

BILL ANALYSIS

Senate Research Center
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S.B. 894
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Property Tax
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Background:

When a property owner receiving an agricultural exemption converts their property to a non-agricultural use, the property owner is required to pay the difference between the tax assessment on the devalued property and what the tax assessment would have been on the full market value of the property for a period of five years. In addition to back taxes, property owners are required to pay an additional seven percent compounded interest on the taxes owed, which adds 27.5 percent on three years of lookback taxes and 40.3 percent on five years of lookback taxes to their tax bill, none of which goes to the seller. This tax treatment makes it difficult for Texas farmers and ranchers, who plan to use their land for other uses, to use their land how they see fit.

Solution:

S.B. 894 eliminates the seven percent compounded interest owed when agriculture, timber, or open-space land changes use, removing a punitive assessment and a barrier for landowners in deciding how to best use their land. In addition to removing the interest penalty, S.B. 894 equalizes the lookback period to three years for all agricultural exemptions.

Benefits:

1. Allows taxing units to collect all taxes that would have been assessed for the non-agricultural use.
2. Preserves the ability of taxing units to collect interest for late payments.
3. Gives landowners the ability to transform their land to a new purpose, generating additional growth and revenue for the jurisdiction.
4. Ending the collection of interest payments does not affect school funding formulas as interest is not a calculated component.

Known Supporters:

- Texas Association of Realtors
- Texas Association of Builders
- Texas and Southwestern Cattle Raisers Association
- Texas Forestry Association
- Texas Farm Bureau

As proposed, S.B. 894 amends current law relating to the additional tax imposed on land appraised for ad valorem tax purposes as agricultural, open-space, or timber land if the land is sold or diverted to a different use.

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 Sections 23.46(c) and (d), Tax Code, as follows:

(c) Provides that, if land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three years preceding the year in which the land is sold or diverted becomes due. Deletes existing text including interest at the rate provided for delinquent taxes to the total amount due. Requires the assessor for each taxing unit, if the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, to prepare and deliver a bill for the additional taxes, rather than a bill for the additional taxes plus interest, as soon as practicable after the change of use occurs. Provides that the taxes, rather than the taxes and interest, are due and become delinquent and incur penalties and interest as provided by law for other delinquent ad valorem taxes imposed by the taxing unit, rather than as provided by law for ad valorem taxes imposed by the taxing unit, if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(d) Provides that a tax lien attaches to the land on the date the sale or change of use occurs to secure payment of the additional tax imposed by Subsection (c) and any penalties and interest incurred if the tax becomes delinquent, rather than providing that a tax lien attaches to the land on the date the sale or change of use occurs to secure payment of the additional tax and interest imposed by Subsection (c) of this section and any penalties incurred.

SECTION 2. Amends Sections 23.47(c) and (d), Tax Code, to make conforming changes.

SECTION 3. Amends Sections 23.55(a), (b), (e), (f), (m), and (n), Tax Code, as follows:

(a) Provides that, if the use of land that has been appraised as provided by this subchapter (Appraisal of Agricultural Land) changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the three years, rather than five years, preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years. Deletes existing text including interest at an annual rate of seven percent calculated from the dates on which the differences would have become due along with the additional tax.

(b) Provides that a tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax imposed by this section and any penalties and interest incurred if the tax becomes delinquent, rather than to secure payment of the additional tax and interest imposed by this section and any penalties incurred.

(e) Deletes existing text relating to the inclusion of interest on certain taxes.

(f), (m), (n) Makes conforming and nonsubstantive changes.

SECTION 4. Amends Sections 23.58(c) and (d), Tax Code, as follows:

(c) Establishes that a provision in an instrument pertaining to a loan secured by a lien in favor of the lender on land appraised according to this subchapter that requires the borrower to make a payment to protect the lender from loss because of the imposition of additional taxes, rather than additional taxes and interest, under Section 23.55 (Change of Use of Land) is void unless the provision:

(1) makes a conforming change;

(2) makes no changes to this subdivision;

(3) makes a conforming change; and

(4) makes no changes to this subdivision.

