HOUSE RESEARCH ORGANIZATION bill analysis — 5/9/2003

HB 3223
Bohac, et al.
(CSHB 3223 by Quintanilla)

SUBJECT: Limiting increases in real property appraisals for nonschool taxes

COMMITTEE: Local Government Ways and Means — committee substitute recommended

VOTE: 4 ayes — Hill, Hegar, Mowery, Quintanilla

2 nays — McReynolds, Puente

1 absent — Laubenberg

WITNESSES: For — George B. Allen, Texas Apartment Association; Paul Bettencourt; Peggy Faulk

Against — Daniel Casey, Texas School Alliance; Dick Lavine, Center for Public Policy Priorities

On — Jim Robinson

BACKGROUND: In November 1997, Texas voters approved Proposition 2 (SJR 43 by Cain), amending Texas Constitution, Art. 8, sec. 1 to allow the Legislature to limit to 10 percent the maximum average annual increase in the appraised value of a residence homestead. SB 841 by Cain, the enabling legislation enacted by the 75th Legislature, added Tax Code, sec. 23.23. Subsection (a) limits the appraised value of a residence homestead to no more than the market value of the property or 10 percent of the appraised value for the last year the property was appraised, multiplied by the number of years since the last appraisal, plus the last appraised value, plus the market value of new improvements. The limitation takes effect for the tax year beginning January 1 after the homeowner qualifies for the residential homestead exemption, and it expires on January 1 of the first tax year that neither the owner nor the owner's spouse or surviving spouse qualifies for the exemption.

Sec. 23.23(b) requires the chief appraiser to appraise residential homestead property at fair market value and to record both the fair market value and the value computed under the limitation established by sec. 23.23(a).

DIGEST: CSHB 3223, the enabling legislation for HJR 4 by Bohac, et al., would limit the appraised value of real property for taxation by a taxing unit, other than a school district, to the lesser of the market value or the sum of:

- 5 percent of the appraised value for the last year in which the property was appraised for taxation, times the number of years since the last appraisal;
- the appraised value of the property in the last appraisal year; and
- the market value of new improvements to the property.

The average annual increase in appraised value of a residence homestead for school district taxation would remain limited to 10 percent.

When appraising property for purposes of the 5 percent limitation for taxing entities other than school districts, the chief appraiser would have to appraise all real property at fair market value and record both the fair market value and the value computed under the 5 percent limitation.

The 5 percent limitation would apply to appraisals for a tax year beginning on or after January 1, 2004. It would expire December 31, 2005. The limitation would apply to the owner of the property as of January 1 and would expire the following year if:

- the owner no longer owned the property;
- the owner or surviving spouse no longer qualified for the homestead exemption;
- the owner ceased to own the property, unless it was transferred to a spouse or surviving spouse; or
- 50 percent of the interest in the property owned by two or more people was sold or transferred.

The bill would define "new improvement" as an improvement that increased the value of the property after the most recent tax appraisal. Maintenance of an existing structure would not be considered an improvement.

The 5 percent limitation would not apply to property appraised under Tax Code provisions for agricultural or timber land; land used for recreational, park, and scenic purposes; and public access airport property.

CSHB 3223 also would make conforming changes in the Tax Code to differentiate in calculating the limitation on appraisals for school taxes and for nonschool taxes.

The bill would take effect January 1, 2004, only if Texas voters approved the constitutional amendment allowing the Legislature to limit the maximum average annual increase in the appraised value of real property. It would apply to appraisals for tax years that began on or after January 1, 2004.

SUPPORTERS SAY:

CSHB 3223 would provide relief to county, city, and special district residents who are paying excessively high property taxes because of higher appraisals. These increases have occurred despite the 10 percent limit on appraisals in place since 1998 and despite the truth-in-taxation provisions established more than 20 years ago. Local taxing entities should be prevented from collecting more revenue by hiding behind higher tax appraisals instead of raising their tax rates and being held accountable by citizens.

The bill would expand the limitation on appraisal increases to all property owners, rather than only to owners of residence homesteads. Business owners and apartment renters as well as homeowners would benefit from tax relief. Treating all county, city and special district property owners the same would meet the constitutional requirements for equal and uniform taxation.

Existing appraisal limitations for school taxes would remain unchanged in anticipation of a comprehensive review of school financing by legislators. This change by the committee substitute would eliminate a projected revenue loss of $275 million to local school districts in 2005. That loss in local revenue would have had to be replaced by $275 million in state assistance to school districts in 2006.

Although the Legislature is likely to consider school finance in a special session, Texas taxpayers should not have to wait two years for additional property-tax relief. The Legislature can adjust the limitations in CSHB 3223 at the appropriate time, but taxpayers need relief now.

No taxing entity would lose current revenue. Local taxing entities will be able to collect the same amount of property taxes as they do in the current year, plus higher taxes based on the value of new improvements and as much as 5 percent more through higher appraisals on existing property. The bill would limit windfalls due to excessive appraisals.

CSHB 3223 would end the 5 percent limitation on December 31, 2005, to give the Legislature an opportunity to assess the effects of this limitation and reauthorize it if lawmakers consider that appropriate. The current 10 percent limitation on annual increases in appraisal of residence homesteads for school taxation would remain unchanged.

OPPONENTS SAY:

CSHB 3223 would create separate categories of taxable property and would treat even the same properties unequally in assessing taxes for school districts and for counties, cities, and special districts. The Constitution requires that taxation be equal and uniform and that all taxable property be taxed in proportion to its value. This bill would establish a 5 percent difference between appraisals for school and nonschool taxes. Long-time property owners would qualify for the limitation and would pay for higher valuations over time, but new property owners would be liable immediately for higher appraisals.

The bill would cost counties, cities, and special districts millions of dollars without necessarily providing significant relief to local taxpayers. The comptroller's 2003 tax incidence report estimates that school taxes account for 60 percent of the local property-tax burden. The bill would provide no additional relief for nonresidential property owners and would keep the current appraisal limit on homesteads. The bill's fiscal note estimates that counties would lose about $57 million in revenue in 2005 and $80 million in 2006. Cities would see a reduction of $95 million in 2005 and $133 million in 2006. The state has no obligation to compensate counties and cities for this lost revenue as it does with school districts. These taxing entities would have to cut their budgets and reduce services to local citizens or else raise tax rates.

Any tax limitation would benefit disproportionally those who own more expensive property. According to the tax incidence report, the top 20 percent of homeowners — those with houses appraised at $90,149 or more — receive about 43 percent of the tax benefits from the current limitation on appraised value.

OTHER

Efforts over the past decade to provide property-tax relief highlight the fact

OPPONENTS SAY:

that Texas' tax system needs to be overhauled completely. Texas has relied on essentially the same structure of state and local taxes since it first imposed a sales tax in the early 1960s. Today, the sales tax and the local property tax account for more than three-fourths of local and state tax collections. The reason that sales and property taxes are so high is that Texas, like six other states, has no personal income tax. If the state's tax system included income-based taxes, which would be constitutionally dedicated to reducing school property taxes, the state would not need to limit property appraisals artificially.

NOTES:

HJR 4 by Bohac, et al., which would amend the Constitution to allow the Legislature to limit appraisal increases for real property, is on today's House Constitutional Amendments Calendar.

As filed, HB 3223 would have extended the 5 percent limit on appraisal increases to all real property taxed by all local entities. The committee substitute removed school districts from the 5 percent limitation and established a sunset date of December 31, 2005.