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

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Burrows, Guillen, Bohac, Cole, Murphy, Noble, E. Rodriguez, Sanford, Shaheen, Wray

0 nays

1 absent — Martinez Fischer

SENATE VOTE: On final passage, April 16 — 31-0

WITNESSES: For — Mark Ramsey, Republican Party of Texas, Legislative Priorities Committee, State Platform Committee; (*Registered, but did not testify*: Daniel Womack, Dow; Cheryl Johnson, Galveston County Tax Office; Walter West, Republican Party of Texas; Scott Norman, Texas Association of Builders; Julia Parenteau, Texas Realtors)

Against — (*Registered, but did not testify*: Adam Haynes, Conference of Urban Counties; Jim Allison, County Judges and Commissioners Association of Texas; Grover Worsham, Trinity County)

On — Ro'Vin Garrett, Tax Assessor-Collectors Association of Texas; Marya Crigler, Texas Association of Appraisal Districts; John Carlton, Texas State Association of Fire and Emergency Districts

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

DIGEST: SB 1772 would create an exemption from property taxation for a portion of the appraised value of certain property located in a governor-declared disaster area rather than authorize the reappraisal of such property.

Qualified property. Property that would qualify for the exemption would include tangible personal property used for the production of income or an improvement to real property. 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 105 days after the date the governor declared the area in which the qualified property was located to be a disaster area, 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 an exemption under the bill, the chief appraiser would be required to determine whether any item of qualified property that was the subject of the application 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, which for improvements to real property would mean 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, which for improvements to real property would mean 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 emergency 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 in which the person's qualified property was located to be 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 be required to 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 any part of a granted exemption.

Expiration. A tax exemption granted under the bill 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 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:

SB 1772 would help relieve burdens on taxpayers following disasters by providing an automatic property tax exemption for property damaged by a disaster. The temporary exemption created by this bill would be easier and less expensive to administer than the current method of reappraisals and would promote uniformity for appraisal districts across the state. SB 1772 would protect taxpayers against excessive taxation and wasteful government spending while reducing some of the stress experienced by taxpayers following a disaster.

OPPONENTS SAY:

SB 1772 would reduce the flexibility of appraisal districts in dealing with disasters by requiring an automatic exemption rather than making it permissive.

NOTES:

SB 1722 is the enabling legislation for SJR 57 by Bettencourt, which was left pending in Ways and Means. Provisions similar to SJR 57 were amended in the Senate onto HJR 34 by Shine, which was passed on May 19.

According to the Legislative Budget Board, passage of SB 1722 would create a mandatory percentage disaster exemption for property damaged by a disaster. Contingent on adoption of a constitutional amendment, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas.