

- SUBJECT:** Exempting private schools from paying agricultural rollback taxes
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 5 ayes — Hilderbran, Bohac, Button, N. Gonzalez, Strama
0 nays
4 absent — Otto, Eiland, Martinez Fischer, Ritter
- WITNESSES:** For — Tom Daniel, St. Andrew's Episcopal School (*Registered, but did not testify*); Jennifer Allmon, Texas Catholic Conference and the Roman Catholic Bishops of Texas; Raif Calvert, Independent Colleges & Universities of Texas; David Dunn, Texas Charter Schools Association; Randy Erben, St. Andrew's Episcopal School; Daniel Gonzalez, Texas Association of Realtors; Jeffrey Howard and Mignon McGarry, Real Estate Council of Austin; Karen R. Johnson, United Ways of Texas; Steve Martens, Lutheran School Association of the Greater Austin Area; Rees; Caroline Simon; Katie Van Dyk)

Against — None

On — Deborah Cartwright, Comptroller of Public Accounts
- BACKGROUND:** Tax Code, ch. 23. subch. D provides for a special reduced appraisal valuation method used to determine tax payments for land used for certain activities related to agriculture or wildlife management. If the use of the land changes and no longer qualifies for the special reduced appraisal changes, an additional "rollback tax" is imposed equal to five years of the tax savings achieved through the special classification plus a 7 percent annual interest.

The additional tax does not apply if the land is transferred to or from a subdivision of the state, such as a public school, or if the owner is a qualified religious or charitable organization that used the land for an eligible purpose within five years to avoid having to pay the additional tax.
- DIGEST:** HB 561 would exempt nonprofit private schools that qualified for a

property tax exemption from having to pay an additional rollback tax for changing the use of agricultural or wildlife management land. The school would have to use the land for a tax-exempt purpose under current law within five years. The bill only would apply to a change of land use after its effective date.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS
SAY:**

HB 561 is a simple measure with a minimal fiscal impact that would end the unfair and counter-productive practice of requiring property tax-exempt private schools to pay an additional tax for land converted from agricultural and similar uses to educational facilities. The bill would simply put private schools on equal footing with other entities, such as public and charter schools, and charitable and religious organizations that qualify for an exemption from property taxes on land converted for educational purposes.

Over the years, the Legislature has broadened the types of organizations that are exempted from paying the rollback tax. In 1995, SB 428 granted exceptions to religious organizations, and in 2003 HB 2516 added charitable organizations. Unfortunately, the property of tax-exempt nonprofit private schools is not among the entities exempted from paying the tax on land converted for educational use. Private schools that pay the tax penalty must pass the cost on to students and parents, affecting the affordability of education. HB 561 would correct this and ensure that private schools with an exemption from paying property taxes did not have to pay the additional tax if they purchased agricultural land for an educational purpose.

The bill would remove barriers for nonprofit private schools that wish to expand to lower-cost land outside of urban areas. St. Andrew's Episcopal School in Austin, for example, has purchased land adjacent to their existing upper campus that is classified as agricultural land for appraisal purposes. The school wants to expand to the additional land, but doing so would trigger the hefty tax penalty for a change from agricultural use.

The bill would have a minimal fiscal impact on the state and a significant impact on the schools that would otherwise have to pay the tax penalty. A fiscal note for previous legislation in 2003 (HB 2516) exempting

charitable organizations from the additional tax found no impact to the state. Any fiscal impact to the state would be from opportunity costs – the state would lose the opportunity to receive the additional tax – and not from reducing existing revenue streams.

OPPONENTS
SAY:

HB 561 would reduce taxes collected for public schools and local governments by an uncertain amount. The bill would have an impact on state funds by reducing revenue that otherwise would flow into the Foundation School Fund, thereby requiring the state to make up the difference with general revenue. The bill would exempt from the additional tax a wide variety of schools, including private primary and secondary schools and private universities and colleges. The comptroller does not have data on the number of schools that would be affected by this provision or the revenue collected from schools that have previously paid the penalties, making it impossible to quantify the potential fiscal impact.

Even if the amount is not overwhelming, the bill effectively would transfer funds destined for public schools to private schools in the form of tax exemptions. The tax burden created by diverting this revenue would then be shifted to other groups, raising issues of equity and fairness. The state cannot afford to take funds away from Texas public school children, especially in the context of recent court action finding that the state's school finance system is not providing adequate funding for public education.

NOTES:

The Senate companion bill, SB 269 by Seliger, is pending in the Senate Finance committee.

The Legislative Budget Board fiscal note says the bill would reduce the amount of additional taxes collected by local taxing units by exempting certain schools from the payment requirement. According to the LBB, this would reduce taxable values and thereby increase costs to the Foundation School Fund, creating an indeterminate cost to the state.