(d) Requires the assessor for each taxing unit, on the request of the borrower or the borrower's representative, to compute the additional taxes, rather than the additional taxes and interest, that would be due that taxing unit under Section 23.55 if a change of use occurred on January 1 of the year in which the loan is granted or amended.

SECTION 5. Amends Sections 23.76(a), (b), and (e), Tax Code, as follows:

(a) Provides that, if the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the three years, rather than five years, preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years. Deletes existing text including interest at an annual rate of seven percent calculated from the dates on which the differences would have become due among the additional tax.

(b) Provides that a tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax imposed by this section and any penalties and interest incurred if the tax becomes delinquent, rather than to secure payment of the additional tax and interest imposed by this section and any penalties incurred.

(e) Deletes existing text relating to the inclusion of interest with taxes that are added to a bill that the taxing unit is required to prepare and deliver and makes a conforming change.

SECTION 6. Amends Sections 23.9807(a), (b), (c), and (f), Tax Code, as follows:

(a) Provides that, if the use of land that has been appraised as provided by this subchapter changes to a use that qualifies the land for appraisal under Subchapter E (Appraisal of Timber Land), an additional tax is imposed on the land equal to the difference between, rather than the sum of:

(1) redesignates Paragraph (A) as Subdivision (1) and includes the taxes imposed on the land for each of the three years, rather than five years, preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter; and

(2) redesignates Paragraph (B) as Subdivision (2). Deletes existing text including interest at an annual rate of seven percent calculated from the dates on which the differences would have become due. Makes nonsubstantive changes.

(b) Provides that, if the use of land that has been appraised as provided by this subchapter changes to a use that does not qualify the land for appraisal under Subchapter E or under this subchapter, an additional tax is imposed on the land equal to the difference between, rather than the sum of:

(1) redesignates Paragraph (A) as Subdivision (1) and includes the taxes imposed on the land for each of the three years, rather than five years, preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter; and

(2) redesignates Paragraph (B) as Subdivision (2). Deletes existing text including interest at an annual rate of seven percent calculated from the dates on which the differences would have become due. Makes nonsubstantive changes.

(c) Provides that a tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax imposed by this section and any penalties and interest incurred if the tax becomes delinquent, rather than to secure payment of the additional tax and interest imposed by this section and any penalties incurred.

(f) Deletes existing text relating to the inclusion of interest with taxes that are added to a bill that the taxing unit is required to prepare and deliver and makes a conforming change.

SECTION 7. Provides that Sections 23.46(c) and (d), Tax Code, as amended by this Act, apply only to a sale or diversion to a nonagricultural use of land appraised under Subchapter C (Land Designated for Agricultural Use), Chapter 23, Tax Code, that occurs on or after the effective date of this Act.

SECTION 8. Makes application of Sections 23.47(c) and (d), Tax Code, as amended by this Act, prospective.

SECTION 9. Provides that Sections 23.55(a), (b), (e), (f), (m), and (n), Tax Code, as amended by this Act, apply only to a change of use of land appraised under Subchapter D, Chapter 23, Tax Code, that occurs on or after the effective date of this Act.

SECTION 10. Makes application of Sections 23.58(c) and (d), Tax Code, as amended by this Act, prospective.

SECTION 11. Provides that Sections 23.76(a), (b), and (e), Tax Code, as amended by this Act, apply only to a change of use of land appraised under Subchapter E, Chapter 23, Tax Code, that occurs on or after the effective date of this Act.

SECTION 12. Provides that Sections 23.9807(a), (b), (c), and (f), Tax Code, as amended by this Act, apply only to a change of use of land appraised under Subchapter H (Appraisal of Restricted-Use Timber Land), Chapter 23, Tax Code, that occurs on or after the effective date of this Act.

SECTION 13. Effective date: September 1, 2019.