HOUSE
RESEARCH
ORGANIZATION bill analysis | 5/2/2003 | HB 136
F. Brown, B. Brown, et al.

SUBJECT: Implementing freeze on city and county taxes for elderly homeowners

COMMITTEE: Local Government Ways and Means — favorable, without amendment

VOTE: 7 ayes — Hill, Hegar, Laubenberg, McReynolds, Mowery, Puente, Quintanilla

0 nays

WITNESSES: For — Bill Cummings, Texas Silver Haired Legislature; Maxine Gammon; Dan Hart, Taxpayers for Equal Appraisal; Byron Lee; Donald Lee, Texas Conference of Urban Counties; Cory Shields; Charlotte Taylor; Lucille Turner; Zevertine A. Wentworth

Against — Dick Lavine, Center for Public Policy Priorities; Milo Nitschke, City of San Antonio; Karen Rhodes, City of Plano

On — Lee Flowers; Philip B. Scheps, City of Houston

BACKGROUND: Tax Code, ch. 11 establishes various exemptions from the market value of taxable property. Sec. 11.13(b) entitles a residence homestead owner to an exemption of $15,000 of the homestead's appraised value for school district purposes. Sec. 11.13(c) entitles an owner who is disabled or age 65 or older to an additional $10,000 exemption from the appraised value for school taxes. Any local taxing entity may elect to provide an additional exemption of at least $3,000 for a disabled or elderly homeowner.

Tax Code, sec. 11.26 prohibits a school district from increasing the annual amount of property taxes it imposes on the residence homestead of a person age 65 or older above the amount it imposed in the first tax year for which the person qualified for the partial exemption for the elderly, unless the owner makes improvements to the property. An elderly person who receives this limitation on tax increases later may qualify a different residence homestead for the tax freeze.

DIGEST: HB 136, the enabling legislation for HJR 16 by F. Brown, B. Brown, et al., would prescribe the procedure for freezing the amount of county or city property taxes imposed on residential homesteads of people age 65 or older in a county or municipality that had adopted the limitation that would be allowed if HJR 16 is approved by Texas voters.

Tax officials would have to continue appraising the fair market value of the residential homesteads owned by people age 65 or older and calculating the property taxes based on that appraised value. The city or county could not increase annual taxes imposed on such homesteads above the amount imposed during the first year a homeowner qualified for the exemption under Tax Code, sec. 11.13. Homeowners could qualify for the county and city tax freeze for the full tax year if they turned 65 and qualified for the exemption during the year.

Cities or counties could increase taxes on a residential homestead owned by an elderly person based on increased value because of improvements to the homestead, other than repairs. The tax freeze then would apply to the higher tax amount.

A limitation on county and city taxes under these provisions would expire on January 1 of a tax year in which the property no longer was used as a residence homestead or if none of the property owners qualified for the exemption under Tax Code, sec. 11.13.

HB 136 would provide for correction of any exemption erroneously allowed; continuation of the tax freeze if the property owner conveyed an interest in the residential homestead to a qualifying trust; transfer of all or part of the value of the limitation to another qualifying residential homestead elsewhere in the city or county; and entitling a person who qualified a different residence for the tax freeze to obtain a written certificate so that a similar limitation could be obtained in another city or county allowing such property-tax limits.

The bill would allow the transfer of the tax limitation upon the death of a homeowner age 65 or older to a surviving spouse who was 55 or older at the time of the owner's death, as long as the spouse claimed the property as a residential homestead. If the person claiming the exemption died during the first year of the limitation, taxes would be limited to the amount imposed during that year, unless the amount of taxes would be lower in the next year after the qualifying homeowner died.

HB 136 would make conforming changes to Tax Code provisions governing the appraisal procedure for separate owners of a cooperative housing corporation and to the procedure for calculating the total taxable value of property in the political subdivision.

This bill would take effect January 1, 2004, only if voters approved the proposed constitutional amendment to allow counties and municipalities to establish the tax limitation for elderly homeowners.

SUPPORTERS SAY:

Increasing property taxes are a particular burden on elderly homeowners, a vast majority of whom live on fixed incomes. HB 136 is modeled on existing tax limitations on school taxes allowed by the Tax Code. If this bill were enacted and voters approved HJR 16, elderly homeowners still would have to pay their share of property taxes to support services provided by counties and cities. Knowing what their taxes would be in the future would allow them to budget for that expense within their limited incomes.

Elderly homeowners in high-growth areas, such as Cedar Park northwest of Austin, have been squeezed by rising property evaluations. Increases in appraised value of more than $10,000 are not uncommon. The average home value in Cedar Park is about $112,000, and property taxes would be $543 for that typical home. That represents nearly 2 percent of the median income of a Cedar Park homeowner aged 65 to 74. The city easily could compensate for a freeze on elderly homeowners' taxes through taxes generated by new residential and commercial development.

HB 136 would respect the principle of local control and would recognize that city and county elected officials can be entrusted to make important financial decisions. These officials can weigh whether the city or county can afford to implement the tax freeze for elderly homeowners, and they can be trusted to make the right decision.

Limitations on property taxes, even if limited to elderly homeowners, would force cities and counties to reexamine their budget priorities. Local governments should reduce their expenditures and not rely on easy tax increases generated by higher residential property values. City and county government have other sources of revenues, such as sales taxes, utility charges, and other fees that senior citizens pay.

OPPONENTS SAY:

Limiting school taxes may be justified because elderly homeowners typically have no school-aged children using public schools. However, senior citizens are heavy users of city and county programs such as recreation centers, drive on city streets and county roads, and benefit from a wide range of local services. Other homeowners, such as young couples and single parents, also struggle with high property taxes, and they receive no special exemptions. Property tax breaks should be based on the ability to pay, rather than on a criterion such as the age of the homeowner.

This bill could have a substantial negative impact on local governments' budgets, particularly as baby boomers "age into" the exemption. According to the fiscal note for HJR 16, cities stand to lose up to $9.8 million in fiscal 2005 and up to $11.7 million in fiscal 2008. Counties could collect $5.6 million less in property tax in fiscal 2005 and $6.7 million less in fiscal 2008. Unlike school districts, cities and counties receive no state reimbursement for such losses.

Today's boom towns eventually will become built out, and they must protect against stagnation and possible erosion of the value of the existing property-tax base. During the 1970s and 1980s, Plano was a high-growth city much like Cedar Park. Now Plano has reached capacity for both residential and commercial development and cannot rely on any significant new development to increase its property tax base.

NOTES:

The proposed constitutional amendment, HJR 16 by F. Brown, B. Brown, et al., is on today's Constitutional Amendments Calendar.

A related proposal, HJR 21 by Hamric, et al., which would apply the school tax freeze to disabled persons, was adopted by the House on April 29. The enabling legislation, HB 216 by Hamric, et al., passed the House on April 14 and was referred to the Senate Finance Committee on April 22.