

SUBJECT: Imposing time requirements to qualify as eco-labs under the property tax

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 9 ayes — Burrows, Bohac, Cole, Martinez Fischer, Murphy, Noble, Sanford, Shaheen, Wray

1 nay — Guillen

1 absent — E. Rodriguez

WITNESSES: For — Doug Smithson, Texas Rural Appraisal Districts, Texas Association of Appraisal Districts; Melisa Dickerson; (*Registered, but did not testify*: Michelle Cardenas, Rural Chief Appraiser Inc.; Michael Pacheco, Texas Farm Bureau; Monty Wynn, Texas Municipal League; Deece Eckstein, Travis County Commissioners Court)

Against — Eric Opiela, South Texans' Property Rights Association; and eight individuals; (*Registered, but did not testify*: nine individuals)

BACKGROUND: Texas Constitution Art. 8 sec. 1(b) requires that all real property in this state be taxed in proportion to its value. Art. 8 sec. 1-d-1 requires open-space land devoted to farm, ranch, or wildlife management purposes or to timber production be taxed on the basis of productive capacity.

Tax Code sec. 23.51(1) defines qualified open-space land as:

- land currently that is devoted to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years; or
- land that is used principally as an ecological laboratory by a public or private college or university.

DIGEST: CSHB 639 would amend the definition of "qualified open-space land" in the Tax Code. For land that is used principally as an ecological laboratory

by a public or private university to qualify, the bill would require the land to have been used principally in that manner by a college or university for five of the preceding seven years.

The bill would take effect January 1, 2021, and would apply beginning with the tax year that begins on the effective date to land that did not first qualify for appraisal as qualified open-space land in the 2014 through 2020 tax years. For land that first qualified during those tax years, the bill would apply beginning with the tax year that begins January 1, 2027.

**SUPPORTERS
SAY:**

CSHB 639 would close an unfair tax loophole that allows certain property owners to pay for special tax treatment unavailable to all other owners by imposing time requirements on the qualification of land as an eco-lab.

Eco-labs can be abused by landowners and developers. Landowners pay professors from universities and colleges to conduct research on their land in order to qualify the land as an eco-lab and thus for appraisal as qualified open-space land. This research often consists of the same study conducted multiple times on multiple parcels of land. The loss of tax revenue that results from designation of land as an eco-lab shifts the property tax burden onto other taxpayers. The bill would address this problem by requiring that land be used as an eco-lab for a period of five of the previous seven years in order to qualify for appraisal as qualified open-space land.

CSHB 639 also would make the guidelines to qualify as an eco-lab more uniform with those for agricultural use and timber production, which currently are subject to the same time requirements as are set out for eco-labs in this bill. The current lack of uniformity is unfair to farmers and ranchers, who often lose money in the first five years of agricultural use, during which time their property taxes are still based on the market value of the land.

The bill would have no impact on large academic research projects.

OPPONENTS

CSHB 639 would reduce the financial incentive for landowners to

SAY: participate in the eco-lab program, which could negatively impact scientific research and education in the state.

In contrast to land used in agriculture or timber production, land used as an eco-lab generates expenses but no income. Landowners currently have to pay universities and colleges to conduct research on their land during the period in which they attempt to qualify the land as an eco-lab in addition to paying property taxes based on the land's market value during that period. Forcing land to be used as an eco-lab for five years would be cost-prohibitive for many landowners.

Eco-labs provide researchers and students with valuable access to private land. Important research is being done as a result of eco-labs. Eco-labs should be treated differently than agriculture or timber production because they exist to promote science, training, and education in the state.

NOTES: According to the Legislative Budget Board, passage of the bill would limit ecological laboratory land from special open-space land appraisal to land that had been used in that manner for five of the preceding seven years, limiting the growth of new ecological laboratory land that would qualify for special open-land appraisal. As a result, taxable property value could be increased and the related costs to the Foundation School Fund could be decreased through the operation of the school finance formulas.