

## **BILL ANALYSIS**

C.S.H.B. 388  
By: Murphy  
Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been noted that certain real property leased to public schools is exempt from property taxation but that this tax exemption does not extend to property leased to an open-enrollment charter school. Concerns have been raised that this increases the charter school's overall costs to educate its students and diverts resources from the classroom because the lessor often includes the cost of taxes in the lease payments. C.S.H.B. 388 seeks to address this issue by providing for a property tax exemption for certain real property leased to and used by a charter school.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 388 amends the Tax Code to entitle a person to an exemption from taxation of the portion of the real property that the person owns and leases to a qualified open-enrollment charter school if the following conditions are met:

- the portion of the real property that is leased to the charter school is used exclusively by the school for its operation or administration or the performance of other educational functions by the school and is reasonably necessary for such a purpose; and
- the owner of the portion of the real property that is leased to the charter school certifies by affidavit to the school certain information relating to the payment of property taxes by the school under certain types of lease agreements to reflect the change in tax liability for the property.

C.S.H.B. 388 requires a property owner required to provide the affidavit to a charter school to do the following:

- provide the school with a disclosure document stating the amount by which the taxes on the property are reduced as a result of the exemption and the method the owner will implement to ensure that the total consideration charged for the lease of the real property fully reflects that reduction; and
- 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.S.H.B. 388 prohibits its provisions from being construed as invalidating an exemption from taxation of real property granted before January 1, 2020, to a charter school on the basis that the property was purchased or leased with state funds. The bill excepts a leasehold interest in property for which the owner receives a property tax exemption under the bill's provisions from the requirement for a leasehold or other possessory interest in real property that is exempt from property taxation to be listed in the name of the owner of the possessory interest if the duration of the interest may be at least one year.

### **EFFECTIVE DATE**

January 1, 2020, if the constitutional amendment authorizing the legislature to exempt from property taxation real property leased to certain schools organized and operated primarily for the purpose of engaging in educational functions is approved by the voters.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 388 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the necessary conditions for a person who owns and leases real property to a qualified charter school to qualify for the tax exemption by:

- including the operation or administration of the charter school among the authorized uses of the property;
- revising the information that the property owner must certify by affidavit to the charter school by specifying the content based on whether the lease requires the school to pay taxes to the property owner or to the collector; and
- clarifying that the conditions apply only with respect to the portion of the land leased to the charter school.

The substitute revises the required actions that coincide with the provision of an affidavit if the lease agreement requires the school to pay taxes directly to the collector.

The substitute prohibits its provisions from being construed as invalidating a certain exemption from taxation of real property granted before January 1, 2020.