

BILL ANALYSIS

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C.S.S.B. 449
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Finance
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, landowners can qualify for a number of tax valuation options based on land management practices. Two of the more commonly used options are the agricultural and wildlife valuations, commonly referred to as the "ag or wildlife exemptions." While generally referred to as exemptions, neither option actually exempts property from taxation. Instead, these valuation options allow property to be appraised based on its productive capacity in agriculture or open space, which is generally a lower value than an appraisal for highest and best use. This usually results in a lower appraisal and lower property taxes for the landowner.

C.S.S.B. 449 seeks to create a new valuation option in statute similar to the agricultural and wildlife valuations that would provide a tax incentive for landowners who choose to engage in activities on their property that benefit both water quality and quantity. Since Texas is a private lands state, and most of the water in this state either flows through or sits under land that is held by private individuals, one of the best ways for Texas to protect water is to encourage landowners to be good stewards of the resource. The creation of the water stewardship valuation option in C.S.S.B. 499 will give landowners a new land management option that is both incentive-based and cost-effective. It also will help protect valuable open space land and fight fragmentation, promote water conservation, help the state meet its overall water conservation goals, advance the state water plan, and protect water quality in rivers, streams, and aquifers.

As was the case when the wildlife valuation was added to statute in 1995, the water stewardship valuation will be a revenue neutral use of land. This is because the water stewardship valuation option will require a landowner to already be receiving the agricultural valuation before moving to this new valuation process. Therefore, the only landowners who can move to this valuation option are those who are receiving a similar one currently. Landowners who choose this option will pay the same amount of taxes as they did before moving to this valuation. For example, if land was appraised as irrigated cropland and it moves to the water stewardship valuation, it will still be appraised as irrigated cropland. C.S.S.B. 499 allows the legislature to advance sound, incentive-based water stewardship and conservation policy during a tough fiscal climate at no cost to the state.

C.S.S.B. 449 amends current law relating to the appraisal for ad valorem tax purposes of open-space land devoted to water stewardship purposes on the basis of its productive capacity.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 3 (Section 23.5215, Tax Code) and SECTION 6 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 23.51, Tax Code, by amending Subdivision (2) and adding Subdivision (9), as follows:

- (2) Redefines "agricultural use" to include the use of land for water stewardship.
- (9) Defines "water stewardship."

SECTION 2. Amends Section 23.52(g), Tax Code, to provide that the category of land that qualifies under Section 23.51(7) (relating to the definition of "wildlife management") or 23.51(9) is the category of the land under this subchapter or Subchapter E (Appraisal of Timber Land), as applicable, before the wildlife-management use or water-stewardship use, as applicable, began.

SECTION 3. Amends Subchapter D, Chapter 23, Tax Code, by adding Section 23.5215, as follows:

Sec. 23.5215. STANDARDS FOR QUALIFICATION OF LAND FOR APPRAISAL BASED ON WATER-STEWARDSHIP USE. (a) Requires the Parks and Wildlife Department (TPWD), with the assistance of the comptroller of public accounts (comptroller), to develop standards for determining whether land qualifies under Section 23.51(9) for appraisal under this subchapter. Requires the Texas AgriLife Extension Service, on request of TPWD or the comptroller of public accounts (comptroller), to assist TPWD and the comptroller in developing the standards. Requires the comptroller to designate one chief appraiser from a rural area of this state and one chief appraiser from an urban area of this state to assist in the development of the standards. Requires the comptroller by rule to adopt the standards developed by TPWD or adopt alternative standards and distribute those rules to each appraisal district.

(b) Requires that the standards adopted under Subsection (a):

(1) require that a tract of land:

(A) be at least a specified minimum size and not more than a specified maximum size as necessary to accomplish the water-stewardship use; and

(B) possess specific water-related attributes based on the intensity of use of the land and other requirements relating to the productivity of the land;

(2) require that the owner of the land hold a water right that authorizes the use of a specified minimum amount of water for instream flows dedicated to environmental needs or bay and estuary inflows for the land to qualify under Section 23.51(9)(I) (relating to holding a water right that authorizes the use of water for instream flows dedicated to environmental needs) for appraisal under this subchapter;

(3) specify the degree to which the land is authorized to be developed without becoming ineligible under Section 23.56(b) for appraisal as provided by this subchapter on the basis of use for water stewardship; and

(4) address:

(A) the activities listed in Section 23.51(9);

(B) the region in this state in which the land is located; and

(C) any other factor TPWD or the comptroller determines is relevant.

(c) Requires that the standards adopted under Subsection (a) limit eligibility of a tract of land for appraisal under this subchapter on the basis of use for water stewardship to the portion of the tract of land that is currently devoted principally to use for that purpose.

(d) Authorizes the standards adopted under Subsection (a) to include specifications for a written management plan to be developed by a landowner if the landowner receives a request for a written management plan from a chief

appraiser as part of a request for additional information under Section 23.57 (Action on Applications).

(e) Requires the chief appraiser and the appraisal review board, in determining whether land qualifies under Section 23.51(9) for appraisal under this subchapter, to apply the standards adopted under Subsection (a) and, to the extent they do not conflict with those standards, the appraisal manuals developed and distributed under Section 23.52(d) (relating to manuals for open-space land appraisals).

SECTION 4. Amends Section 23.56, Tax Code, as follows:

Sec. 23.56. LAND INELIGIBLE FOR APPRAISAL AS OPEN-SPACE LAND. (a) Creates this subsection from existing text. Makes a conforming change.

(b) Provides that land is not eligible for appraisal as provided by this subchapter on the basis of use for water stewardship if:

(1) the land was appraised as qualified open-space land under this subchapter at the time the water-stewardship use began and the land is developed to a degree that precludes the land from eligibility for appraisal under this subchapter on a basis other than use for water stewardship; or

(2) the land was appraised as qualified timber land under Subchapter E at the time the water-stewardship use began and the land is developed to a degree that precludes the land from eligibility for appraisal under that subchapter.

SECTION 5. Amends Section 23.60(a), Tax Code, to make a conforming change.

SECTION 6. (a) Requires TPWD, with the assistance of the comptroller, as soon as practicable after the effective date of this Act, to develop the standards required by Section 23.5215, Tax Code, as added by this Act. Requires the comptroller by rule, as soon as practicable after those standards are developed, to adopt those standards and distribute those rules to each appraisal district as required by that section. Provides that the rules apply only to tax years beginning after the tax year in which the rules are adopted and distributed.

(b) Provides that this Act applies only to the appraisal of land for ad valorem tax purposes for a tax year after the tax year in which the comptroller adopts the rules described by Subsection (a) of this section and distributes those rules to each appraisal district.

SECTION 7. Effective date: January 1, 2012, contingent upon passage of the constitutional amendment proposed by the 82nd Legislature, Regular Session, 2011, providing for the appraisal for ad valorem tax purposes of open-space land devoted to water stewardship purposes on the basis of its productive capacity.