

SUBJECT: Eliminating tax interest on the diversion of agricultural land to another use

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 — (*Registered, but did not testify*: Marida Favia del Core Borromeo, Exotic Wildlife Association; Jimmy Gaines, Texas Landowners Council, Inc.)

Against — (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; John Cabrales, City of Denton; Mark Mendez, Tarrant County)

BACKGROUND: Under the Tax Code, sec. 23, agricultural land may be appraised on its productive value as opposed to its market value. If land that has been designated for agricultural use tax exemption is sold or diverted to another use, the total amount of additional taxes that would have been due for the three years preceding the year in which the land is sold or diverted is due plus interest at the rate provided for delinquent taxes. These back taxes recapture the taxes that would have been paid but for the agricultural exemption. A tax lien attaches to the land on the date of the sale or change of use to secure payment of the additional tax imposed and any penalties incurred.

DIGEST: HB 2230 would amend the Tax Code, sec. 23.46, to remove the applicable interest from the total amount of recapture taxes due on the prior three years that would have been paid but for the agricultural exemption when land use was changed from agricultural to another purpose.

The bill would take effect on September 1, 2009.

**SUPPORTERS
SAY:**

HB 2230 would remove an artificial restraint on the development of land. The normal process of converting land from one use to another is accelerating as Texas cities and towns expand to accommodate population growth. Current law punishes those who change a property's use from agricultural to another use by charging them interest on the recapture of prior tax exemptions. This can stifle necessary development.

While the purpose of the agricultural exemption is to reward property owners who maintain land in an agricultural use, new owners of land should not have to pay punitive interest on recapture taxes for a benefit they did not necessarily receive. HB 2230 would remove this penalty while preserving the incentive to keep land in its agricultural state by leaving the recapture of the tax benefit itself in place. According to the LBB, HB 2230 will not have a significant fiscal impact on the state or local governments.

**OPPONENTS
SAY:**

HB 2230 would give developers a special exception from paying interest on back taxes. Under current law, those who owe delinquent taxes or whose change in the use of land results in a recapture of some prior tax benefit or exemption owe interest. HB 2230 would create an exemption to the general rule that interest is owed on back taxes or on recapture taxes.

HB 2230 would defeat the purpose of the agricultural exemption by making it easier to divert land that has enjoyed consider tax benefits to another, non-agricultural use. The agricultural exemption was not designed to be a tax haven for land waiting to be developed.

HB 2230 also would result in a decline of revenue for local governments. Cities and counties have to provide fewer services to areas classified as agricultural land. As Texas becomes an urban state, local governments must spend ever increasing amounts to provide services to growing neighborhoods and developments. Recapturing tax benefits that were granted for agricultural use and charging interest for the change helps local governments to deal with the increased demands that the development will have for services. Eliminating this funding mechanism would hamper the ability of local governments to adequately address growth.