

SUBJECT: Property tax exemption for a personal vehicle used for business activities

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 8 ayes — Keffer, Ritter, Otto, Bonnen, Y. Davis, Paxton, Peña, Pitts

0 nays

1 absent — Flores

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

Against — None

On — John Heleman, Comptroller's Office

DIGEST: CSHJR 54 would amend Art. 8, sec. 1(d) of the Texas Constitution to authorize the Legislature by general law to exempt from ad valorem taxation one motor vehicle owned by an individual that was used in the individual's occupation or profession and also used for personal activities that did not involve the production of income.

The amendment would take effect on the date of the canvass of votes showing adoption of the amendment and would apply beginning with the tax year beginning January 1, 2007. The amendment would authorize the Legislature to enact a general law authorized by the amendment that applied to the 2007 tax year, even if the constitutional amendment was adopted after the beginning of the tax year. Such a general law would not be considered a retroactive law.

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 exempt from ad valorem taxation one motor vehicle owned by an individual and used in the course of the owner's occupation or profession and also for personal activities of the owner."

SUPPORTERS
SAY:

Along with its enabling legislation, HB 1022 by Hilderbran et al., CSHJR 54 would eliminate the requirement that individuals who use personal vehicles for business purposes must pay ad valorem taxes on those vehicles. Many independent entrepreneurs use a personal vehicle in the execution of their professional responsibilities, and it is inappropriate that such person's car or truck be taxed. Because they are unable to receive an exemption for personal use, individuals are taxed on the entire value of a vehicle. The Legislature has not shown a desire to tax property used for personal purposes in the past, and CSHJR 54 simply would clarify state law in that regard.

CSHJR 54 and HB 1022 would clarify confusion about the law stemming from a recent attorney general's opinion. In 2005, the 79th Legislature enacted HB 809 by Hilderbran, which specifies that a person does not have to render for taxation personal motor vehicles that are used for professional purposes. However, in November 2006, the attorney general, in Opinion No. GA-0484, determined that although HB 809 exempted such vehicles from *rendition*, the legislation did not establish that such personal property is *exempt* from taxation under Art. 8 of the Constitution. Consequently, many individuals still are required to pay ad valorem taxes on such vehicles. CSHJR 54 and HB 1022 would clarify the will of the Legislature that these vehicles should not be taxed.

CSHJR 54 would limit the exemption from taxation to one vehicle per person, thus eliminating the chance that one individual could benefit from the exemption of an entire fleet of vehicles used for commercial purposes. The amendment would benefit realtors, farmers, and other small business owners and contractors who operate personal vehicles dually for commercial purposes.

OPPONENTS
SAY:

Vehicles exempted under this proposed amendment should be taxable and treated as any other personal property that generates income. Even though the fiscal impact may be minor, the Legislature traditionally has taxed property associated with the production of income, and CSHJR 54 would weaken this longstanding policy.

OTHER
OPPONENTS
SAY:

The limitation that an individual could exempt only one vehicle used for both personal and professional purposes would be too strict. Many individuals have two or three vehicles that they use for both purposes. Under CSHJR 54, a person who owned more than one personal vehicle

used for professional purposes still could be taxed on those additional vehicles.

NOTES:

The committee substitute would limit the exemption for a vehicle used for personal and professional purposes to one vehicle for an individual, instead of “one or more than one” vehicle in the resolution as filed.

The companion measure, SJR 31 by Williams, has been referred to the Senate Finance Committee.

The enabling legislation for HJR 54, HB 1022 by Hilderbran et al., is on today’s General State Calendar.