

- SUBJECT:** Making certain costs ineligible for the historic preservation tax credit
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Murphy, Noble, Rodriguez, Sanford, Shine
- 1 nay — Martinez Fischer
- WITNESSES:** For — (*Registered, but did not testify:* Wayne Hamilton, Stonehenge Capital)
- Against — Erika Ragsdale, City of San Antonio and Alameda Theater Conservancy; Patrick Kennedy, Texas Research and Technology Foundation; William Sutherland; (*Registered, but did not testify:* Dorothy Ann Compton)
- On — Vaughn Aldredge, Texas Historical Commission; (*Registered, but did not testify:* Shannon Brandt and Tetyana Melnyk, Comptroller of Public Accounts)
- BACKGROUND:** Tax Code ch. 171, subch. S governs the franchise tax credit for eligible costs and expenses incurred in the rehabilitation of certified historic structures.
- Under sec. 171.901, "eligible costs and expenses" include qualified rehabilitation expenditures, as defined by the Internal Revenue Code, and expenses incurred by a nonprofit corporation exempt from federal income tax and state franchise tax or by an institution of higher education or university system.
- DIGEST:** CSHB 3777 would make ineligible for the franchise tax credit for the rehabilitation of certified historic structures the expenditures made by a nonprofit corporation, institution of higher education, or university system to rehabilitate a structure leased to a tax-exempt entity in a disqualified lease, as such term is defined by the Internal Revenue Code.

The bill would take effect January 1, 2022, and apply only to costs and expenses incurred on or after that date.

**SUPPORTERS  
SAY:**

CSHB 3777 would close a loophole that allows broad use of the historic preservation tax credit by excluding certain expenses from the credit. The credit was initially created by the Legislature for the private sector, but was later expanded to include use by certain nonprofit organizations. This has led to inappropriate use of the franchise tax credit by taxing entities such as school districts and local governments. In order to protect this important tool, there needs to be clear separation between the private and public sectors.

**CRITICS  
SAY:**

CSHB 3777 would limit the ability of tax-exempt entities, including nonprofits and school districts, from using the historic preservation tax credit to rehabilitate historic buildings. Without being able to use the credit for certain expenses, a rehabilitation project could become cost prohibitive and tax-exempt entities would not be able to preserve the history and culture of Texas communities.

**NOTES:**

According to the fiscal note, the bill would increase general revenue related funds by about \$7.6 million and the Property Tax Relief Fund by \$4.9 million in fiscal 2022-23. A gain to the Property Tax Relief Fund would result in an equal amount of savings to general revenue for funding the Foundation School Program.