

- SUBJECT:** Residential value basis for tax appraisals and allowing consolidated ARBs
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 10 ayes — Oliveira, Otto, Bohac, Hartnett, Hilderbran, C. Howard, P. King, Paxton, Taylor, Villarreal
- 0 nays
- 1 absent — Peña
- WITNESSES:** For — (*Registered, but did not testify:* John Brusniak, Brusniak / Blackwell; Aurora Flores-Ortiz, Texas Association of Counties; Daniel Gonzalez, Texas Association of Realtors; Bill Hammond, Texas Association of Business; Billy Howe, Texas Farm Bureau; Cheryl Johnson, Galveston Co. Tax Office & Taxpayers; Donald Lee, Texas Conference of Urban Counties; Ned Muñoz, Texas Association of Builders; Sheryl Swift, Galveston County Tax Office)
- Against — None
- BACKGROUND:** Art. 8, sec. 1(a) of the Texas Constitution requires that real property be taxed in proportion to its value, which is to be ascertained as provided by law.
- Art. 8, sec. 18(c) of the Constitution requires the Legislature to provide for a single board of equalization for each appraisal entity. Tax Code, sec. 6.41 establishes an appraisal review board for each appraisal district. An appraisal review board is authorized to resolve disputes between taxpayers and the appraisal district. Their primary function is to hear appeals of the appraised value of taxable property. Most Texas counties are covered by their own central appraisal districts.
- DIGEST:** HJR 36 would amend Art. 1, sec. 1 of the Texas Constitution to authorize the Legislature to provide that taxation of a residential homestead be based solely on the property's value as a residence homestead, regardless of whether the residential use of the property by the owner would be considered the highest and best use of the property.

HJR 36 also would amend Art. 8, sec. 18(c) of the Constitution to allow the Legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalization.

The two proposals would be presented to the voters at an election on Tuesday, November 3, 2009. The first proposal's ballot language would read: "The constitutional amendment authorizing the legislature to provide for the ad valorem taxation of a residence homestead solely on this basis of the property's value as a residence homestead." The second proposal's ballot language would read: "The constitutional amendment authorizing the legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations."

**SUPPORTERS  
SAY:**

HJR 36 would authorize important reforms to the property tax appraisal system of Texas by providing an important check on certain kinds of appraisal hikes and by allowing rural counties to pool their talent to create higher quality boards of equalization, also called appraisal review boards. Both proposals were recommendations by the House Select Committee on Property Tax Relief and Appraisal Reform in its interim study report to the 81st Legislature.

**Exempting homesteads from highest and best use.** Determining the highest and best use of a particular piece of property is a generally accepted property appraisal technique used to help determine the market value of real property. Among real estate professionals, highest and best use is the use that is legally permissible, physically possible, financially feasible, and most profitable. The term is not defined by the Tax Code.

Some Texas homeowners have seen their real property appraisals rise between 200 and 400 percent, not because the value of their homes increased, but because the highest and best use of the land itself dramatically increased. While those properties whose use is restricted by zoning regulations are somewhat protected from dramatic changes in highest and best use — for example, from residential to commercial — those areas of the state not covered by zoning regulations are susceptible to dramatic appraisal increases based solely on the changes of land use in the area.

Texas already protects some kinds of property from large appraisal increases due to highest and best use. Agricultural and timber land are taxed on the productive value of the land, but no protection exists for residential properties.

HJR 36 would protect Texas homesteads from increases due to highest and best use by ensuring that they would be appraised only on the basis of the property's value as a residence homestead. These protections are especially necessary to protect homeowners whose neighborhoods are in transition from a residential to commercial use.

**Consolidated appraisal review boards.** HB 3611 would allow rural counties to form consolidated appraisal review boards. Many rural counties have a difficult time finding enough qualified and willing candidates to sit on their appraisal review boards. HB 3611 would allow counties to join together and pool their talent. Having fully staffed and qualified appraisal review boards would help to ensure a more professional, equitable, and timely appraisal review process.

OPPONENTS  
SAY:

According to the LBB, allowing homestead residential property to be valued based solely on its residential use and exempted from a highest and best use valuation could reduce taxable property values and thereby reduce local tax revenue. Also, when school district's property values per student are lower, the state must provide additional funding to that district under the Foundation School Fund's equalization formulas. The state cannot afford to increase its obligations to the Foundation School Fund when the next biennium is expected to have even less available revenue than the current one.

HJR 36 would not go far enough in allowing opportunities for appraisal districts to combine their efforts. Many rural counties have a difficult time staffing all levels and aspects of their central appraisal districts. The Legislature should allow and encourage these districts to consolidate functions by interlocal agreements. If the counties see benefits and want to form these agreements, the state should let them.

NOTES:

The accompanying enabling legislation, HB 3611 by Otto and HB 3613 by Otto, are both on today's General State Calendar.

The companion proposal, SJR 48 by Williams, was adopted by the Senate by 30-0 on April 24. Its enabling legislation, SB 20 by Williams, was

reported favorably, as substituted, by the Senate Finance Committee on April 22.