

SUBJECT: Ad valorem tax exemption for travel trailers

COMMITTEE: Local Government Ways and Means — committee substitute recommended

VOTE: 6 ayes — Hill, Hegar, Laubenberg, McReynolds, Mowery, Quintanilla
0 nays
1 absent — Puente

WITNESSES: For — Cathie Carr, Escapees RV Club; Albert de la Garza, Texas Recreational Vehicle Association; Jim Rowley and Brian Schaeffer, Texas Association of Campground Owners; John Hearn; Randy McClure; Denny Perkins; (*On committee substitute:*) Brian Booker and Chad Cotton, Explore USA RV Sales; John Eastty and Clark McEwen, Texas Recreational Vehicle Association

Against — None

On — Alonzo Vega, Texas Association of Appraisal Districts and Hidalgo County Appraisal District; Dan Wilson, Comptroller of Public Accounts, Property Tax Division; (*On committee substitute:*) Michael Amezcuita, Texas Association of Appraisal Districts and Cameron County Appraisal District

BACKGROUND: In November 2001, voters approved an amendment to the Texas Constitution (Proposition 14, HJR 44 by Flores) to allow the Legislature to authorize taxing units other than school districts to grant property-tax exemptions to owners of non-income-producing travel trailers registered in Texas, regardless of whether the trailers were real or personal property.

HB 2076 by Flores, the enabling legislation enacted by the 77th Legislature, added Tax Code, sec. 11.142, authorizing taxing units other than school districts to grant property-tax exemptions for non-income-producing travel trailers registered in Texas. Sec. 11.142 defines travel trailers as house trailer-type vehicles or camper trailers, regardless of whether they are attached to real estate. Such trailers are less than 400 feet in area and are designed as temporary living quarters for travel, recreational, or seasonal use, not as

permanent dwellings. The exemption applies to taxes imposed for tax years beginning on or after January 1, 2002.

Tax Code, sec. 11.14(a) states that a person is entitled to an exemption from taxation of all non-income-producing tangible personal property, other than manufactured homes. HB 2076 amended this subsection to specify that it does not exempt a travel trailer from taxation, while also adding sec. 11.142 that specifies when exemptions for travel trailers are allowed. Sec. 11.14(c) allows the governing body of a taxing unit to provide for taxation of such property that otherwise would be exempt.

Before the 77th Legislature approved HB 2076 and HJR 44, the Attorney General's Office had issued two opinions on taxation of travel trailers. Opinion No. JC-0150 (December 8, 1999) upheld taxation of travel trailers as personal property. Opinion No. JC-0282 (September 7, 2000) held that the Tax Code does not preclude taxation of travel trailers as real property improvements if they have been affixed to someone else's land.

DIGEST: CSHB 40 would repeal Tax Code, sec. 11.142, allowing local taxing units, other than school districts, to exempt travel trailers from taxation and defining the travel trailers that may be exempted. It also would remove the specification that Tax Code, sec. 11.14(a) does not exempt a travel trailer from taxation.

The bill would take effect January 1, 2004, contingent on voter approval of the constitutional amendment proposed by CSHJR 12. It would apply only to taxes imposed for tax years beginning on or after that date.

SUPPORTERS SAY: Enactment of CSHB 40 and voter approval of the constitutional amendment proposed by CSHJR 12 would undo an inadvertent problem caused by HB 2076 and HJR 44, the amendment approved by voters in 2001. Both the 77th Legislature and Texas voters intended to provide property-tax relief for travel trailer owners, but the wording of the statute and the constitutional amendment effectively prohibits school districts from granting these exemptions. As a result, many school districts that previously had exempted travel trailers determined that they no longer had authority to do so.

CSHB 40 would clear up confusion about whether local taxing units could grant the exemption to travel trailer owners. Some county appraisal districts and taxing units have interpreted the statutory and constitutional changes as requiring them to assess the school property tax on travel trailers although they had not assessed such taxes previously. In March 2002, Gov. Rick Perry and legislators who sponsored HB 2076 and HJR 44 wrote a letter advising counties' chief appraisers to consult with their legal counsel about whether they should refrain from implementing the unintentional changes caused by the constitutional amendment. No consensus has emerged on how to apply the law.

