

- SUBJECT:** Property-tax exemptions for certain organizations and disabled veterans
- COMMITTEE:** Ways and Means — favorable, with amendments
- VOTE:** 8 ayes — Oliveira, Otto, Bohac, Hilderbran, P. King, Paxton, Peña, Taylor
0 nays
3 absent — Hartnett, C. Howard, Villarreal
- SENATE VOTE:** On final passage, April 21 — 26-4 (Duncan, Nichols, Ogden, Shapleigh nay; Harris absent)
- WITNESSES:** For — (*Registered, but did not testify:* David Holt; Chris Shields, Greater San Antonio Chamber of Commerce)

Against — None
- BACKGROUND:** Under Tax Code, sec. 11.184, a qualified charitable organization is entitled to an exemption from real-property taxes if a the governing body of a local taxing unit or a favorable vote by a majority of qualified voters approved the exemption.

Under Tax Code, sec. 11.22, a totally disabled veteran is eligible for an exemption of the first \$12,000 of the value the veteran’s residence homestead. Other disabled veterans receive a property tax exemption for their residence homestead ranging from \$5,000 to \$12,000, depending on their percentage of disability.
- DIGEST:** SB 475, as amended, would grant property tax exemptions to certain qualified nonprofit business organizations, certain corporations that were not qualified charitable organizations, certain community housing development organizations, and totally-disabled veterans.
- Repeal of local approval for a property-tax exemption for certain charitable organizations.** SB 475 would amend Tax Code, sec. 11.184, to repeal the requirement that the governing body of a local taxing authority or voters approve a property-tax exemption for a fraternal order.

Property-tax exemptions for corporations that hold title to property on behalf of charitable organizations. SB 475 would amend Tax Code, sec. 11.184, to allow a corporation that was not a qualified charitable organization an exemption from taxation of property under this section if:

- the corporation was exempt from federal income taxation as 501(c)(2) entity;
- the corporation held 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 qualified charitable organization would qualify for an exemption from taxation if the qualified charitable organization owned the property.

Before a corporation would be allowed to submit an application for an exemption, the qualified charitable organization for which the corporation held title to the property would be required to apply to the comptroller for determination with regard to the qualified charitable organization. The application for the determination also would be required to include an application to the comptroller for a determination of whether the corporation met the applicable requirements. The corporation would have to submit with the application for exemption a copy of the determination letter issued by the comptroller. The chief appraiser would have to accept the copy of the letter as conclusive evidence of whether the corporation met the requirements for the exemption.

After the fifth tax year after the year in which the exemption was granted, the qualified charitable organization for which the corporation held title to property would have to obtain a new determination letter, and the corporation would have to reapply for the exemption.

Property-tax exemptions for nonprofit community business organizations. To qualify, a “nonprofit community business organization” would have to:

- have been in existence for at least the preceding five years;
- be organized as a nonprofit corporation under state law (under the Texas Non-Profit Corporation Act or the Texas Nonprofit Corporation Law) and federal law (under U.S. I.R.C. sec. 501(c)(6));
- be a local, not a statewide, organization;

- have maintained a dues-paying membership of at least 50 for the three preceding years;
- have had a board of directors elected by the members who were not compensated for their service on the board;
- be supported by membership dues and income related to primary functions; and
- not be, not have formed, and not have financially supported a political committee.

In addition, the organization in its local community would have to be engaged primarily in:

- promoting the common economic interests of business;
- improving business conditions; or
- providing economic development services.

An association that qualified as a nonprofit community business organization would be entitled to an exemption from taxation of the buildings and tangible personal property that was owned by the nonprofit community business organization and was used exclusively to perform its primary functions.

Certain types of improvements owned by nonprofit community business organizations also would be exempt from taxation under the bill. These would include real property that was:

- an incomplete improvement that was under active construction or physical preparation and was to be used exclusively by the organization; and
- the land on which that improvement was located.

An incomplete improvement would be considered to be under “physical preparation” if a nonprofit community business organization had:

- engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work that was necessary for the construction of the improvement; or
- conducted an environmental or land use study related to the construction of the improvement.

An incomplete improvement or the land on which an incomplete improvement was located could not be exempted from property taxes for longer than three years.

Use of the exempt property by persons who were not nonprofit community business organizations would not result in the loss of an exemption if the use was incidental to use by the qualified nonprofit community business organizations and limited to activities that benefited the beneficiaries of the nonprofit community business organizations that owned or used the property.

Standard rules regarding property-tax exemptions for charitable or youth organizations would apply under Tax Code, sec. 11.42(d) and 11.43(c).

