SUBJECT: Authorizing a temporary tax exemption for property damaged in a disaster

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 — Kevin Kieschnick, Nueces County, Tax Assessor-Collectors Association of Texas; Brent South, Texas Association of Appraisal Districts; (*Registered, but did not testify*: Paula Bulcao, BP America; Dick Lavine, Center for Public Policy Priorities; Josh Sanderson, Equity Center; Clint Magee, Linebarger Goggan Blair & Sampson, LLP; John McCord, National Federation of Independent Business; Larry Gaddes, Tax Assessor-Collectors Association of Texas; Ned Munoz, Texas Association of Builders; Katy Reagan, Texas Association of Counties; R Clint Smith, Texas Association of Property Tax Consultants; Amanda Brownson, Texas Association of School Business Officials; Shanna Igo, Texas Municipal League; Julia Parenteau, Texas Realtors; Deborah Cartwright, Texas Taxpayers and Research Association; James LeBas, Texas Oil and Gas Association; James Popp)

Against — (*Registered, but did not testify*: Cheryl Johnson, Galveston County Tax Office)

On — Jordan Wise, Harris County Appraisal District

BACKGROUND: Tax Code sec. 23.02 allows a taxing unit's governing body to authorize the reappraisal of property located partly or entirely inside a governor-declared disaster area and that was damaged in the disaster.

DIGEST: CSHB 492 would allow a taxing unit's governing body to exempt from property taxation a portion of the appraised value of certain qualified property located in a governor-declared disaster area rather than authorize the reappraisal of such property.

Adoption. A governing body that chose to adopt a tax exemption for portions of property damaged in a disaster would have to:

- specify the disaster to which the exemption related; and
- adopt the exemption within 60 days after the date on which the governor first declared territory in the taxing unit to be a disaster area.

Notice would have to be provided within seven days of the exemption's adoption to the chief appraiser of each appraisal district in which the taxing unit participated, the assessor for the taxing unit, and the comptroller of public accounts.

Qualified property. Property that could qualify for the exemption would include tangible personal property used for the production of income, an improvement to real property, or a manufactured home used as a dwelling. Such property would have to be located in a governor-declared disaster area and be at least 15 percent damaged by the disaster in order to qualify.

Tangible personal property used in the production of income also would have to have been included in a rendition statement or property report filed by the property owner demonstrating the property's taxable situs in the disaster area for the tax year in which the disaster occurred.

Application. A property owner would be required to apply for the exemption within 45 days of the exemption's adoption, unless the chief appraiser extended the deadline for good cause. Once allowed, the exemption would not have to be claimed in subsequent years.

Damage assessment. Upon receiving an application for the exemption, the chief appraiser would be required to determine whether any item of qualified property was at least 15 percent damaged by the disaster. The chief appraiser also would have to assign to each such item a damage assessment rating. Damaged property would be assigned damage assessment ratings of:

- Level I, if the property was between 15 percent and 30 percent damaged, meaning that the property suffered minimal damage and could continue to be used as intended;
- Level II, if the property was between 30 percent and 60 percent damaged, meaning that the property had suffered nonstructural damage and the waterline, if any, was less than 18 inches above the floor;
- Level III, if the property was at least 60 percent damaged but not a total loss, meaning that the property had suffered significant structural damage requiring extensive repair or the waterline was at least 18 inches above the floor; or
- Level IV, if the property was a total loss, meaning that repair of the property was not feasible.

In making this assessment, the chief appraiser would be allowed to rely on information provided by a county management authority, the Federal Emergency Management Agency, or any other source the appraiser considered appropriate.

Exemption amount. The amount of the exemption for an item of qualified property would be determined by multiplying the property's appraised value for the tax year in which the disaster occurred by:

- 15 percent, if the property was assigned a Level I damage assessment rating;
- 30 percent, if the property was assigned a Level II damage assessment rating;
- 60 percent, if the property was assigned a Level III damage assessment rating; or
- 100 percent, if the property was assigned a Level IV damage assessment rating.

If a person qualified for the exemption after the beginning of the tax year, the exemption amount would be calculated by multiplying the amount determined above by a fraction, the denominator of which would be 365 and the numerator of which would be the number of days remaining in the tax year after the date on which the governor first declared the area a disaster area, including the day on which the declaration was made.

Notice. The chief appraiser would be required to deliver written notice to the applicant for an exemption under the bill of the approval, modification, or denial of an application within five days after the date the chief appraiser made the determination. The notice would have to include the damage assessment rating assigned to each item of qualified property included in the application and a brief explanation of the procedures for protesting the determination.

Recalculation of taxes. If a property owner qualified for the exemption after the tax due on qualified property had been calculated, the assessor for each taxing unit that had adopted the exemption would be required to recalculate the tax due and correct the appraisal roll. If the tax bill had been mailed and the tax had not been paid, the assessor would mail a corrected tax bill. If the property owner already had paid tax on the property, the tax collector for the taxing unit would be required to issue a refund in the amount by which the payment exceed the tax due after the exemption. No interest would be due on the refunded amount.

Protests. A property owner could protest before an appraisal review board the chief appraiser's modification or denial of the owner's application for the exemption or the determination of the appropriate damage assessment rating for an item of qualified property. A notice of protest relating to the exemption would have to be filed within 30 days after the date the property owner received the notice of modification or denial from the chief appraiser.

A taxing unit would not be allowed to challenge a grant in whole or in part of the exemption.

Expiration. The exemption would expire on January 1 of the first tax year in which property was reappraised.

Lost property levy. Property qualifying for the exemption created by this bill would not be included in the taxing unit's lost property levy.

School property value study. The taxable value of property included in the comptroller's school property value study would be reduced by the total dollar amount of any exemptions granted pursuant to this bill.

Effective date. The bill would take effect January 1, 2020, but only if the constitutional amendment proposed by the 86th Legislature authorizing the Legislature to provide for a temporary local option exemption from property taxation of a portion of the appraised value of certain property damaged by a disaster was approved by voters. If that amendment was not approved by voters, the bill would have no effect.

SUPPORTERS SAY:

HB 492 would provide taxing units with cheaper, more administrable, and more easily understood method for providing property tax relief to taxpayers following a disaster.

The exemption would be easier and more affordable for taxing units than the current method of conducting reappraisals, since an appraisal district could get information from other entities regarding the damage to property rather than having to reappraise the property itself. Taxpayers also are more familiar with an exemption than with reappraisals, and an exemption would provide taxpayers with more immediate relief.

OPPONENTS SAY:

HB 492 would not go far enough in providing property tax relief to taxpayers following a disaster because any such relief should be mandatory.

NOTES:

HB 492 is the enabling legislation for HJR 34 by Shine, which would amend the Texas Constitution to authorize the Legislature to provide for a temporary local option exemption from property taxation of a portion of the appraised value of certain property damaged by a disaster. HJR 34 has been placed on the April 17 Constitutional Amendments Calendar for second reading consideration.