

BILL ANALYSIS

Senate Research Center

H.B. 1409
By: Ashby et al. (Nichols)
Property Tax
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the Texas Constitution, land must be devoted principally to timber production to be eligible for appraisal as open-space land. For 35 years, county appraisal districts treated surface acreage used for oil and gas exploration and production just like the surrounding timber land. However, in the last few years, a handful of counties have begun taking the position that land used for oil and gas production loses its eligibility for appraisal as open-space land. In these counties, landowners have lost eligibility to have land appraised under the open-space land exemption and owed five years of back taxes with interest. Because the mineral estate is the dominant estate, a landowner ordinarily has little, if any, say in whether such facilities are built or where they are located. The surface owner ends up losing the open-space exemption without any corresponding gain in the form of royalties.

Last session, the legislature passed H.B. 3198, which corrected this situation by allowing land that was principally dedicated to agricultural use to remain qualified as open-space land if a lessee under an oil and gas lease begins conducting oil and gas operations over which the Railroad Commission of Texas has jurisdiction on the land if the remaining land continues to qualify as agricultural land. What that bill left out was the timber open-space exemption. This bill seeks parity between the agricultural land statute and timber land use statutes by allowing land qualified as timber to continue to qualify as such even if a portion of land is being used for oil and gas production over which the Railroad Commission of Texas has jurisdiction on the land.

H.B. 1409 amends current law relating to the qualification of land for appraisal for ad valorem tax purposes as timber land or restricted-use timber land.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 23.72, Tax Code, as follows:

Sec. 23.72. QUALIFICATION FOR PRODUCTIVITY APPRAISAL. (a) Creates this subsection from existing text and makes a nonsubstantive change.

(b) Prohibits a chief appraiser, in determining whether land is currently and actively devoted principally to the production of timber or forest products to the degree of intensity generally accepted in an area, from considering the purpose for which a portion of a parcel of land is used if the portion is:

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

(c) Provides that for the purpose of the appraisal of land under this subchapter (Appraisal of Timber Land), a portion of a parcel of land described by Subsection (b) is considered land that qualifies for appraisal under this subchapter if the remainder of the parcel of land qualifies for appraisal under this subchapter.

SECTION 2. Amends Subchapter E, Chapter 23, Tax Code, by adding Section 23.765, as follows:

Sec. 23.765. OIL AND GAS OPERATIONS ON LAND. Provides that the eligibility of land for appraisal under this subchapter does not end because a lessee under an oil and gas lease begins conducting oil and gas operations over which the Railroad Commission of Texas (railroad commission) has jurisdiction on the land if the portion of the land on which oil and gas operations are not being conducted otherwise continues to qualify for appraisal under this subchapter.

SECTION 3. Amends Section 23.9802, Tax Code, by adding Subsections (d) and (e), as follows:

(d) Prohibits a chief appraiser, in determining whether land qualifies for appraisal as provided by this subchapter (Appraisal of Restricted-Use Timber Land), from considering the purpose for which a portion of a parcel of land is used if the portion is:

(1) used for the production of timber or forest products, including a road, right-of-way, buffer area, or firebreak; or

(2) subject to a right-of-way that was taken through the exercise of the power of eminent domain.

(e) Provides that for the purpose of the appraisal of land under this subchapter, a portion of a parcel of land described by Subsection (d) is considered land that qualifies for appraisal under this subchapter if the remainder of the parcel of land qualifies for appraisal under this subchapter.

SECTION 4. Amends Subchapter H, Chapter 23, Tax Code, by adding Section 23.9808, as follows:

Sec. 23.9808. OIL AND GAS OPERATIONS ON LAND. Provides that the eligibility of land for appraisal under this subchapter does not end because a lessee under an oil and gas lease begins conducting oil and gas operations over which the railroad commission has jurisdiction on the land if the portion of the land on which oil and gas operations are not being conducted otherwise continues to qualify for appraisal under this subchapter.

SECTION 5. (a) Makes application of Sections 23.72 and 23.9802, Tax Code, as amended by this Act, prospective.

(b) Provides that Sections 23.765 and 23.9808, Tax Code, as added by this Act, do not affect an additional tax imposed as a result of a change of use of land appraised under Subchapter E or H, Chapter 23, Tax Code, that occurred before the effective date of this Act.

SECTION 6. Effective date: September 1, 2019.