

SUBJECT: Continuing residence homestead exemption for certain surviving spouses

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 11 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Rodriguez, Sanford, Shine

0 nays

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify:* Korry Castillo, Comptroller of Public Accounts)

BACKGROUND: Tex. Const. Art. 8, sec. 1-b establishes residence homestead tax exemptions and limitations on property taxes. This section allows the Legislature by law to exempt up to \$10,000 of the market value of the residence homestead of a person who is disabled or who is at least 65 years old from property taxation for public school purposes.

If a person 65 years old or older dies in a year in which the person received the exemption, taxes on the property may not be increased while it remains the residence homestead of the person's surviving spouse if the spouse is at least 55 years old at the time of the person's death.

Tax Code sec. 11.26 codifies the residence homestead exemption for the surviving spouse of an individual who is at least 65. In 2019, the 86th Legislature enacted HB 1313, which expanded the exemption under this section to include the surviving spouse of an individual who is disabled.

DIGEST: HJR 125 would amend the Texas Constitution to provide that the surviving spouse of an individual who received a limitation on the school district property taxes on the person's residence homestead on the basis of disability continued to receive that limitation while the property remained

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the spouse's residence homestead if the spouse was at least 55 years old.

The joint resolution would validate the changes to law made by HB 1313, as enacted by the 86th Legislature and an action taken by a tax official in reliance on that bill. A collector would have to calculate the taxes that should have been imposed for the 2020 and 2021 tax years according to that bill, and if the taxes collected exceeded those that should have been imposed, the collector would have to refund the difference to the surviving spouse. This provision would expire January 1, 2023.

The ballot proposal would be presented to voters at an election on November 2, 2021, and would read: "The constitutional amendment to allow the surviving spouse of a person who is disabled to receive a limitation on the school district ad valorem taxes on the spouse's residence homestead if the spouse is 55 years of age or older at the time of the person's death."

**SUPPORTERS
SAY:**

HJR 125 is necessary to validate the enactment of a bill passed last legislative session that ensured that the surviving spouse of an individual with a disability who died continued to receive the residence homestead exemption, just like the spouses of deceased individuals over 65 are allowed. While HB 1313 was enacted in 2019, the legislative session ended before the accompanying joint resolution could be passed. This means that the state law currently extends the residence homestead exemption to surviving spouses of individuals with a disability, but it cannot be enforced because the Texas Constitution does not yet reflect that change. HJR 125 is necessary to let voters decide the issue and validate the law.

**CRITICS
SAY:**

No concerns identified.

NOTES:

According to the fiscal note, passage of the resolution and voter approval of the amendment could reduce school district property taxes and state costs could increase through the operation of the school funding formulas. The proposed amendment also would cost local taxing units currently

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granting the tax limitation; however, because the number of surviving spouses is unknown, the cost cannot be estimated.

The cost to the state for publication of the resolution is \$178,333.