

BILL ANALYSIS

Senate Research Center
88R11272 CJC-F

S.B. 1145
By: West
Local Government
3/24/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas lost 21 percent of its child care providers from March 2020 to September 2021. Of those programs which closed during this period of time, 41 percent of the providers served infants and toddlers, and 79 percent were classified as child care homes, according to the Texas-based child welfare organization Children at Risk.

As a result of the provider loss, an additional 242 Texas communities became classified as "child care deserts." At least 48 percent of all Texans live in a childcare desert according to the Center for American Progress's Child Care Deserts dashboard.

For those child care providers which remain open, inflation impacting food and consumable goods costs, increasing rent (particularly in urban areas), higher utility prices, increasing property taxes, and higher wage costs are tremendous economic stressors.

S.B. 1145 provides a pathway to provide licensed child care providers some relief from increasing taxes. S.B. 1145 is designed to provide licensed child care providers relief from higher taxes regardless of whether they own the facilities or rent the property in which their childcare centers are located.

In order to ensure that landlords pass tax savings on to child care center tenants in the landlord's property, the bill proposes that the owner of the property in which a child care center is a tenant must include with their application for a tax exemption, an affidavit to the chief appraiser of the local appraisal district indicating that the property owner has provided to the child care facility a disclosure showing the amount by which the property taxes are reduced, and that the rent charged for the lease of the facility is reduced by an equal amount.

For those properties which are taxed as a single taxed entity but which are subdivided for tenants or other businesses, the bill provides that only the square footage used for a child care center and its activities may be utilized to calculate the tax exemption by the local appraisal district.

As proposed, S.B. 1145 amends current law relating to an exemption from ad valorem taxation of real property used to operate a child-care facility.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 1 (Section 11.36, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.36, as follows:

Sec. 11.36. CHILD-CARE FACILITIES. (a) Defines "child-care facility" and "qualifying child-care facility."

(b) Provides that, subject to Subsection (c), a person is entitled to an exemption from taxation of:

(1) the real property the person owns and operates as a qualifying child-care facility; or

(2) the portion of the real property that the person owns and leases to a person who uses the property to operate a qualifying child-care facility.

(c) Requires that the property, to qualify for the exemption authorized by this section, be:

(1) except as provided by Subsection (d), used exclusively to provide developmental and educational services for children attending the child-care facility; and

(2) reasonably necessary for the operation of the child-care facility.

(d) Provides that the use of exempt property for functions other than providing developmental and educational services for children attending the child-care facility located on the property does not result in the loss of an exemption authorized by this section if those other functions are incidental to the use of the property for providing those services to those children and benefit:

(1) those children; or

(2) the staff and faculty of the facility.

(e) Requires a person who claims an exemption under Subsection (b)(2) to include with the application for the exemption an affidavit certifying to the chief appraiser for the appraisal district that appraises the property that is the subject of the application that:

(1) the person has provided to the child-care facility to which the property is leased a disclosure document stating the amount by which the taxes on the property are reduced as a result of the exemption and the method the person will implement to ensure that the rent charged for the lease of the property fully reflects that reduction; and

(2) the rent charged for the lease of the property reflects the reduction in the amount of taxes on the property resulting from the exemption through a monthly or annual credit against the rent.

(f) Provides that property is not ineligible for an exemption under this section if a portion of the property is used for functions other than those described by Subsections (c) and (d). Provides that the exemption does not apply to the value of the portion of the property that is used for those other functions.

(g) Provides that Section 25.07 (Leasehold and Other Possessory Interests in Exempt Property) does not apply to a leasehold interest in property for which the owner receives an exemption under this section.

(h) Authorizes the Comptroller of Public Accounts of the State of Texas to adopt rules and forms necessary for the administration of this section.

SECTION 2. Amends Section 11.43(c), Tax Code, as follows:

(c) Provides that an exemption provided by certain sections, including Section 11.36, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e) (relating to prohibiting certain persons from receiving an exemption if the person fails to file a timely completed application form), the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: January 1, 2024, contingent upon approval by the voters of the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, authorizing the legislature to exempt from ad valorem taxation real property used to operate a child-care facility.