SB 475 would reenact and amend sec. 11.18(d) to require a charitable organization to be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and engaged exclusively in performing certain charitable functions. Under SB 475, these functions would include providing support, without regard to the beneficiaries' ability to pay, to:

- elderly persons, including the provision of recreational or social activities and facilities designed to address the special needs of elderly persons; or
- the handicapped, including training and employment in the production of commodities or in the provision of services that would be eligible for purchase from the federal list of items produced by groups that employed the blind or severely disabled under 41 U.S.C. secs. 46-48c.

Property-tax exemptions for community housing development organizations. SB 475 would amend sec. 11.1825 to allow a community housing development organization an exemption from property taxes on buildings and other property that were used exclusively by the organization in the administration of its acquisition, building, repair, sale, or rental of property, or by political subdivisions of the state that were eligible for an exemption from state taxation under Tax Code, ch. 11, and federal income taxes or had their revenue exempted from federal income taxes under I.R.C. sec. 115.

Use of the property by persons or groups that were not community housing development organizations would not result in a loss of the property tax exemption if such use was incidental to or furthered the exempt purposes of the owner or the community housing development organization.

Property-tax exemptions for disabled veterans. SB 475 would amend Tax Code, ch. 11, subch. B, to entitle a veteran classified as having a 100 percent disability rating as a result of military service to a tax exemption for the total appraised value of the veteran's residential homestead.

SB 475 would amend Government Code, sec. 403.302 to remove as taxable property under the comptroller's property value study any property subject to the totally disabled veterans homestead exemption.

It also would revise the disability ratings used to determine disabled veterans' property tax exemption as less than 30, 50, and 70 percent rather than not more than those percentages.

The veteran's homestead tax exemption would apply to a tax year beginning on or after January 1, 2009.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

SB 475 would create several property tax exemptions for several deserving groups. These groups either generate tremendous economic growth, build and reinforce Texas communities, or have sacrificed their health and safety in defense of our freedoms and values.

SB 475 would allow charitable organizations, including fraternal organizations, to be granted an exemption from property taxes without the approval of local governments or voters. This approval process is not required for most non-profit organizations. SB 475 also would allow the corporations that often hold real property on behalf of these organizations to claim the exemption for this property. SB 475 only would allow the exemption if the underlying charitable organization would qualify for the exemption if it held the property directly. The exemption would not be automatic; a qualifying charitable organization would be required to

submit an application to the comptroller that would prove eligibility for the exemption.

What SB 475 creates in forgone property taxes would be a drop in the bucket compared to economic and civic contributions that chambers of commerce, service organizations, community housing organizations and other charities generate. Granting these organizations exemptions on their property taxes would allow them to reinvest those savings back into their efforts to build their communities.

Under current law, a totally disabled veteran only can receive an exemption of up to \$12,000 of the homestead's value. Although this helps to defray costs, it does not reduce significantly the ever-increasing property tax burden caused by appraisal creep that veterans and all Texans are facing. For a disabled veterans who are completely unemployable and with limited means to earn an income, a full exemption from property taxes could mean keeping their homes. The bill also would adjust the formula for determining the amount of residence homestead exemption that veterans who are less the totally disabled receive in order to ensure that more receive the higher amount. The state should take whatever steps are necessary to ensure that those who sacrificed for their country are not forced to sell their property because they cannot afford to stay in their homes.

**OPPONENTS
SAY:**

SB 469 would have a significant impact on reducing revenue available to taxing districts. According to the LBB, SB 469 would cost the state \$10.6 million in fiscal 2010, increasing to \$20.9 million in fiscal 2014 due to the school finance system requirement that the state compensate school districts for reduced property values and tax revenues. School districts would lose \$3.3 million in fiscal 2010, which would increase to \$5.1 million in fiscal 2014. Counties would lose \$4.1 million in fiscal 2010, which would increase to \$7.5 million in fiscal 2014. Cities would lose \$4.7 million in fiscal 2010, which would increase to \$8.2 million in fiscal 2014.

SB 475 would not be a tax cut, but a tax shift. By granting some groups exemptions from property taxes, those who still pay them will be forced to pay more to make up for the lost revenue. It is unfair for government to favor some types of property over others.

NOTES:

Committee Amendment No. 1 would add community housing development organizations to list of organizations that would be eligible for property-tax exemptions. Committee Amendment No. 2 would reenact Tax Code sec. 11.18(d) and would amend it to include organizations that employ primarily the blind or severely disabled to produce goods and services eligible for federal listing under U.S.C. 41, sec. 46-48c. Committee Amendment No. 3 would add the full exemption from property taxes for the residence homestead of totally disabled veterans and the homestead exemption adjustment for other disabled veterans.

SB 469 by Carona, which also would exempt the entire value of the residence homestead of totally disabled veterans and adjust the homestead exemption calculation for other disabled veterans, implementing a constitutional amendment approved in 2007, is on today's Major State Calendar.