

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

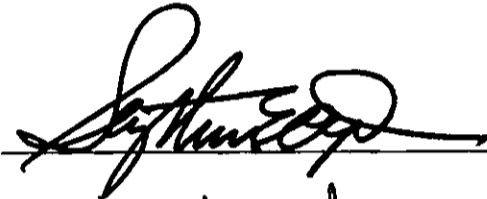
MAY 29, 2009
Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HOUSE BILL 2555 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.




Wentworth

Dewell

Harris

Zaffrini

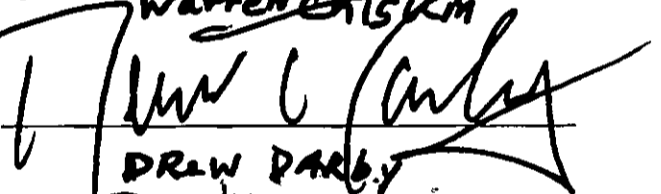
On the part of the Senate



Harvey Hinderbran

Wanda Chusick

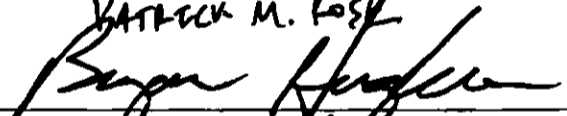
WARREN E. STORM



DREW PARBY

Patrick M. Rose

PATRICK M. ROSE



On the part of the House

Bryan Hughes

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2555

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the exemption from ad valorem taxation of certain
3 property acquired to provide low-income housing or used for
4 charitable purposes.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 11.181(b), Tax Code, is amended to read
7 as follows:

8 (b) Property may not be exempted under Subsection (a) after
9 the fifth [~~third~~] anniversary of the date the organization acquires
10 the property.

11 SECTION 2. (a) Section 11.184, Tax Code, is amended by
12 amending Subsection (c) and adding Subsections (l), (m), and (n) to
13 read as follows:

14 (c) A [~~If approved under Subsection (b), a~~] qualified
15 charitable organization is entitled to an exemption from taxation
16 of:

17 (1) the buildings and other real property and the
18 tangible personal property that:

19 (A) are owned by the organization; and

20 (B) except as permitted by Subsection (d), are
21 used exclusively by the organization and other organizations
22 eligible for an exemption from taxation under this section or
23 Section 11.18; and

24 (2) the real property owned by the organization

1 consisting of:

2 (A) an incomplete improvement that:

3 (i) is under active construction or other
4 physical preparation; and

5 (ii) is designed and intended to be used
6 exclusively by the organization and other organizations eligible
7 for an exemption from taxation under this section or Section 11.18;
8 and

9 (B) the land on which the incomplete improvement
10 is located that will be reasonably necessary for the use of the
11 improvement by the organization and other organizations eligible
12 for an exemption from taxation under this section or Section 11.18.

13 (1) Notwithstanding the other provisions of this section, a
14 corporation that is not a qualified charitable organization is
15 entitled to an exemption from taxation of property under this
16 section if:

17 (1) the corporation is exempt from federal income
18 taxation under Section 501(a), Internal Revenue Code of 1986, by
19 being listed as an exempt entity under Section 501(c)(2) of that
20 code;

21 (2) the corporation holds title to the property for,
22 collects income from the property for, and turns over the entire
23 amount of that income, less expenses, to a qualified charitable
24 organization; and

25 (3) the qualified charitable organization would
26 qualify for an exemption from taxation of the property under this
27 section if the qualified charitable organization owned the

1 property.

2 (m) Before a corporation described by Subsection (1) may
3 submit an application for an exemption under this section, the
4 qualified charitable organization for which the corporation holds
5 title to the property must apply to the comptroller for the
6 determination described by Subsection (e) with regard to the
7 qualified charitable organization. The application for the
8 determination must also include an application to the comptroller
9 for a determination of whether the corporation meets the
10 requirements of Subsections (1)(1) and (2). The corporation shall
11 submit with the application for an exemption under this section a
12 copy of the determination letter issued by the comptroller. The
13 chief appraiser shall accept the copy of the letter as conclusive
14 evidence of the matters described by Subsection (h) as well as of
15 whether the corporation meets the requirements of Subsections
16 (1)(1) and (2).

17 (n) Notwithstanding Subsection (k), in order for a
18 corporation to continue to receive an exemption under Subsection
19 (1) after the fifth tax year after the year in which the exemption
20 is granted, the qualified charitable organization for which the
21 corporation holds title to property must obtain a new determination
22 letter and the corporation must reapply for the exemption.

23 (b) Section 11.184(b), Tax Code, is repealed.

24 (c) This section applies only to ad valorem taxes imposed
25 for a tax year that begins on or after the effective date of this
26 section.

27 (d) This section takes effect January 1, 2010.

H.B. No. 2555

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2009.

House Bill 2555
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 11.181(b), Tax Code, is amended to read as follows:

(b) Property may not be exempted under Subsection (a) after the fifth [~~third~~] anniversary of the date the organization acquires the property.

No equivalent provision.

SENATE VERSION

Same as House version.

SECTION __. (a) Section 11.184, Tax Code, is amended by amending Subsection (c) and adding Subsections (l), (m), and (n) to read as follows:

(c) ~~A [if approved under Subsection (b), a]~~ qualified charitable organization is entitled to an exemption from taxation of:

(1) the buildings and other real property and the tangible personal property that:

(A) are owned by the organization; and

(B) except as permitted by Subsection (d), are used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

(2) the real property owned by the organization consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

CONFERENCE

SECTION 1. Same as House version.

