

BILL ANALYSIS

Senate Research Center

H.B. 136
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Finance
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Engrossed

BACKGROUND AND PURPOSE

In 1978, Texas citizens voted to freeze the amount of ad valorem taxes on homesteads of the elderly. Ten years later, in 1988, Texas citizens voted to extend the ad valorem tax freeze to surviving spouses of the elderly and to allow the elderly and their surviving spouses to port their tax freeze of ad valorem taxation from one taxing jurisdiction to another. The freeze on such taxes only applies to taxes imposed by school districts. H.B. 136 provides a local option for a county or municipality to adopt an ad valorem tax limitation on homesteads of the elderly and their surviving spouses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.261, as follows:

Sec. 11.261. LIMITATION OF COUNTY, MUNICIPAL, OR JUNIOR COLLEGE DISTRICT TAX ON HOMESTEADS OF DISABLED AND ELDERLY. (a) Provides that this section applies only to a county, municipality, or junior college district that has established a limitation on the total amount of taxes that may be imposed by the county, municipality, or junior college district on the residence homestead of a disabled individual or an individual 65 years of age or older under Section 1-b(h), Article VIII, Texas Constitution.

(b) Requires the tax officials to appraise the property to which the limitation applies and calculate taxes as on other property, but provides that if the tax so calculated exceeds the limitation provided by this section, the tax imposed is the amount of the tax as limited by this section, except as otherwise provided by this section. Prohibits the county, municipality, or junior college district from increasing the total annual amount of ad valorem taxes the county, municipality, or junior college district imposes on the residence homestead of a disabled individual or an individual 65 years of age or older above the amount of the taxes the county, municipality, or junior college district imposed on the residence homestead in the first tax year, other than a tax year preceding the tax year in which the county, municipality, or junior college district established the limitation described by Subsection (a), in which the individual qualified that residence homestead for the exemption provided by Section 11.13(c) for a disabled individual or an individual 65 years of age or older. Provides that if the individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the exemption for the next year, and if the county, municipal, or junior college district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a county, municipality, or junior college district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed on the residence homestead

in the year immediately following the first year, other than a tax year preceding the tax year in which the county, municipality, or junior college district established the limitation described by Subsection (a), for which the individual qualified that residence homestead for the exemption.

(c) Authorizes the county, municipality, or junior college district, if an individual makes improvements to the individual's residence homestead, other than repairs and other than improvements required to comply with governmental requirements, to increase the amount of taxes on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. Provides that the amount of the tax increase is determined by applying the current tax rate to the difference between the appraised value of the homestead with the improvements and the appraised value it would have had without the improvements. Provides that a limitation provided by this section then applies to the increased amount of county, municipal, or junior college district taxes on the residence homestead until more improvements, if any, are made.

(d) Provides that a limitation on county, municipal, or junior college district tax increases provided by this section expires if on January 1 certain conditions exist.

(e) Provides that if the appraisal roll provides for taxation of appraised value for a prior year because a residence homestead exemption for disabled individuals or individuals 65 years of age or older was erroneously allowed, the tax assessor for the applicable county, municipality, or junior college district must add, as back taxes due as provided by Section 26.09(d), the positive difference, if any, between the tax that should have been imposed for that year and the tax that was imposed because of the provisions of this section.

(f) Provides that a limitation on tax increases provided by this section does not expire because the owner of an interest in the structure conveys the interest to a qualifying trust as defined by Section 11.13(j) if the owner or the owner's spouse is a trustor of the trust and is entitled to occupy the structure.

(g) Prohibits the county, municipality, or junior college district from imposing ad valorem taxes, except as provided by Subsection (c), if an individual who receives a limitation on county, municipal, or junior college district tax increases provided by this section subsequently qualifies a different residence homestead in the same county, municipality, or junior college district for an exemption under Section 11.13, on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes the county, municipality, or junior college district would have imposed on the subsequently qualified homestead in the first year in which the individual receives that exemption for the subsequently qualified homestead had the limitation on tax increases provided by this section not been in effect, multiplied by a fraction the numerator of which is the total amount of taxes the county, municipality, or junior college district imposed on the former homestead in the last year in which the individual received that exemption for the former homestead and the denominator of which is the total amount of taxes the county, municipality, or junior college district would have imposed on the former homestead in the last year in which the individual received that exemption for the former homestead had the limitation on tax increases provided by this section not been in effect.

(h) Provides that an individual who receives a limitation on county, municipal, or junior college district tax increases under this section and who subsequently qualifies a different residence homestead in the same county, municipality, or junior college district for an exemption under Section 11.13, or an agent of the individual, is entitled to receive from the chief appraiser of the appraisal district in which the former homestead was located a written certificate providing the

information necessary to determine whether the individual may qualify for a limitation on the subsequently qualified homestead under Subsection (g) and to calculate the amount of taxes the county, municipality, or junior college district may impose on the subsequently qualified homestead.

(i) Provides that if an individual who qualifies for a limitation on county, municipal, or junior college district tax increases under this section dies, the surviving spouse of the individual is entitled to the limitation on taxes imposed by the county, municipality, or junior college district on the residence homestead of the individual if certain conditions are met.

(j) Provides that if an individual who is 65 years of age or older and qualifies for a limitation on county, municipal, or junior college district tax increases for the elderly under this section dies in the first year in which the individual qualified for the limitation and the individual first qualified for the limitation after the beginning of that year, except as provided by Subsection (k), the amount to which the surviving spouse's county, municipal, or junior college district taxes are limited under Subsection (i) is the amount of taxes imposed by the county, municipality, or junior college district, as applicable, on the residence homestead in that year determined as if the individual qualifying for the exemption had lived for the entire year.

(k) Provides that if in the first tax year after the year in which an individual who is 65 years of age or older dies under the circumstances described by Subsection (j) the amount of taxes imposed by a county, municipality, or junior college district on the residence homestead of the surviving spouse is less than the amount of taxes imposed by the county, municipality, or junior college district in the preceding year as limited by Subsection (j), in a subsequent tax year the surviving spouse's taxes imposed by the county, municipality, or junior college district on that residence homestead are limited to the amount of taxes imposed by the county, municipality, or junior college district in that first tax year after the year in which the individual dies.

SECTION 2. Amends Sections 23.19(b) and (g), Tax Code, as follows:

(b) Makes conforming changes.

(g) Requires the total tax imposed by a school district, county, municipality, or junior college district to be reduced by any amount that represents an increase in taxes attributable to separately appraised interests of the real property and improvements that are subject to the limitation of taxes prescribed by Section 11.26 or 11.261.

SECTION 3. Amends Sections 26.012(6), (13), and (14), Tax Code, to redefine "current total value," "last year's levy," "last year's total value."

SECTION 4. Provides this Act takes effect January 1, 2004, and applies only to ad valorem taxes imposed on or after that date, but only if the constitutional amendment to permit a county, municipality, or junior college district to establish an ad valorem tax freeze on residence homesteads of the disabled and of the elderly and their spouses is approved by the voters. Provides that if that amendment is not approved by the voters, this Act has no effect.