Fairer treatment of travel trailer owners would help promote tourism in Texas and would encourage more people to visit the state for extended periods. Travel trailer owners represent a tightly knit community, and they notify others quickly about public policies that hurt their interests. County appraisal districts can appraise for taxation only travel trailers registered in Texas. As a result, owners often register their travel trailers in other states, depriving Texas of registration fees for those vehicles. Members of the travel trailer community also may buy their trailers outside the state, causing Texas dealers to lose sales and the state to lose additional sales-tax revenue.

Texas still needs to address the issue of uniformity of local taxation of travel trailers, clarify the property-tax statutes, remove appraisal subjectivity by tax appraisers, and promote tax fairness toward travel trailer owners, who also pay substantial sales taxes when they buy their trailers. CSHJR 12 would address another apparent inequity arising from the fact that owners of larger recreational vehicles, which cost substantially more than travel trailers, are exempt from local property taxes, whereas travel trailers are subject to these taxes.

**OPPONENTS
SAY:**

Restoring the law to the way it was before last session's changes would not clear up confusion over the taxability of travel trailers. The letter from Gov. Perry and the sponsors of HB 2076 has added to the confusion. Appraisal districts and taxing units received different legal advice, and some have attempted to collect the tax. In its current form, CSHB 40 fails to address whether the tax would apply to tax years 2002 and 2003 or to recommend whether entities who collected the tax would have to refund the tax, offer a credit on future taxes, or keep the money.

The experience of Polk County Appraisal District raises constitutional questions about equal treatment of taxpayers within a county that received legal advice on the need to appraise the value of travel trailers. Six school districts and one city in Polk County levied nearly \$750,000 in property taxes on travel trailers. As of March 10, these taxing units had received about \$561,600 in payment for 2,112 personal property accounts, while \$225,000 from 974 accounts remains delinquent. CSHB 40 would give local officials no guidance on how to resolve the issue regarding taxpayers who complied with the tax and those who are delinquent in paying it.

Despite long-standing claims that local taxes inhibit tourism, “winter Texans” keep returning. Clearly, they choose their seasonal homes not on the basis of taxation but because of other factors, such as the overall low cost of living, aesthetics of the landscape, and proximity to the Gulf of Mexico.

OTHER
OPPONENTS
SAY:

CSHB 40 would not go far enough in defining the differences between travel trailers that can be moved easily and those that are essentially attached to real estate and cannot be removed. SB 510 by Staples, the companion bill, would disallow an exemption for a travel trailer that is substantially affixed to real estate and is used or occupied as a residential dwelling. CSHB 40 should incorporate that distinction.

Making this distinction would better address the question raised in Cameron and Hidalgo counties on whether travel trailers should be appraised as real property or personal property. Some Winter Texans have attached roofs, "Texas rooms," spas, and other permanent improvements to their travel trailers, and other travel trailers are located behind 18-inch trees. Such travel trailers could not be removed without damage to the travel trailer or other attachments and should properly be considered real estate, subject to property taxes.

NOTES:

As filed, HB 40 would have amended Tax Code, sec. 11.142(b) to remove the exception for school districts, effectively allowing them to exempt travel trailers from taxation, and to specify that a travel trailer was exempt from taxation, regardless of whether it was real or personal property.

On March 20, the Senate by 29-0 approved SB 510 by Staples, the companion bill to HB 40. Like CSHB 40, SB 510 would repeal the existing Tax Code

provisions specifically allowing tax exemptions for travel trailers. SB 510 also would specify that a structure that a person owned, that was substantially affixed to real estate, and that was used or occupied as a residential dwelling would not be eligible for a tax exemption.

CSHJR 12 by Hegar, proposing the constitutional amendment to accompany CSHB 40, also is on today's House calendar. The Senate adopted the companion measure, SJR 25 by Staples, by 29-0 on March 20.