

- SUBJECT:** Appraisal of open-space land devoted principally to ecological research
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 9 ayes — Oliveira, Otto, Bohac, Hilderbran, C. Howard, P. King, Paxton, Peña, Taylor
- 0 nays
- 2 absent — Hartnett, Villarreal
- WITNESSES:** For — Patrick Brown, Texas Association of Appraisal Districts; Richard Scott; (*Registered, but did not testify:* David Braun, on behalf of clients of Braun & Associates; David Coccins; Christie Gaderson; Robert Gunn; Carol McDonald, Independent Colleges and Universities of Texas, Inc.)
- Against — None
- On — (*Registered, but did not testify:* Edward Theriot, University of Texas - Austin)
- BACKGROUND:** Under the Tax Code, sec. 23.51, open-space land is not appraised on its market value, but instead receives a special appraisal according to land type that is less than market value. One of the ways a piece of property may qualify as open-space land is if it is used principally as an ecological laboratory by a higher education institution. Existing law does not define ecological research nor the amount of research necessary to qualify for the special appraisal.
- DIGEST:** HB 2165 would amend Tax Code, ch. 23 by defining ecological research, and would add additional qualifications and reporting requirements for an appraisal as open-space land devoted to ecological research.
- Application for appraisal of land devoted to ecological research.** HB 2165 would establish requirements for an application for appraisal as land devoted to ecological research.
- HB 2165 would require a property owner to provide a chief appraiser with a written statement, signed by a supervising faculty member from an

applicable higher education institution, that would affirm that:

- at least three ecological research projects would be conducted on the land during the tax year for which the appraisal was sought;
- the ecological research would be conducted on the land in furtherance of farming, ranching, or wildlife management purposes;
- other uses of the land would be subordinate to the ecological research; and
- a number of site visits would be made to the land and conducted in a scientifically valid manner.

HB 2165 would require that the entire tract of property subject to the written agreement between the property owner and the college or university be appraised as land devoted principally to ecological research if at least three ecological research projects were being conducted on any portion of the property and was otherwise eligible. Property, including improvements, that were used for a residence homestead would not be eligible for appraisal as land devoted principally to ecological research.

Annual report to a chief appraiser. A chief appraiser would be allowed to require that an annual application be submitted. A chief appraiser could require a property owner to submit annually a report signed by the supervising faculty member of the applicable higher education institution that confirmed and documented that the ecological study was properly conducted in the prior year. If the owner of the land failed or refused to submit an annual report, or if the chief appraiser determined that a report did not provide the required documentation, the chief appraiser would have to notify the owner that appraisal of the land devoted principally to ecological research was denied for the prior year and would include in the notice an explanation of the owner's right to protest the denial. If the owner did not file a timely protest or if the final determination of the protest was that the land was not eligible for appraisal as land devoted principally to ecological research:

- the chief appraiser would change or correct the appraisal records as necessary; and
- the assessor for each taxing unit would bill the tax payer for any additional taxes on the land and interest due.

Definitions. HB 2165 would define “Qualified open-space land” to include land that was devoted principally to ecological research by a higher education institution.

“Devoted principally to ecological research” would mean that as of January 1, property that was subject to a written agreement, allowed the higher education institution to engage in ecological research on the property throughout the year, subject to reasonable notice, and provided that other uses of the property would be subordinate to ecological research.

“Ecological research” would mean ecological research in furtherance of farming, ranching, or wildlife management purposes and would include such activities as site visits, surveys, data and sample collection, monitoring, site manipulation, and periods of idleness between those activities. Ecological research would not require the physical presence of a researcher on the land for a greater number of days in a calendar year than necessary for scientifically valid ecological research.

The bill would take effect on January 1, 2010.

**SUPPORTERS
SAY:**

HB 2165 would set clear standards for tax exemption for land devoted principally to ecological research and would create clear definitions for what would constitute an ecological laboratory. HB 2165 would enact the recommendations set out in the study done by the Local Government Ways and Means Committee in response to interim charge on the subject of ecological laboratories.

This tax exemption would encourage private land owners to enter into agreements with higher education institutions that allow for research to be conducted on the land. It is important to encourage this cooperation because 97 percent of land in Texas is privately owned. If researchers had access only to public land, experiments would be skewed and would not be representative of the different climate and geological regions that make up the state.

While current law allows for the tax exemption, it does not set clear standards and definitions. This has resulted in inconsistent application of the law. HB 2165 would create definitions and standards to tighten this statutory incentive so that private property owners receive a valuable tax break and higher education institutions can conduct research that would

produce public and scientific benefits. HB 2165 would assist appraisers by providing clear guidelines and additional information and reports on the studies so that they could ensure that research actively was being conducted on the properties that applied for or currently have the property tax exemption for ecological research.

OPPONENTS
SAY:

Requiring three studies for qualification would be an arbitrary number. HB 2165 should use a clearer standard for measuring the amount of research being done on a property in order to determine if it qualifies for this valuable tax exemption. Further, there could be situations where only one study was interested in a piece of property. Even if this property made extensive use of a large track of land, produced valuable data, and met all the other qualifications for the tax exemption as open space, it still might not qualify only because it did not contain two additional studies.

NOTES:

The companion bill, SB 1316 by Wentworth, has been referred to the Senate Finance Committee.