

SUBJECT: Extending time limit for tax exemption on religious organization's property

COMMITTEE: Local Government Ways and Means — favorable, without amendment

VOTE: 6 ayes — Hill, Hegar, Laubenberg, McReynolds, Puente, Quintanilla

0 nays

1 absent — Mowery

WITNESSES: For — Bill Carroll, Williamson County Appraisal District

Against — None

BACKGROUND: Texas Constitution, Art. 8, sec. 2(a), provides that all occupation taxes must be equal and uniform upon the same class of subjects within the limits of the authority levying the tax. The Legislature may, by general law, exempt actual places of religious worship or any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, which yields no revenue to the church or religious society. However, the exemption must not extend to more property than reasonably is necessary for a dwelling place and in no event to more than one acre of land.

Tax Code, sec. 11.20, provides that religious organizations are entitled to an exemption from taxation of:

- real property that is owned by the religious organization, is used primarily as a place of regular religious worship, and is reasonably necessary for engaging in religious worship;
- certain tangible personal property owned by the religious organization;
- real property that is owned by the religious organization and is reasonably necessary for use as a residence for clergy, not to exceed one acre of land for each residence, and tangible personal property that is owned by the religious organization and is reasonably necessary for use of the residence; and

- real property owned by the religious organization consisting of an incomplete improvement that is under active construction or other physical preparation and that is designed and intended to be used as a place of regular religious worship when complete, or the land on which the incomplete improvement is located that reasonably will be necessary for use of the improvement as a place of worship. The property may not be exempted for more than three years.

An incomplete improvement is under physical preparation if the religious organization has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for construction or has conducted an environmental or land use study.

To qualify as a religious organization, an organization must:

- be organized and operated primarily for the purpose of engaging in religious worship or promoting the spiritual development of individuals;
- be operated in a way that does not result in accrual of distributable profits or realization of private gain;
- use its assets in performing the organization's religious functions or the religious functions of another religious organization; and
- by charter or other regulation, direct that on discontinuance of the organization, the assets are to be transferred to the state, the United States, or other charitable, educational, or religious organization.

DIGEST:

HB 3291 would provide an exception to the three-year time limit for a property-tax exemption for improvements on land owned by a religious organization. A religious organization that had received such a property-tax exemption for the maximum period allowed could apply to the chief appraiser not later than May 1 for a one-year extension of the exemption. The chief appraiser would have to grant the extension if the organization showed that it had made substantial progress in completing the improvement during the preceding year. However, the chief appraiser could not grant more than three one-year extensions.

The bill would take effect January 1, 2004.

**SUPPORTERS
SAY:**

HB 3291 would give a religious organization some leeway beyond the three-year tax exemption limit in which to deal with difficulties that commonly occur in construction projects. After all, complex environmental, architectural, and building code requirements easily can result in delays through no fault of the religious organization. Furthermore, building contractors often go well beyond the deadline established at the start of a project.

HB 3291 would allow the chief appraiser to be more flexible in working with religious organizations. Under current law, if construction is not complete in three years, the exemption is removed, regardless of the status of the construction or the efforts that were made to finish the project. As a result, some religious organizations owe substantial tax bills in addition to the money required to finish the project.

Chief appraisers could grant extensions only to religious organizations that were making substantial progress, yet had legitimate problems completing improvements. The bill would give religious organizations added incentive to complete a project because the extension would require them to make substantial progress and could only be granted a total of three times, leaving little room for abuse of the system.

**OPPONENTS
SAY:**

HB 3291 is not necessary. Three years is a reasonable amount of time during which a religious organization may claim an exemption for improvements on its property. Furthermore, as with any tax exemption, there would be potential for abuse under HB 3291. A religious organization that had halted construction on a project for reasons including a lack of funds could seek additional exemptions when it had no intention of completing the project in a timely fashion, if at all.

NOTES:

Related legislation, HJR 55 and HB 1278, both by Zedler, passed the House on May 10.

HJR 55 would amend Texas Constitution, Art. 8, sec. 2 to permit the Legislature to exempt from taxation any property owned by a church or by a strictly religious society that owned an actual place of religious worship if the property was owned for the purpose of expansion of the place of religious worship or construction of a new place of religious worship and the property

yielded no revenue to the church or religious society. The Legislature could provide eligibility limitations for the exemption and could impose sanctions.

The enabling bill for HJR 55, HB 1278 would amend the Tax Code to include the land that the religious organization owned for the purpose of expansion of the place of regular religious worship or construction of a new place of regular religious worship within the land for which a religious organization was entitled to an exemption, if the religious organization owned other property that qualified for an exemption for certain reasons, and the land produced no revenue. A tract of land that was not contiguous to the tract of land on which the religious organization's place of regular religious worship was located could not be exempted under the provisions described above for more than three years, and the bill would impose tax penalties, plus interest, on land that was sold or otherwise transferred to another person in a year in which the land received the exemption.