

Property tax change heads to House floor

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A bill aimed at fixing a property-tax law declared unconstitutional by three state district judges cleared the House Taxation and Revenue Committee on Thursday and headed to the House floor.

Senate Bill 108 seeks to address inequities among taxpayers created by a 2001 law. That law caps increases in home values for tax purposes at 3 percent a year until the property changes hands, at which point the property is reassessed at market value.

The law's intent was to protect longtime residents from experiencing swift increases in tax bills caused by skyrocketing property values — a phenomenon known as "tax lighting."

But critics say the law unfairly shifts the overall tax burden from longtime property owners to people who bought their homes after the law took effect.

District judges have ruled the law unconstitutional because it allows tax liability adjustments based on factors other than age, income and occupancy — the three factors allowed for a property-tax adjustment by the state constitution.

Senate Bill 108 proposes to roll back tax values on homes that were sold or built after 2004 and recalculate the values as if those homes also had been protected by the 3 percent cap on increases.

The House Taxation and Revenue Committee voted 10-5 Thursday to move the bill forward.

House Speaker Ben Luján, D-Nambé, voted against the move. "I would really love to find a solution," said Luján, who sponsored the bill that created the law in 2001. "But I don't think this is the solution. You are just shifting the tax burden to another group, not solving the problem."

Luján co-sponsored a bill that never made it out of committee. That legislation would have extended the cap to all homeowners in the future but wouldn't be retroactive.

Luján said SB 108, sponsored by Sen. Tim Eichenberg D-Albuquerque, would help about 25 percent of taxpayers who purchased their homes after 2004. But he said it would hurt the other 75 percent because their taxes likely would increase once the adjustments are made.

Luján said there are more taxpayers in his district who benefit from the law the way it is, because property in rural areas tends to change hands less frequently.

"I'm not gonna fight it," the speaker said. "(But) I cannot support a tax bill that is going to shift the burden to the majority of my constituents."

About 2,400 taxpayers in Bernalillo County have filed lawsuits seeking tax refunds based on the constitutionality issue. Those cases have been stayed while one representative case is pending in the state Court of Appeals.

Eichenberg said it's important for lawmakers to address the issue before more suits are filed and more courts decide against the law, exposing local governments to more financial risk if they are ordered to pay refunds.

But Luján said he's comfortable waiting to let the Supreme Court rule on the issue before changing the law, if needed. "Maybe they can come up with something," Luján said.

Senate Bill 108 already has cleared the Senate, but because it was amended in the House Taxation and Revenue Committee — an emergency clause that would have made the bill go into effect immediately was removed — the bill will need to go back to floor of the Senate for concurrence if it clears the House.

The Legislature is scheduled to adjourn at noon Saturday.