

**SUBJECT:** Preventing certain lands from losing timber productivity tax exemption

**COMMITTEE:** Ways and Means — committee substitute recommended

**VOTE:** 10 ayes — Burrows, Guillen, Bohac, Cole, Martinez Fischer, Murphy, Noble, Sanford, Shaheen, Wray

0 nays

1 absent — E. Rodriguez

**WITNESSES:** For — Wayne Pfluger; (*Registered, but did not testify:* Robert Turner, Earthmovers Contractors Association of Texas, Texas Sheep and Goat Raisers Association, Texas Poultry Federation, Independent Cattlemen's Association; David Glenn, Home Builders Association of Greater Austin; Todd Morgan, International Paper Corp; Bill Oswald, Koch Companies; Robert Howard, South Texans' Property Rights Association; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Ray Head, Texas Association of Property Tax Professionals; Michael Pacheco, Texas Farm Bureau; Rob Hughes, Texas Forestry Association; Jennifer Bremer, Texas Land and Mineral Owners Association; Ryan Skrobarczyk, Texas Nursery and Landscape Association; James LeBas, Texas Oil and Gas Association, Texas Association of Manufacturers; Joe Morris, Texas Poultry Federation, Texas Forestry Association, Texas Sheep and Goat Raisers Association)

Against — None

**BACKGROUND:** Tax Code sec. 23.72 establishes that land qualifies for appraisal as timber land if it:

- currently and actively is devoted principally to production of timber or forest products to the degree of intensity generally accepted in the area with intent to produce income; and
- has been devoted principally to the production of timber or forest products or agricultural use for five of the preceding seven years.

Tax Code sec. 23.9802 provides for the appraisal of land as restricted-use timber land if the land is in an aesthetic management zone, a critical wildlife habitat zone, or a streamside management zone.

Tax Code sec. 23.55 and sec. 23.76 establish that land that is appraised and then taken out of use as timber land or restricted-use timber land is subject to an additional tax equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurred plus interest at an annual rate of 7 percent calculated from the dates on which the differences would have become due.

**DIGEST:**

Under CSHB 1409, when determining whether a portion of a parcel of land qualified for appraisal as timber land or restricted-use timber land, an appraiser would be prohibited from considering the purpose for which the portion of land was used if the portion was:

- used for the production of timber or forest products, including a road, right-of-way, buffer area, or firebreak; or
- subject to a right-of-way that was taken through eminent domain.

This portion of land would qualify for appraisal as timber land or restricted-use timber land if the remainder of the land parcel qualified for appraisal as timber land or restricted-use timber land.

Land used for oil and gas operations over which the Railroad Commission had jurisdiction would continue to be eligible for appraisal as timber land or restricted-use timber land if the portion of land where the oil and gas operations did not occur was qualified for appraisal as timber land or restricted-use timber land.

The bill would apply only to the appraisal of land for property tax purposes for a tax year beginning on or after its effective date. It would not affect an additional tax imposed as a result of a change of use of land that occurred before the effective date.

The bill would take effect September 1, 2019.

**SUPPORTERS  
SAY:**

CSHB 1409 would protect landowners from appraisers unfairly changing the use of their land. Preventing appraisers from considering whether portions of the land were used in timber production or seized through eminent domain when determining whether it should be appraised as timber land would protect landowners from being charged back taxes on land removed from use as land for timber production. The bill also would protect tracts of timber land on which oil and gas operations were being conducted.

Individuals who lose land to eminent domain are compensated, but this compensation may not have factored in the loss of the timber property tax exemption. This bill would ensure landowners were treated fairly and protected from losing the timber land productivity exemption.

The process of receiving a timber productivity tax exemption is rigorous and already prevents potential abuse of the system by land owners. This bill would not make receiving the timber tax exemption easier, but it would ensure landowners were treated fairly by appraisal districts.

**OPPONENTS  
SAY:**

CSHB 1409 could create an incentive for landowners to seek broad exemptions for lands not used in timber production that technically did not meet the requirement for the specialty appraisal. Small appraisal districts with limited technology could be hindered in verifying that the land owner's unused land fell under the requirements listed in the bill.

**NOTES:**

The Legislative Budget Board notes that the bill could reduce taxable property values and increase related costs to the Foundation School Fund through the operation of school finance formulas.