow the Legislature to limit the frequency of appraisals for *all* property, not just homesteads. Although the implementing bill, SB 841, would only limit the frequency with which homestead appraisals could be recognized, nothing would prevent the Legislature from extending the frequently limitation to commercial and industrial property. If both business and residential property reappraisals were only recognized for tax purposes every three or more years, local taxing districts could be effectively prevented from raising the revenue necessary to keep schools operating and police on the streets without massive tax hikes.

Portability of 65 and over school tax freeze

The portability of the 65 and over school tax freeze should be carefully structured to provide relief only to those seniors who actually need the exemption. One option would be to weight the amount of the exemption that was transferable based on the income of the individual. Other proposals would allow the freeze to be transferred only if the person were forced to move because of governmental action such as condemnation of the property.

The property tax losses to school districts caused by this provision would be costly to the state because general revenue would have to make up the shortfall in local funds caused by portability of the tax freeze. The fiscal note indicates that it would cost the state more than \$25 million by fiscal 2002, and this figure would increase each year thereafter.

OTHER
OPPONENTS
SAY:

The tax freeze portability for seniors should be placed in the Constitution to ensure that it cannot be rescinded by future legislatures.

NOTES: The Senate-approved version of SJR 43 would have placed portability of the 65 and over school tax freeze in the Constitution and did not include provisions allowing limits on appraisal value and frequency.

SB 841 by Cain et al., which passed the Senate on April 22 and was reported favorably, as substituted, by the House Select Committee on Revenue and Public Education Funding on May 16, would cap the annual valuation on homesteads at 105 percent of the appraised value of the property for preceding year and would limit the frequency of appraisals for residential property to no more than once every three years.

HJR 4 by Craddick and Junell would allow the Legislature to authorize property tax freezes for persons 65 and over to be transferred to a different homestead.