

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2345
By: Creighton
Property Tax
4/29/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Section 11.21, Tax Code, allows an exemption from ad valorem taxation of real property to eligible properties that are leased to schools. However, a property owner's entitlement to an exemption from property tax does not extend to property leased to an open-enrollment public charter school. A property owner leasing a facility to a public charter school will often include the property taxes due in the charter school's rent, increasing the school's overall costs to educate its students and diverting resources from the classroom. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2345 amends current law relating to the exemption from ad valorem taxation of real property leased to and used by certain schools.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.211, as follows:

Sec. 11.211. REAL PROPERTY LEASED TO CERTAIN SCHOOLS. (a) Entitles a person to an exemption from taxation of the portion of the real property that the person owns and leases to an open-enrollment charter school authorized by Subchapter D (Open-Enrollment Charter School), Chapter 12, Education Code, that is qualified as provided by Section 11.21(d) (relating to criteria an organization is required to meet for qualification as a school) of this code if:

- (1) the portion of the real property that is leased to the school is:
 - (A) used exclusively by the school for the operation or administration of the school or the performance of other educational functions by the school; and
 - (B) reasonably necessary for a purpose described by Paragraph (A); and
- (2) the owner of the portion of the real property that is leased to the school certifies by affidavit to the school that:
 - (A) if the lease agreement requires the school to pay the taxes imposed on the real property as a portion of the total consideration paid to the property owner under the agreement, the owner will reduce the total consideration required to be paid by the school under the lease agreement by an amount equal to the amount by which the taxes on the real property are reduced as a result of the

exemption by providing a monthly or annual credit against the total consideration due under the agreement; or

(B) if the lease agreement requires the school to pay the taxes imposed on the real property directly to the collector for the applicable taxing unit or to the owner or the property manager separately from the payment of rent to the property owner under the agreement, the school is no longer required to pay the taxes to the collector, owner, or property manager, as applicable, and the rent charged to the school under the agreement is not affected unless a term of the agreement specifically provides for a change in the amount of the rent.

(b) Requires a property owner required to provide an affidavit described by Subsection (a)(2)(A) to an open-enrollment charter school to:

(1) provide the school with a disclosure document stating the amount by which the taxes on the real property are reduced as a result of the exemption and the method the owner will implement to ensure that the total consideration for the lease of the real property fully reflects the total amount of that reduction; and

(2) reduce the total consideration for the lease of the real property through a monthly or annual credit against the total consideration to reflect the amount by which the taxes on the real property are reduced as a result of the exemption.

(c) Prohibits this section from being construed as invalidating an exemption from taxation of real property granted to an open-enrollment charter school on the basis of Section 12.128 (Property Purchased or Leased with State Funds), Education Code, before January 1, 2020.

(d) Provides that Section 25.07 (Leasehold and Other Possessory Interests in Exempt Property) does not apply to a leasehold interest in property for which the owner receives an exemption under this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: January 1, 2020, contingent on approval by the voters of the proposed constitutional amendment authorizing the legislature to exempt from ad valorem taxation real property leased to certain schools organized and operated primarily for the purpose of engaging in educational functions. Provides that if that amendment is not approved by the voters, this Act has no effect.