

- SUBJECT:** Tax exemption for property owned by a religious organization for expansion
- COMMITTEE:** Local Government Ways and Means — favorable, with amendment
- VOTE:** 7 ayes — Hill, Hegar, Laubenberg, McReynolds, Mowery, Puente, Quintanilla
0 nays
- WITNESSES:** For — Rev. Randall C. Bard, Christ Lutheran Church
Against — None
On — Lee Flowers
- BACKGROUND:** Texas Constitution, Art. 8, sec. 2(a), provides that all occupation taxes must be equal and uniform upon the same class of subjects within the limits of the authority levying the tax. The Legislature may, by general law, exempt actual places of religious worship or any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society and that yields no revenue to the church or religious society. However, the exemption must not extend to more property than is reasonably necessary for a dwelling place and in no event to more than one acre of land.
- Tax Code, sec. 11.20, provides that religious organizations are entitled to an exemption from taxation of:
- real property that is owned by the religious organization, is used primarily as a place of regular religious worship, and is reasonably necessary for engaging in religious worship;
 - certain tangible personal property owned by the religious organization;
 - real property that is owned by the religious organization and is reasonably necessary for use as a residence for clergy, not to exceed one acre of land for each residence, and tangible personal property that is owned by the religious organization and is reasonably necessary for use of the residence; and

- real property owned by the religious organization consisting of an incomplete improvement that is under active construction or other physical preparation and that is designed and intended to be used as a place of regular religious worship when complete, or the land on which the incomplete improvement is located that reasonably will be necessary for use of the improvement as a place of worship. The property may not be exempted for more than three years.

An incomplete improvement is under physical preparation if the religious organization has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for construction or has conducted an environmental or land use study.

To qualify as a religious organization, an organization must:

- be organized and operated primarily for the purpose of engaging in religious worship or promoting the spiritual development of individuals;
- be operated in a way that does not result in accrual of distributable profits or realization of private gain;
- use its assets in performing the organization's religious functions or the religious functions of another religious organization; and
- by charter or other regulation, direct that on discontinuance of the organization, the assets are to be transferred to the state, the United States, or other charitable, educational, or religious organization.

DIGEST:

HB 1278, as amended, would amend the Tax Code to exempt from taxation land that the religious organization owned for the purpose of expanding the place of regular religious worship or constructing a new place of regular religious worship, if:

- the religious organization owned other property that qualified for an exemption, including land containing the property used primarily as a place of regular religious worship, or property consisting of an incomplete improvement or the land on which the incomplete improvement was located; and
- the land produced no revenue for the religious organization.

However, a tract of land that was not contiguous to the tract of land on which the religious organization's place of regular religious worship was located could not be exempted under these provisions for more than three years. A tract of land would be considered to be contiguous with another tract of land if the tracts were divided only by a road, railroad track, river, or stream.

An application or statement accompanying an application for this exemption stating that the land was owned for the required purposes and signed by an authorized officer of the organization would be sufficient to establish that the land was owned for those purposes.

HB 1278 would provide that if land was sold or otherwise transferred to another person in a year in which the land received the exemption described above, an additional tax would be imposed on the land equal to the tax that would have been imposed on the land had it been taxed for each of the five years preceding the year in which the sale or transfer occurred in which the land received an exemption, plus interest at an annual rate of 7 percent calculated from the dates on which the taxes would have become due. However, the sanction would not apply if the sale or transfer occurred as a result of a sale for right-of-way, a condemnation, a transfer of property to the state or a political subdivision of the state to be used for a public purpose, or a transfer of property to a religious organization that qualified the property for an exemption for the tax year in which the transfer occurred.

A tax lien would attach to the land on the date of the sale or transfer to secure payment of the tax and interest. The lien would exist in favor of all taxing units for which the tax was imposed. If only part of a parcel of land that was exempted was sold or transferred, the tax would apply only to that part of the parcel and would equal the taxes that would have been imposed had that part been taxed.

The assessor would have to prepare and deliver a bill for the additional taxes plus interest as soon as practicable after the sale or transfer occurred. The taxes and interest would be due, become delinquent, and incur penalties and interest if not paid before the next February 1 that was at least 20 days after the date the bill was delivered to the owner of the land.

The bill would take effect January 1, 2004, but only if the constitutional amendment proposed by the 78th Legislature and contained in HJR 55 by Zedler, was approved by voters.

**SUPPORTERS
SAY:**

HB 1278 would prohibit local entities from taxing non-revenue generating property owned by religious organizations for future expansion. Because of the growth communities across Texas are experiencing, churches are preparing for the future by purchasing property for expansion. Current law punishes that farsightedness.

Under current law, taxing units in several counties are taxing property owned by churches for future expansion, even if it does not generate any revenue for the church. There is a three-year exemption for land that is under active construction or other physical preparation, but after three years the land can and is being taxed.

HB 1278 appropriately would eliminate the three-year time limit that a church had to build on a church property that was contiguous to the tract of land on which the place of worship was located before it became eligible for taxation. It would permit a church to plan for its future without having to sell property to pay its taxes. Finally, HB 1278 would close a loophole that permits local entities to tax church property.

HB 1278 would contain adequate safeguards to prevent abuse of the tax exemption. A tract of land that was not contiguous to the tract of land on which the religious organization's place of regular religious worship is located could not be exempted for more than three years, which is the time frame under current law. Furthermore, if land which had received an exemption was sold or transferred to another person, additional taxes would be imposed as a penalty, plus interest. Furthermore, a tax lien would attach to the land on the date of the sale or transfer. These stiff penalties would prevent religious organizations from making false claims about their intent to use land for expansion.

HB 1278 would clarify that a tract of land would be considered to be contiguous with another tract of land if the tracts were divided only by a road, railroad track, river, or stream.

**OPPONENTS
SAY:**

As with any tax exemption, there would be potential for abuse under HB 1278. A religious organization that owned land near a place of worship that was not used for parking or any other function easily could claim that they intended to expand or build a place of worship on that property. However, 15 years might pass before the structure was built, or it might not be built at all.

**OTHER
OPPONENTS
SAY:**

The three-year time limit for the exemption of tracts of land not contiguous to the tract of land on which the place of worship was located would not be long enough. Especially during difficult budget times, three years might not be sufficient for a religious organization to build, or even start construction on, a new place of worship.

NOTES:

The committee amendment would add to the situations in which sanctions would not apply for the sale or transfer of land in a year in which the land received an exemption, to include a transfer of property to a religious organization that qualified the property for an exemption for the tax year in which the transfer occurred.

HJR 55 by Zedler, on today's Constitutional Amendments Calendar, would amend Texas Constitution, Art. 8, to permit the Legislature to exempt from taxation any property owned by a church or by a strictly religious society that owned an actual place of religious worship if the property was owned for the purpose of expansion of the place of religious worship or construction of a new place of religious worship and the property yielded no revenue to the church or religious society. The Legislature could provide eligibility limitations for the exemption and could impose sanctions. HB 1278 would take effect only if the Legislature adopted and the voters approved HJR 55.