



UPDATE (3/22/16): On March 17, 2016, the Texas attorney general issued opinion number [KP-72](#) addressing “[w]hether a school district, municipality, or county may reduce or repeal the local option homestead exemption from the amount that was adopted for the 2014 tax year through the 2019 tax year.”

According to the opinion’s summary, “Subsection 11.13(n-1) of the Tax Code prohibits a school district, municipality, or county from repealing or reducing the local option homestead exemption from the amount that was adopted for the 2014 tax year through the 2019 tax year.”

If a school district has additional questions regarding the implications of this opinion, TASB Legal Services advises that the district consult with its school attorney.

SJR 1, SB 1, and the Local Option Homestead Exemption

The 84th legislature adopted provisions that will impact local property taxes for school districts. Districts with local option homestead exemptions may have questions about whether to reduce or repeal their local option homestead exemption in light of these changes.

Background on homestead exemptions

Texas law provides both state and local homestead exemptions from property taxes. The state homestead exemption, which is specific to taxation by a school district, is mandatory. The state homestead exemption is currently a flat \$15,000. Tex. Tax Code § 11.13(b).

The local homestead exemption applies to all taxing units and is optional. This exemption applies if a taxing unit adopts the exemption before July 1 in the manner provided by law for official action by the governing body of the taxing unit. A local option homestead exemption (LOHE) is stated as a percentage of the appraised value of a residence homestead. The percentage may not exceed 20% and the minimum amount of an LOHE for any given homestead must be \$5,000. Tex. Tax Code § 11.13(n).

The assessor for each taxing unit must mail tax bills by October 1 or as soon thereafter as practicable. Tex. Tax. Code § 31.01(a). Subject to a military duty exception, taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed. Tex. Tax Code § 31.02.

Legislative changes

The 84th Texas Legislature adopted two measures that impact state and local homestead exemptions. Senate Joint Resolution 1 (SJR 1) proposes a constitutional amendment increasing the state homestead exemption to \$25,000. SJR requires the legislature to provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of the increase in the state homestead exemption. SJR also authorizes the legislature to prohibit the governing body of a political subdivision that adopts an LOHE from reducing the amount of or repealing an LOHE. These amendments take effect for the tax year beginning January 1, 2015.

Senate Bill 1 (SB 1) would implement the constitutional amendment. SB 1 provides for an increase in the state homestead exemption from \$15,000 to \$25,000. In addition, a new subsection 11.13(n-1) to the Tax Code would prohibit a school district that adopted an LOHE for the 2014 tax year from reducing the amount of or repealing the exemption. This prohibition would expire December 31, 2019, so existing LOHEs would be frozen for the next five years. SB 1 applies beginning with the 2015 tax year. However, the law takes effect on the date on which the constitutional amendment proposed by SJR 1 takes effect.

Local options

A question has arisen as to whether school districts that had LOHEs in 2014 tax year may reduce or repeal those LOHEs for the 2015 tax year. The restriction in SB 1 against reducing or repealing an LOHE does not take effect until the constitutional amendment proposed by SJR 1 takes effect, although it purports to apply to the entire 2015 tax year. Thus, an argument could be made that a district may reduce or repeal its LOHE between now and November 3, 2015, when the amendment is submitted to the voters.

Arguments exist against attempting to repeal or reduce an LOHE. The legislative intent in SJR 1 and SB 1 is clearly against a reduction or repeal. A certain amount of risk is inherent in local action that contravenes legislative intent. In addition, a reduction or repeal of an LOHE might offset the impact of the decrease in the state homestead exemption, which could result in a backlash from property owners who were anticipating an overall reduction in their property tax bill. Moreover, because property taxes are not delinquent until February 1, taxpayers may argue that a constitutional amendment adopted the preceding November 3 controls calculation of property taxes for the preceding tax year, regardless of when changes to an LOHE were adopted.

Deadline for action

Section 11.13(n) provides a June 30 deadline for a district to adopt an LOHE. The Tax Code does not, however, specify a deadline for repealing or reducing an LOHE. In fact, the Tax Code and the Texas Constitution are silent as to whether school districts are authorized to repeal or reduce an LOHE. An argument could be made that a repeal or reduction is an "adoption" of an LOHE. If so, the deadline for a board to vote to repeal or reduce its LOHE is June 30.

Conclusion

The issues associated with changes to an LOHE for the 2015 tax year are complicated. Any attempt to reduce or repeal an LOHE must overcome statutory language prohibiting such changes. Accordingly, TASB Legal Services advises that a school district consult with its school attorney before taking action to reduce or repeal an LOHE that was in effect for tax year 2014.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.