

SUBJECT: Allowing charitable exemption from property taxes to be set by general law

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Oliveira, McCall, Bonnen, Craddick, Heflin, Hilbert, Keffer, T. King, Ramsay, Sadler

0 nays

1 absent — Y. Davis

WITNESSES: For — Le Roy Van Booven, Seguin/Guadalupe County Senior Citizen's Center

Against — None

On — Dan Wilson, Comptroller of Public Accounts

BACKGROUND: Art. 8, sec. 2a of the Texas Constitution allow the Legislature to exempt from ad valorem taxes the property of institutions of purely public charity. Chapter 11.88 of the Tax Code provides for ad valorem tax exemptions for charitable organizations. These organizations must be organized exclusively for a charitable functions listed in the law.

Among the support services exempted from ad valorem taxes are those providing support to elderly persons.

DIGEST: HJR 4 would amend Art. 8, sec. 2a of the Constitution to specify that an institution defined by general law as a public charity would be exempt from ad valorem taxation. It would delete the "purely" qualifier on public charities.

A temporary provision would specify that the exemption from ad valorem taxes of property of institutions of public charity as defined by the general law would go into effect on January 1, 2000, and apply to taxes imposed on or after that date. The temporary provision would expire on January 1, 2002.

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The proposal would be presented to the voters at an election on November 2, 1999. The ballot proposal would read: “The constitutional amendment to authorize the legislature to exempt property owned by institutions of public charity, as defined by the legislature, from ad valorem taxation.”

SUPPORTERS  
SAY:

HJR 4 would clarify exemptions from ad valorem taxes for property held by charities, such as senior citizen centers. In tandem with HB 1978 by Kuempel, which the House passed on April 23, it would codify most counties’ current practice of exempting senior citizen centers from property taxes.

Chapter 11 of the Tax Code provides that senior citizen centers are charitable organizations. However, many of these centers offer other services to the community, such as renting out their facilities for events not intended solely for senior citizens, or providing meals at a small cost. Some courts could interpret that these services as not “purely” charitable. HJR 4 would allow the Legislature to define charity rather than leaving this to the courts, as the Legislature does for many other exemptions. The Tax Code now defines in detail the types of charitable institutions that may qualify for an exemption, and the additional flexibility this proposal would provide would not significantly expand what already is exempt.

Most counties already exempt senior citizen centers. In addition, many of the centers are owned by political subdivisions. Therefore, HJR 4 would have very little fiscal impact on the state.

OPPONENTS  
SAY:

HJR 4 would allow the Legislature broader discretion to define which charitable institutions could receive a property tax exemption. The courts properly have interpreted the term “purely” in a narrow fashion to limit tax exemptions to institutions that use their property exclusively for charitable purposes. This proposed constitutional change could open the door to much broader exemptions. Property tax exemptions shift the cost of taxation to other taxpayers or inhibit the ability of local taxing units dependent on property taxes, especially school districts, to raise the revenue needed to provide basic services.

Public schools could suffer from this potential erosion of the tax base. During the first year of the tax exemption, schools would lose revenue, but

ultimately, the state would be forced to bear the burden of a property tax base eroded by exemptions.

Years of case law have established an accepted set of interpretations of “purely” public charity. Amending the Constitution to give the Legislature broader authority to define what constitutes a public charity would render years of case law moot, introducing instability into the property tax system.

NOTES:

HB 1978 by Kuempel, which would take effect if HJR 4 was approved by the Legislature and the voters, would add the provision of recreational or social activities and facilities designed to address the special needs of elderly persons to the existing exemption from property taxes for charitable institutions that provide support to elderly persons. Rather than requiring such functions to be performed exclusively, the bill would allow organizations providing support for the elderly to engage primarily in performing charitable functions and allow them to engage in other activities that support or are related to their charitable activities. HB 1978 passed the House on the Local, Consent, and Resolutions Calendar on April 23 and was reported favorably, without amendment, by the Senate Finance Committee on May 5.