HOUSE
RESEARCH
ORGANIZATION bill analysis 5/7/2007

HJR 40
Hochberg
(CSHJR 40 by Elkins)

SUBJECT: Annual 10 percent cap on increases in homestead taxable value

COMMITTEE: Local Government Ways and Means — committee substitute recommended

VOTE: 6 ayes — Hill, Creighton, Elkins, C. Howard, Puente, Quintanilla

0 nays

1 absent — Villarreal

WITNESSES: For — (*Registered, but did not testify:* Daniel Gonzalez, Texas Association of Realtors)

Against — Bennett Sandlin, Texas Municipal League (*Registered, but did not testify:* James LeBas, Association of Electric Companies of Texas; Craig Pardue, Dallas County)

BACKGROUND: Texas Constitution, Art. 8, sec. 1-a provides that taxation be equal and uniform; sec. 1-b requires that all taxable property be taxed in proportion to its value.

Art. 8, sec. 1-i, adopted in 1997, authorizes the Legislature to limit the maximum average annual increase in homestead appraisal valuations to 10 percent or more for each year since the most recent tax appraisal (). The limitation on appraisal increases takes effect on January 1 of the tax year following the first year in which the property was a residence homestead. It expires on January 1 of the first tax year in which the property is no longer the residence homestead of the owner or the owner's spouse.

Tax Code, sec. 23.23, the enabling legislation for the constitutional provision, which limits the appraised value of a homestead for any tax year to the lesser of either the property's market value or the sum of:

- the last appraised value;
- 10 percent per year since the appraisal; and
- the market value of any new improvements.

Tax Code, sec. 25.18 requires each appraisal office to create a plan for conducting periodic appraisals of property in the district at least once every three years.

DIGEST:

CSHJR 40 would amend Texas Constitution, Art. 8, sec. 1-i to limit the increase in appraised taxable value of a residence homestead to 10 percent since the property's most recent appraisal. The Legislature would be authorized to limit, for one year, the appraised value of a residence homestead to the lesser of:

- the most recent appraised value of the residence homestead; or
- 110 percent, or a greater percentage, of the appraised value of the residence homestead in the preceding tax year.

This limitation on appraised values would take effect on the later of the law's effective date or January 1 of the tax year following the first year in which the property was a residence homestead. It would expire on January 1 of the first tax year in which the property was no longer the residence homestead of the owner or the owner's spouse.

The proposal would be presented to the voters at an election on Tuesday, November 6, 2007. The ballot proposal would read: "The constitutional amendment authorizing the legislature to provide that the maximum appraised value of a residence homestead for ad valorem taxation is limited to the lesser of the most recent market value of the residence homestead as determined by the appraisal entity or 110 percent, or a greater percentage, of the appraised value of the residence homestead for the preceding tax year."

SUPPORTERS SAY:

CSHJR 40 would align the language in the Texas Constitution with the intent of the Legislature when it approved the 10 percent cap on increases in homestead appraisal valuations in 1997. The bill would prevent sticker shock by ensuring no taxable value could increase by more than 10 percent, preventing the current scenario under which some homeowners who are appraised every three years can see a 30 percent increase in their tax bills. It would ensure each taxpayer was treated equally and would create a more comprehensible property tax system.

Texas voters and the Legislature endorsed the idea of appraisal caps in 1997, setting a 10 percent limit on the increase in average annual homestead appraisal values. It was designed to provide an element of relief to taxpayers whose property taxes were skyrocketing. It also reduced the backdoor method of increasing tax revenue without having to increase tax rates by limiting how much a district could increase a homestead's taxable value. The measure was supposed to be a circuit breaker for taxpayers, who would be able to budget and plan without being hit with an enormous tax increase they would be required to pay in one year's time.

CSHJR 40 would provide the full relief intended by the initial measure by tying the 10 percent cap to the residence homestead's last appraisal. If anything, it would make the concept behind the current appraisal cap even easier for a taxpayer to understand. Many people believe they can be assessed taxes on only a 10 percent increase in taxable value in any given year. They do not know that the 10 percent limit is based on the number of years since a property's last appraisal and could in fact be as high as a 30 percent hike for a property whose value was increasing and that was being reappraised every three years. The bill would not change the effect of allowing the taxable value to catch up to the market value, so a residence homestead whose taxable value increased 15 percent in one year and 5 percent the following year still would see successive years of 10 percent increases in taxable value.

Most districts have moved to either one- or two-year appraisal cycles, so it is unlikely this bill would have any great effect on reducing revenue. Larger districts have been conducting annual reappraisal to comply with Government Code, sec. 403.302, which requires that a school district's reported value fall within a 5 percent margin of error above or below the district's taxable value as estimated by the comptroller.

While some districts might opt to reappraise property more frequently, the associated costs of doing so would be disbursed among all the taxing units in a county, and no one entity would bear a significant financial burden. If more counties did annual appraisals, it would have the further benefit of creating a more accurate appraisal value that, while still lagging a year behind the market, would not reflect values from two to four years ago. Although an annual appraisal could lead to quicker reductions in taxable value in a housing slump, less frequent appraisals create a similar problem when the market recovers and appraised values do not capture tax revenue derived from this growth for several years.

OPPONENTS SAY:

Given the current requirements governing a school district's appraised value, this bill is unnecessary because most of the large districts in which appraisal values increase at a rate in excess of 10 percent already appraise properties on an annual basis. CSHJR 40 could compel smaller appraisal districts to reappraise property more often, which could expedite reductions in taxable value in a market downturn, potentially leading to an increase in tax rates.

Large districts that have typically seen the greatest increases in property values already conduct annual reappraisals. Potential penalties of falling outside the 5 percent margin of error in the comptroller's property value study, such as a reduction of state funding for school districts, provide an incentive for any area in which property values are rapidly changing. These districts typically see the type of property value growth and increases in taxable value that benefit the most from appraisal caps.

Smaller districts that decided annually to reappraise property could face financial burdens, which could result in a tax increase on property. In a housing slump, frequent appraisals would create a reduction in value more quickly, resulting in a reduction of the tax base that could necessitate an increase in tax rates for a district unable proportionately to reduce its budget. An appraisal district would have to hire more staff, and associated costs would be borne by school districts, cities, counties, and other taxing units.

To the extent that this bill would reduce the burden for some taxpayers, it could shift the burden to other taxpayers, such as commercial property owners and those whose residence homesteads were not increasing in value at a rate at which they could take advantage of an appraisal cap.

OTHER OPPONENTS SAY:

CSHJR 40 would not go far enough in protecting taxpayers from large increases in their tax bills and should reduce the appraisal cap below the current 10 percent. An annual 10 percent increase in taxes is still a significant burden to taxpayers and provides a disincentive to home ownership.

NOTES:

The original version of CSHJR 40 included a reference to the year of the most recent tax appraisal, not the preceding tax year as specified in the committee substitute.

HB 438 by Hochberg, the enabling legislation for HJR 40, was reported favorably as substituted by the Local Government Ways and Means Committee on April 23 and is on the May 7 Major State Calendar. It would amend the Tax Code to make the necessary statutory changes if voters approved HJR 40. According to the Legislative Budget Board, which used the statewide average number of years between reappraisals (1.4 years) and projected growth and tax rates, the incremental value loss under this bill would be about $15 million in fiscal years 2008 and 2009.

SJR 17 by Hegar, which is identical to CSHJR 40, was reported favorably, as substituted, by the Senate Finance Committee on May 4. SB 391 by Hegar, the companion bill to HB 438, is pending in the Senate Finance Committee.