

**SUBJECT:** Property tax exemptions for charitable organizations

**COMMITTEE:** Ways and Means — favorable, without amendment

**VOTE:** 7 ayes — Oliveira, McCall, Craddick, Hartnett, Bonnen, Y. Davis, Ramsay  
0 nays  
1 present, not voting — Heflin  
3 absent — Hilbert, Keffer, Ritter

**WITNESSES:** For — Robert E. Connor, Most Worshipful Prince Hall Grand Lodge of Texas; David B. Dibrell, Grand Lodge of Texas Ancient Free and Accepted Masons; Howard Leshikar, Slavonic Benevolent Order of the State of Texas Benefit Society  
Against — None  
On — David Dunn, Texas Association of School Boards

**BACKGROUND:** In 1999, voters amended the Texas Constitution, as proposed by the 76th Legislature in HJR 4 by Kuempel/Wentworth, to change the definition of charitable organizations for purposes of property tax exemptions. To be eligible for an exemption from the Legislature, an organization that had been a “purely public charity” now may be “engaged primarily in public charitable functions” (Art. 8, sec. 2(a)).  
  
The enabling legislation for the amendment, HB 1978 by Kuempel, allows tax-exempt organizations supporting the elderly to provide recreational or social activities and facilities designed to meet the elderly’s special needs. The organizations may engage in other activities supporting or relating to their charitable functions and retain their tax-exempt status.

**DIGEST:** HB 1689 would add sec. 11.184 to the Tax Code to grant real and tangible personal property tax exemptions to any qualified organization engaged primarily in charitable functions.

Exemptions would apply to buildings and other real and tangible personal property the organization exclusively owned, used or allowed other charitable tax-exempt organizations to use; incomplete improvements under construction intended for the exclusive use of the organization, or other tax-exempt charities; and the land on which the improvements were located. Exemptions for incomplete improvements and the land on which they were located could not last more than three years.

Incidental use of the property by organizations ineligible for exemptions would not jeopardize the property's tax-exempt status if the activities benefitted the organization that owned or exclusively used the property.

To qualify for an exemption, organizations would have to apply for and obtain determination letters from the Comptroller of Public Accounts (initially and every five years thereafter) stating that the organizations were engaged primarily in charitable functions. Criteria would include tax-exempt status under Sec. 501 of the Internal Revenue Code; possession of a sales tax exemption letter issued by the comptroller; charter or by-laws requiring charitable work or public service; and the amount of contributions or service the organizations perform compared to their operating expenses, dues and property taxes. The comptroller would have up to 120 days, depending on whether additional information was required, to issue determination letters. The comptroller could set an application fee to recover costs. Chief appraisers would have to accept the letters as conclusive evidence of eligibility.

HB 1689 would take effect September 1, 2001, and an organization could not receive an exemption under this bill before the tax year beginning January 1, 2002.

**SUPPORTERS  
SAY:**

HB 1689 would build upon the positive statement made by Texans in 1999 when they clarified the constitutional ambiguity surrounding tax exemptions for legitimate charities engaging in auxiliary support activities that might not be charitable in and of themselves. In effect, the voters directed the Legislature to extend tax-exempt status to organizations that heretofore did not meet the stricter definition of a pure charity.

Many benevolent and fraternal organizations in Texas are heavily involved in charitable work helping thousands of people each year, many of them children and teen-agers. Masons, for example, support the Scottish Rite and Shriners children's hospitals and provide anti-drug abuse programs for fifth-graders. Some of these groups' only income is from member dues, which in many cases are declining along with membership. Yet some facilities, particularly local lodges, are taxed like commercial buildings, and a few have been sold because property taxes became prohibitive.

Giving exemptions to these organizations would free up more money to spend on programs for needy people. The revenue lost to local taxing authorities the state would be minimal compared to the gain in services rendered. Government must have help in addressing social problems, and the state's tax policy should encourage charities to do so, not penalize them.

The bill's procedures would utilize mostly existing documentation and provide clear guidance to appraisers. Comptroller review and the five-year renewal requirement would ensure accountability and reduce unjustifiable exemptions to undeserving or unscrupulous organizations whose activities might not be truly benevolent. Consequently, HB 1689 would not mean an unwarranted expansion of the charitable tax exemption.

OPPONENTS  
SAY:

Granting these types of small exemptions invites slow erosion of the tax base. Over time, the cumulative impact could be significant, especially if the constitutional amendment were found to have created a tax loophole that had unintended consequences.

This bill could extend tax breaks to organizations that did not deserve them, or might be created solely to take advantage of them under the now-less-restrictive standard.

The LBB was unable to predict how many organizations might qualify for the exemption under the current broader definition. The state had more than 2,500 civic, social and fraternal organizations in 1992, according to the U.S. Census Bureau. The comptroller's most recent (and informal) biennial estimate of local property tax revenue loss from this exemption is \$5.2 million. School districts would suffer more than half of that loss. Even if most of them realized only a one-year loss, the state still would have to make

up the difference the following fiscal year. And some districts could incur permanent losses that might have an adverse local fiscal impact, especially if for-profit enterprises associated with eligible organizations that were currently taxed became exempt under this bill.

In addition, the comptroller's office estimates that it would have to hire four employees to process the additional paperwork generated by the bill at a biennial cost of almost \$455,000.

Tax revenue foregone because of exemptions must be made up elsewhere. This bill would create an inequity for other property owners because exemptions merely shift more of the tax burden onto them. It also would inhibit taxing entities' ability to raise needed revenue at a time of slow economic growth, unmet education needs, and uncertainty in school finance.

NOTES:

The companion bill, SB 1554 by Barrientos, was considered in public hearing May 3 and left pending before the Senate Intergovernmental Relations Committee.