

SUBJECT: Developing appraisal standards for the wildlife management tax exemption

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — Oliveira, McCall, Craddick, Hartnett, Bonnen, Y. Davis, Heflin, Keffer, Ramsay, Ritter

0 nays

1 absent — Hilbert

WITNESSES: For — Beryl K. Armstrong; Pete T. Islas, Hays County Appraisal District; David K. Langford, Texas Wildlife Association; Leta Schlinke, Kendall Appraisal District

On — Jeff Avant, Kendall Appraisal District; Kirby Brown, Texas Parks and Wildlife Department

BACKGROUND: Land used for agricultural activities is appraised for tax purposes on its productive value, rather than the typically higher market value. In 1991, the 72nd Legislature amended the Tax Code to add wildlife management land to the definition of agricultural use. Land must be deemed agricultural before it can be designated as being in wildlife management. In 1995, voters amended Art. 8, sec. 1-d-1 of the Texas Constitution to clarify that land used for wildlife management is taxable based on productive value (HJR 72 by Alexander). The 74th Legislature also enacted HB 1358 by Alexander to eliminate the requirement that wildlife management land first must be appraised as qualified open-space land before qualifying for agricultural use. The bill removed a surplus animal-harvesting requirement for wildlife management land but raised from two to three (out of seven) the number of uses landowners must engage in on the land (habitat, erosion, and predator control; providing shelters, supplemental food, and water; and census counts of indigenous animals).

Tax Code, sec. 23.52(g) authorizes the Comptroller’s Office to develop guidelines for chief appraisers in determining whether land qualifies for the wildlife management designation.

DIGEST: CSHB 3123 would repeal Tax Code, sec. 23.52(g) and add sec. 23.521 to transfer primary statutory responsibility from the comptroller to the Texas Parks and Wildlife Department (TPWD) for establishing criteria by which appraisers decide whether land was eligible for the wildlife management designation.

With the comptroller's assistance, TPWD would have to develop standards for determining whether land qualified under sec. 23.51(7). TPWD would have to seek input from the Texas Agricultural Extension Service. The standards could include minimum tract-size requirements and factors such as the seven requisite wildlife management land uses; the type of indigenous wild animal population; and the region where the land was located. The standards also could include written management plans by landowners whose chief appraisers requested them.

The comptroller would have to adopt the standards by rule and distribute them to appraisers. Appraisers and appraisal review boards would have to apply the standards along with the appropriate appraisal manuals developed by the comptroller, insofar as the manuals did not conflict with the standards.

The bill would take effect September 1, 2001. The rules to be adopted and distributed under this bill would apply to tax years beginning on or after January 1, 2002.

SUPPORTERS SAY: Increasingly technical questions continue to arise regarding the eligibility of land for the wildlife management designation. For example, some developers and landowners are subdividing agricultural land, selling off lots and using the wildlife management designation to maintain its agricultural use. What was intended as a revenue-neutral means of encouraging wildlife habitat preservation has become a property tax loophole. This loophole reduces taxes by as much as 90 percent in some cases and puts appraisers in a quandary.

TPWD would be better equipped than appraisers or the comptroller to deal with this situation. Its expertise in wildlife habitats should be used to resolve these issues by developing clear standards. The comptroller would formulate them into rules that, unlike the current guidelines, would have the force of

law. Tax professionals and the agricultural community still would have opportunity for meaningful input before the standards were adopted.

If nothing were done, the courts would have to resolve matters case by case, as they currently are doing.

OPPONENTS
SAY:

Rather than delegating this duty to a state agency with no expertise in tax appraisal, the Legislature instead should resolve the problems it created in 1991 and 1995. It should develop and adopt standards, such as minimum lot sizes and the level of activity required to justify the wildlife management designation. Legislators easily could avail themselves of the expertise of TPWD, the comptroller, agricultural agencies, and other interested parties to arrive at the most workable solution for all involved.

OTHER
OPPONENTS
SAY:

The comptroller's agricultural appraisal manual has not been revised since 1990. It is prepared in conjunction with the Texas Department of Agriculture and should be updated to help address this ongoing problem.

NOTES:

The original bill would have required the comptroller to develop standards and rules. The substitute included appraisal review boards in the requirement to apply, rather than follow, the adopted standards, but deleted the reference to doing so in a hearing.