LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 10, 2007

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

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

IN RE: **HB2744** by Bailey (Relating to the ad valorem taxation of certain property used to provide low-income or moderate-income housing.), **As Introduced**

Because future market capitalization rates cannot be accurately predicted, the availability of future comparable sales cannot be predicted, and the extent to which appraisal districts would be able to conduct market capitalization rate studies cannot be predicted, the fiscal impact on the state cannot be determined.

The bill would amend Sections 11.1825 and 23.215 of the Tax Code to mandate appraisal methodology for property used to provide low-income or moderate-income housing.

The bill would provide that if a property qualified for a property tax exemption under Sections 11.1825 or 23.215 of the Tax Code, the appraised value of the property would be equal to the greater of: 1) the amount determined using the cost method of appraisal; or 2) the amount determined using the income method of appraisal.

In using the cost method of appraisal, the chief appraiser could consider only data pertaining to the cost of the land on which a housing project is located and could not consider data pertaining to the cost of any structure located on the land.

In using the income method of appraisal, the chief appraiser would have to use the actual net operating income from the property and apply a capitalization rate of at least 13.5 percent. The chief appraiser could conduct a study to determine the appropriate capitalization rate to use in determining the market value of the property. If, as a result of the study, the chief appraiser determined that a capitalization rate of less than 13.5 percent was more appropriate, the chief appraiser would use the lesser rate. The chief appraiser would have to give public notice of the capitalization rate if the rate were less than 13.5 percent.

The bill would amend Section 23.215 to provide new criteria for exemption qualification. The exemption would apply to real property owned by an organization for purposes of constructing or rehabilitating a housing project and renting or selling housing to low-income and moderate-income persons and families and, in the case of multi-family property, at least 50 percent of the total square footage in a project was reserved for low-income and moderate-income persons and families.

Because the state is constitutionally prohibited from imposing a state property tax, there would be no direct fiscal impact on the state; however, Section 403.302 of the Government Code requires the Comptroller to conduct a property value study to determine the total taxable value for each school district. Total taxable value is an element in the state's school funding formula. Passage of this bill could cause a change in school district taxable values reported to the Commissioner of Education by the Comptroller.

Capitalization rates used in an income appraisal express the relationship between income and market value. The higher the capitalization rate, the lower the market value, and vice-versa. Market capitalization rates vary from year to year, depending on changes in interest rates, supply, demand, and other variables.

The bill would allow an appraisal district to use a capitalization rate less than 13.5 percent if the appraisal district conducted a study based on sales of comparable properties proving the lower rate. Depending on the volume of sales of rent-restricted low- and moderate-income housing, it could be difficult for all appraisal districts to conduct such a study. To the extent that appraisal districts used the 13.5 percent capitalization rate proposed in the bill, and that rate exceeded the market capitalization rate in a given year, the bill would impose a cost on local taxing units and the state.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007. The bill would apply to the 2007 tax year, and the chief appraiser would reappraise property for the 2007 tax year that was appraised before the effective date if a change in law affected the appraised value of a subject property.

Local Government Impact

Because future market capitalization rates cannot be accurately predicted, the availability of future comparable sales cannot be predicted, and the extent to which appraisal districts would be able to conduct market capitalization rate studies cannot be predicted, the fiscal impact on local taxing units cannot be determined.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, SJS