

SUBJECT: Floating the interest rate charged on deferred or abated property taxes

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — D. Bonnen, Y. Davis, Darby, Murphy, Murr, Raymond, Shine, Springer, Stephenson

0 nays

2 absent — Bohac, E. Johnson

WITNESSES: For — Dick Lavine, Center for Public Policy Priorities; (*Registered, but did not testify*: Chase Bearden, Coalition of Texans with Disabilities; Daniel Gonzalez and Julia Parenteau, Texas Association of Realtors)

Against — (*Registered, but did not testify*: Guadalupe Cuellar, City of El Paso; Chris Young, Linebarger; Bruce Elfant, Tax Assessor Collectors Association of Texas; Deece Eckstein, Travis County Commissioners Court; Dana Blanton)

BACKGROUND: Tax Code, sec. 33.06 allows elderly and certain disabled property owners to defer collection of property tax or abate a suit or foreclosure sale to collect a tax on the owner's homestead. Sec. 33.06(d) provides that a tax lien remains on the property and interest on the unpaid tax accrues at a rate of 8 percent.

HB 150 by Bell, enacted during the 85th Legislature's regular session, would change the above rate to 5 percent if it takes effect January 1, 2018, following voter approval of HJR 21 by Bell (Proposition 1 on the November 7, 2017 ballot).

Tax Code, sec. 33.065 allows owners of homesteads whose appraised value rises more than 5 percent in one year to defer or abate a suit to collect a delinquent tax. Sec. 33.065(g) provides that a tax lien remains on the property and interest on the unpaid tax accrues at a rate of 8 percent.

DIGEST: HB 108 would change the interest rate on unpaid property tax deferred or abated under Tax Code, sec. 33.06 and sec. 33.065 to the five-year Constant Maturity Treasury (CMT) rate reported by the Federal Reserve. The rate on a given deferral or abatement would be the CMT rate as of January 1 of the year in which the deferral or abatement was obtained.

This bill would take effect January 1, 2018, and would apply to interest accrued for a deferral or abatement that was unpaid as of that date.

SUPPORTERS SAY: HB 108, in response to the longstanding decrease in interest rates, would allow the interest rate charged on deferred or abated property tax liability to fluctuate along with a market interest rate. When the Legislature established the rate in current law, 8 percent was in parity with the interest rates at the time. Rates are lower today, and an 8 percent interest rate makes repayment of deferred tax liability difficult. The bill would allow rates to fluctuate with the five-year Constant Maturity Treasury (CMT) rate, which is currently around 1.8 percent. Reducing this rate to current market levels would make deferral a more accessible option for taxpayers, ensuring that it is effective in its goal of reducing burdens on property owners and keeping elderly and disabled people in their homesteads.

Any administrative burdens imposed by the bill would be worthwhile and limited to simple data entry, for which assessor-collectors are already responsible and which can be accommodated within existing resources.

Reducing the interest rate would still result in positive revenue to taxing districts, as public funds have a return of less than 1.8 percent. Moreover, deferral or abatement will remain an option regardless of any rate set by the Legislature. It is better to set a flexible rate that adjusts with changes in the market than a static rate which may be more advantageous in certain economic times.

OPPONENTS SAY: HB 108 would increase the administrative burdens on tax assessor-collectors, as it would require reprogramming the new rate into the system every year and using different interest rates based on the date a deferral became active.

In addition, the bill might reduce the interest rate too much. The state should ensure that the law is not amended to present a tax planning opportunity to sophisticated investors who elect to defer tax payments because they could make more by investing it themselves. Deferrals and abatements should be used only for their intended purpose: providing needed relief to property owners.