

- SUBJECT:** Qualifying certain land used for sand mining as open-space land
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 9 ayes — T. King, Harris, Bowers, Larson, Lucio, Paul, Price, Ramos, Wilson
0 nays
2 absent — Kacal, Walle
- WITNESSES:** None
- BACKGROUND:** Under Tax Code sec. 23.52, the appraised value of qualified open-space land for property tax purposes is determined based on the category of the land using accepted income capitalization methods. The value determined by this appraisal may not exceed the market value. Qualified open-space land as defined under Tax Code sec. 23.51 includes land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been used for agriculture for five of the preceding seven years.
- Under sec. 23.41(a), land designated for agricultural use is appraised at its value based on the land's capacity to produce agricultural products. If the determined value of the land exceeds its market value as determined by other generally accepted appraisal methods, the land must be appraised by the other methods.
- DIGEST:** HB 1544 would establish that the eligibility of land for appraisal as qualified open-space land for property tax purposes would not end because the land ceased to be devoted principally to agricultural use if certain conditions were met. The land would remain eligible if:
- the landowner intended that the use of the land for agricultural purpose would be resumed;
 - the land was used for a sand mining operation; and

- the land was reclaimed according to certain standard best practices no later than one year after the date the sand mining operation began.

The bill would apply only to a sand mining operation overlying the Carrizo Aquifer and located within 30 miles of a city with a population of more than 500,000 or within one mile of a single-family or multifamily residence.

A landowner would have to notify the appraisal office in writing no later than 30 days after sand mining operations began on the land that the owner intended to ensure that the requirements for eligibility were met.

The bill would require the Texas Commission on Environmental Quality (TCEQ) by rule to adopt standard best practices for the reclamation of land used for sand mining operations. The standards would have to:

- provide for the protection of surface water, groundwater, agricultural land, wildlife habitat, and wetlands;
- require reclamation to occur concurrently with sand mining operations and incorporate certain federal best practices;
- include post-mining reclamation grade standards and slope stabilization requirements;
- require unmarketable excavated material from the land to be used as backfill for site restorations; and
- fulfill other requirements listed in the bill.

TCEQ would have to establish a process to allow a landowner who submitted a notice to an appraisal office to obtain a letter from the executive director of TCEQ determining whether the land was reclaimed according to the best practices adopted under the bill. The landowner would have to apply to the director for the determination within 90 days after the first anniversary of the date sand mining operations began on the land.

The bill would require the executive director to:

- send to the chief appraiser of the appraisal district for the county in which the land was located notice that the owner had applied for a determination letter;
- issue a letter to the owner stating the determination; and
- send a copy of the determination letter to the chief appraiser.

Not later than the 20th day after receiving a determination, the landowner could appeal the determination to TCEQ, which would have to consider the appeal at the next regularly scheduled commission meeting for which adequate notice could be given. The landowner and chief appraiser could testify at the meeting, and TCEQ could remand the matter to the director for a new determination or deny the appeal. A proceeding to appeal a determination would not be a contested case for purposes of certain laws regarding administrative procedure.

TCEQ could charge an owner seeking a determination letter a fee not to exceed the administrative costs for making the determination and issuing the letter.

The chief appraiser would have to accept a final determination by the executive director as conclusive evidence that land was reclaimed according to standard best practices in the time frame required by the bill.

Land on which a sand mining operation began before the effective date of the bill would not have its eligibility for appraisal as qualified open-space land end if the owner provided notice within 90 days of the bill's effective date and the chief appraiser of the district in which the land was located had not made a determination that a change in land use had occurred.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

**SUPPORTERS
SAY:**

HB 1544 would incentivize the reclamation of land used for sand mining operations by allowing certain land on which such mining occurred to be

appraised as agricultural use land for property tax purposes if the owner reclaimed it. This would both support the Texas economy and better protect the state's environment and natural resources.

Sand mining is a rapidly growing industry in Texas and contributes to the economic health of the regions in which it occurs. However, these operations can have negative environmental and other impacts if not properly reclaimed. Currently, sand mining operations that take place on land overlying the Carrizo Aquifer and do not provide for land reclamation may lower the aquifer's ability to recharge and negatively impact surrounding agriculture, wildlife, and residents. Land reclamation enables aquifers to recharge by introducing water permeability to the soil, restores vegetation, and minimizes noise and dust from mining operations, which can be a nuisance and pose a health hazard. Allowing sand mining operators to receive property tax appraisals at lower than market values by having their land appraised as agricultural use land in exchange for conducting reclamation under best practices adopted by the Texas Commission on Environmental Quality would support a vital sector of the Texas economy while protecting the environment and the Carrizo Aquifer.

HB 1544 would ensure that sand mining operators carried out land reclamation in accordance with adopted best practices before receiving the agricultural use exemption by requiring TCEQ to issue a letter of determination before an appraisal could occur. In addition, the reclamation process can improve the quality of the land and soil, and reclaimed land can be used for agricultural purposes. Therefore, land used for sand mining and then reclaimed could appropriately be appraised under the existing agricultural use exemption.

**CRITICS
SAY:**

HB 1544 inappropriately would allow sand mining operators to claim the agricultural land use exemption. This exemption should be reserved for land used for agricultural production, not for aggregate production operations. Land used for sand mining and granted property tax exemptions by HB 1544 also might not be adequately reclaimed according to best practices set by the Texas Commission on Environmental Quality.

NOTES:

According to the Legislative Budget Board, the bill would have an indeterminate fiscal impact to the state because the amount of fees collected for determination letters and the value and number of acres that would qualify for continued open space appraisal under the bill are unknown.

The bill also could cause a reduction in taxable property values by specifying that the eligibility of land for special open space appraisal did not end because the land was used for a sand mining operation for a limited time. This could increase costs to the Foundation School Fund through the operation of the school finance formulas.