



Fair Property Taxes for Farmers and Community Gardens

Although Texas statutory law provides for “agricultural valuation” of land used primarily for raising food, many farmers across the state have experienced problems in qualifying for such valuation due to bias against sustainable farming methods, urban farms, and produce farmers.

In the 2013 Texas legislative session, Representative Eddie Rodriguez introduced HB 1306 to address these issues. The bill was approved by the House Agriculture & Livestock Committee, but was never set for a vote by the Calendars Committee.

Background

Open-space land provides important social and economic value to our communities. In addition, cities and counties pay very little for services to such land compared to the infrastructure needed for developed lands, such as water, wastewater, electricity, and roads. For these reasons, the Texas Constitution and Tax Code provide that landowners who maintain open spaces may pay property taxes based on a lower, open-space valuation of their property.

Agricultural use is one of the ways to qualify for open-space valuation. The Tax Code provides that land shall be appraised as qualified agricultural land if it is “devoted principally to agricultural use to the degree of intensity generally accepted in the area” for five of the preceding seven years. Tax Code §23.51. “Agricultural use” is defined broadly, yet many county assessors have applied it in a restrictive, narrow manner that is not consistent with the legislative language or intent.

Proposed Provisions

To make the Tax Code more clear, the following provisions were included in the filed version of HB 1306:

1. Specify that fruit and vegetable production qualify as “agricultural uses.” There have been multiple cases of county tax assessors asserting that growing vegetables isn’t agriculture, although there is no basis in the statute for such an assertion.
2. Direct tax appraisers to consider the “cumulative effect of all agricultural uses of a tract of land.” Traditional farms were diversified, with people raising livestock, poultry, and crops. There is a resurgence of interest in diversified farms for both ecological and economic reasons. But such farms are frequently denied agricultural valuation because no single use, considered by itself, rises to the required level of intensity.
3. Direct tax appraisers to consider the type of production used, including organic and sustainable methods such as rotational grazing, in determining the degree of intensity of use necessary to qualify. (Note: this provision was not included in the Committee Substitute version of the bill.)
4. Specify that not-for-profit community gardens qualify as “agricultural uses.”

5. Provide that a person with a tract of land of at least 1.5 acres may not be denied an agricultural valuation based solely on the size of the tract. The current statute contains no minimum acreage requirement, yet many counties have arbitrarily required that tracts be five or ten acres in order to even be considered for agricultural valuation. This is often justified on the grounds that X acres are needed to run cattle, even though individuals can raise significant amounts of vegetables or other crops on much smaller acreage. We further urge that the bill recognize that smaller tracts (under 1.5 acres) may qualify as not-for-profit community gardens and urban farms.

In all of these cases, the landowner would still have show that the land is devoted principally to agricultural use to the degree of intensity generally accepted in the area, and has been for at least five of the preceding seven years. The landowner would also remain subject to five years of rollback taxes if the property ceases to be used for agricultural purposes. Thus, land would have to be used for agricultural purposes for at least 10 years before there is any permanent net benefit in its tax treatment.

This proposal does not seek to increase the number of landowners who are entitled to open-space valuation; rather, it merely ensures that people who should already qualify for agricultural valuation under the Texas Constitution are not inappropriately excluded by local authorities.

For more information, please contact Judith McGeary, Farm and Ranch Freedom Alliance, Judith@FarmAndRanchFreedom.org, 254-697-2661 (office) or 512-484-8821 (cell)