

- SUBJECT:** Rollback taxes on open-space land conveyed to and by an exempt entity
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 10 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Murphy, Parker, Springer, C. Turner, Wray
- 0 nays
- 1 absent — Martinez Fischer
- WITNESSES:** For — (*Registered, but did not testify:* Donald Lee, Texas Conference of Urban Counties; Bill Longley, Texas Municipal League; Conrad John, Travis County Commissioners Court)
- Against — None
- On — (*Registered, but did not testify:* Mike Esparza, Comptroller of Public Accounts)
- BACKGROUND:** Tax Code, sec. 23.52 provides that “qualified open space land,” which is land used for agricultural or wildlife management purposes, is appraised using the average annual net income that would have been earned from the land during the previous five years if it were used prudently for agricultural purposes. This appraisal value may not exceed the market value of the land.
- Tax Code, sec. 23.55(a) applies a one-time tax (commonly known as the “rollback tax”) to a property owner who changes the use of qualified open-space land such that the land loses its classification. When this occurs, the property owner is required to pay a tax equal to the difference between what the tax would have been at market value without the exemption and the actual tax paid for each of the preceding five years, plus a 7 percent annual interest rate.
- Certain exceptions apply to this tax. Under sec. 23.55(f)(3), this tax is not

imposed if the change of the land's use occurs as a result of a transfer of the property to the state or a political subdivision of the state to be used for a public purpose.

DIGEST:

HB 376 would apply a rollback tax to property owners who conveyed and reacquired certain land. It would apply to property owners having land that:

- was qualified open-space land;
- was conveyed to one of certain entities exempt from the rollback tax on open-space land;
- had its use changed in the exempt entity's possession;
- was conveyed back to the original property owner within five years of the initial conveyance; and
- was used within that same five-year period for a purpose that would have subjected the land to rollback taxes had the initial conveyance to the exempt entity not occurred.

For rollback taxes assessed under this subsection, the date on which the land initially was conveyed to the exempt entity would be considered the date of the change of use.

This 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, 2015.

**SUPPORTERS
SAY:**

HB 376 would close a tax loophole that can rob county and local school districts of millions of dollars in revenue. Some municipalities wishing to attract economic development will buy qualified open space land from a developer, change the use of the land, and then sell the land back to the developer. Because the change in use occurred while the land was in possession of a nontaxable entity — a political subdivision of the state — the developer avoids the rollback tax entirely. In this scenario, the county and the local school district miss out on significant tax revenue.

Although this activity is legal, it is not in the spirit of the law.

Municipalities and entities that use this loophole as an economic incentive are more likely to attract business to their jurisdiction and gain an unfair advantage over those who do not. Furthermore, current law already provides a possible exemption to the rollback tax. Land may be exempted if the tax revenue from economic development is expected by the comptroller to be more than 20 times greater than the amount of rollback tax revenue to be collected. Finally, taxing entities have the option of jointly providing a rollback tax refund if they wish to do so.

Rollback taxes can represent a valuable revenue source for local governments, counties, and school districts. HB 376 would protect this valuable source of revenue to protect the services these entities provide.

**OPPONENTS
SAY:**

HB 376 would apply the rollback tax on open-space land to even more circumstances. The rollback tax is a costly impediment to economic development. Instead of being applied in still more cases, this tax should be eliminated.

NOTES:

The Legislative Budget Board's fiscal note states that the bill could have a positive impact on taxable property values and could decrease costs to the Foundation School Fund. The fiscal note also states that tax revenues for local governments could increase but that amounts for all of these impacts could not be estimated due to lack of data on the amount of land to which HB 376 would apply.