

SUBJECT: Property tax exemption for corporations housing charitable organizations

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 7 ayes — Keffer, Ritter, Otto, Davis, Paxton, Peña, Pitts

0 nays

2 absent — Bonnen, Flores

SENATE VOTE: On final passage, May 8 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Glen Castlebury, Texas Elks State Association

Against — None

BACKGROUND: Internal Revenue Code, sec. 501(a) exempts certain organizations from federal income taxes, such as those that organize under sec. 501(c)(2) as corporations dedicated to the exclusive purpose of holding title to property of an exempt organization. A corporation eligible under this section must give all income generated from the property to the exempt organization.

Tax Code, sec. 11.184 allows a local taxing unit or a majority of its voters to approve providing property tax exemptions to charitable organizations for buildings or other property they own and use. An organization seeking the exemption must first determine its eligibility with the comptroller, who must consider:

- the organization's tax-exempt status under Internal Revenue Code, sec. 501;
- whether the organization's charter or bylaws require charitable work or public service;
- the amount of monetary support contributed or the in-kind service performed in proportion to expenses, dues received, and taxes paid;
- whether the organization is exempt from sales and use taxes under sec. 151.310; and
- other relevant factors.

After a positive determination is made, an organization must submit the comptroller's finding to the chief appraiser when applying for the exemption. An exemption lasts five years, at which time an organization is required to seek a new determination letter from the comptroller and a new exemption from the chief appraiser.

DIGEST:

CSSB 1296 would amend Tax Code, sec. 11.184 to allow certain corporations housing charitable organizations to seek the same property tax exemption afforded the charitable organizations. It also would repeal the provision allowing a taxing unit to grant the exemption through a decision of its governing body or a vote of the majority of its voters.

The bill would provide a charitable organization property tax exemption to a corporation that otherwise would not be entitled to one if:

- the corporation was exempt from federal income taxes under Internal Revenue Code, sec. 501(a) through its listing as an exempt entity under sec. 501(c)(2) of that code;
- the corporation held the title to the property for, collected income from the property for, and turned over the entire amount of that income, less expenses, to a qualified charitable organization; and
- the charitable organization would qualify for the exemption if it owned the property.

A corporation seeking this exemption would have to follow the same procedures as would a charitable organization in seeking a letter of determination from the comptroller and applying for the exemption with the chief appraiser. The length of the exemption and reapplication process for a corporation would be the same as they are for a charitable organization.

The bill would take effect January 1, 2008, and would apply only to ad valorem taxes for a tax year beginning on or after that date.

**SUPPORTERS
SAY:**

CSSB 1296 would allow charitable organizations to receive a property tax exemption regardless of whether they actually owned the buildings in which they conduct business. Current law treats charitable organizations differently, and some of those eligible to receive property tax exemptions do not need approval from a local governing body or electorate. The bill would rectify the inequities in current law by providing a property tax exemption for all organizations without a requirement for local approval.

Certain charitable organizations organize under sec. 501(c)(2) to protect themselves from lawsuits. Such an action removes the threat of losing the property in a liability claim. Unfortunately, this action also removes the property from eligibility for a tax exemption under current law. CSSB 1296 would allow a tax exemption for organizations that are owned by 501(c)(2) corporations, while protecting against abuse by ensuring that the corporation met federal standards and turned any profits over to the charitable organization. The bill would be especially beneficial to organizations such as the Knights of Columbus and the Elks Club, whose local properties are either owned by statewide charitable organizations or their respective 501(c)(2) corporations.

Many benevolent and fraternal organizations in Texas are heavily involved in charitable work helping thousands of people each year, many of them children and teenagers. The only income for some of these groups is from member dues, which in many cases are declining along with membership. Yet some facilities, particularly local lodges, are taxed like commercial buildings, and a few have been sold because property taxes became prohibitive. Giving exemptions to these organizations would free up money to spend on programs for needy people. The revenue lost to local taxing authorities would be minimal compared to the gain in services. Government must have help in addressing social problems, and the state's tax policy should encourage charities to do so, not penalize them.

**OPPONENTS
SAY:**

Granting these types of small exemptions invites the slow erosion of the tax base. Over time, the cumulative impact could be significant. Tax revenue foregone because of exemptions must be made up elsewhere. This bill would create an inequity for other property owners because exemptions merely shift more of the tax burden onto them. It also would inhibit taxing entities' ability to raise needed revenue.

NOTES:

According the fiscal note, CSSB 1296 could result in an undetermined loss of revenue to local taxing districts, resulting in a decrease in taxable property values that could increase costs to the Foundation School Fund.

The Senate-passed version of the bill only would repeal the requirement for approval of an exemption by a local taxing unit or the voters.

A similar bill, HB 2496 by Hughes, which would provide the same exemptions for 501(c)(2) corporations as SB 1296 but would not repeal

the local approval provision, passed the House by 141-0 on May 11 and has been referred to the Senate Finance Committee.