SECTION 2. Same as Senate version.

House Bill 2555
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HOUSE VERSION

SENATE VERSION

CONFERENCE

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18.

(l) Notwithstanding the other provisions of this section, a corporation that is not a qualified charitable organization is entitled to an exemption from taxation of property under this section if:

(1) the corporation is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(2) of that code;

(2) the corporation holds title to the property for, collects income from the property for, and turns over the entire amount of that income, less expenses, to a qualified charitable organization; and

(3) the qualified charitable organization would qualify for an exemption from taxation of the property under this section if the qualified charitable organization owned the property.

(m) Before a corporation described by Subsection (l) may submit an application for an exemption under this section, the qualified charitable organization for which the corporation holds title to the property must apply to the comptroller for the determination described by Subsection (e) with regard to the qualified charitable organization. The application for the determination must also include an application to the comptroller for a

House Bill 2555
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HOUSE VERSION

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CONFERENCE

determination of whether the corporation meets the requirements of Subsections (l)(1) and (2). The corporation shall submit with the application for an exemption under this section a copy of the determination letter issued by the comptroller. The chief appraiser shall accept the copy of the letter as conclusive evidence of the matters described by Subsection (h) as well as of whether the corporation meets the requirements of Subsections (l)(1) and (2).

(n) Notwithstanding Subsection (k), in order for a corporation to continue to receive an exemption under Subsection (l) after the fifth tax year after the year in which the exemption is granted, the qualified charitable organization for which the corporation holds title to property must obtain a new determination letter and the corporation must reapply for the exemption.

(b) Section 11.184(b), Tax Code, is repealed.

(c) This section applies only to ad valorem taxes imposed for a tax year that begins on or after the effective date of this section.

(d) This section takes effect January 1, 2010.

No equivalent provision.

SECTION __. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

Same as House version.

House Bill 2555
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Same as House version.

SECTION 3. Same as House version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2555 by Hilderbran (Relating to the exemption from ad valorem taxation of certain property acquired to provide low-income housing or used for charitable purposes.),
Conference Committee Report

Estimated Two-year Net Impact to General Revenue Related Funds for HB2555, Conference Committee Report: a negative impact of (\$420,000) through the biennium ending August 31, 2011.

Passage of the bill would also extend the period for which a property may be exempted as lowincome housing from three to five years. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	(\$420,000)
2012	(\$488,000)
2013	(\$521,000)
2014	(\$558,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from Foundation School Fund 193	Probable Revenue Gain/(Loss) from School Districts - Net Impact	Probable Revenue Gain/(Loss) from Counties	Probable Revenue Gain/(Loss) from Cities
2010	\$0	\$0	\$0	\$0
2011	(\$420,000)	(\$139,000)	(\$178,000)	(\$152,000)
2012	(\$488,000)	(\$108,000)	(\$188,000)	(\$160,000)
2013	(\$521,000)	(\$121,000)	(\$201,000)	(\$170,000)
2014	(\$558,000)	(\$133,000)	(\$215,000)	(\$182,000)

Fiscal Analysis

The bill would amend various sections of the Tax Code regarding taxable property and exemptions and would also amend Section 11.181(b) of the Tax Code to extend the period for which a property may be exempted as low-income housing from three to five years.

Property held by a charitable organization on which housing is built or repaired primarily with volunteer labor to sell without profit to qualified low income families or individuals is currently exempt for up to three years. The value, length of time exempted, and likely holding period for such property is unknown. Although extending the exemption period to a maximum of five years would create a cost to local taxing units and the state through the operation of the school finance formulas, the fiscal impact cannot be determined.

The bill would make an ad valorem taxation exemption for qualified charitable organizations mandatory, if certain conditions are met. Section 11.184(b) of the Code, which currently makes this exemption optional, would be repealed.

The bill would extend an exemption from ad valorem taxation to property owned by corporation that is not a qualified charitable organization, if certain conditions were met. The required conditions include (1) qualifying as a 501(c)(2) organization under federal tax law; (2) holding title to the property, collecting income from the property, and turning the income less expenses over to a qualified charitable organization; and (3) the property would be exempt from ad valorem taxation if it was owned by the qualified charitable organization. The qualified charitable organization would be required to get a determination letter from the Comptroller's Office.

Methodology

The bill's requirement of mandatory exemptions for qualifying charitable organizations would create a cost to cities, counties, school districts, and the state through the operation of the school finance formulas. Currently, some taxing units grant the exemption and some do not. The cost was estimated based on a survey of large appraisal districts to determine the value of currently non exempt property that would be exempted under the bill. The appropriate tax rates were applied to the value losses to estimate the tax revenue losses. All costs were estimated over the five year projection period.

The mechanics of the school finance system would transfer the costs related to the compressed tier to the state and would transfer a portion of the debt (facilities funding) and enrichment costs to the state, reducing the fiscal impact to school districts.

Local Government Impact

Passage of the bill would extend the period for which a property may be exempted as low-income housing from three to five years. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced.

Because of the operation of the hold harmless provisions of HB 1, 79th Legislature, Third Called Session (2006), the school district cost related to the compressed tier would be transferred to the state. Portions of the enrichment cost and the school district debt (facilities) cost would also be transferred to the state after a one-year lag because of the operation of the enrichment and facilities funding formulas.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SJS