

1-1 By: Bettencourt S.B. No. 1438  
 1-2 (In the Senate - Filed March 10, 2021; March 18, 2021, read  
 1-3 first time and referred to Committee on Finance; April 13, 2021,  
 1-4 reported favorably by the following vote: Yeas 14, Nays 1;  
 1-5 April 13, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Buckingham	X			
1-11 Campbell	X			
1-12 Creighton	X			
1-13 Hancock	X			
1-14 Huffman	X			
1-15 Kolthorst	X			
1-16 Nichols	X			
1-17 Perry	X			
1-18 Schwertner	X			
1-19 Taylor	X			
1-20 West	X			
1-21 Whitmire		X		

1-23 A BILL TO BE ENTITLED  
 1-24 AN ACT

1-25 relating to the effect of a disaster on the calculation of certain  
 1-26 tax rates and the procedure for adoption of a tax rate by a taxing  
 1-27 unit.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Section 45.0032(d), Education Code, is amended  
 1-30 to read as follows:

1-31 (d) For a district to which Section 26.042(c) [~~26.08(a-1)~~],  
 1-32 Tax Code, applies, the amount by which the district's maintenance  
 1-33 tax rate exceeds the district's voter-approval tax rate, excluding  
 1-34 the district's current debt rate under Section 26.08(n)(3)  
 1-35 [~~26.08(n)(1)(C)~~], Tax Code, for the preceding year is not  
 1-36 considered in determining a district's tier one maintenance and  
 1-37 operations tax rate under Subsection (a) or the district's  
 1-38 enrichment tax rate under Subsection (b) for the current tax year.

1-39 SECTION 2. Section 48.202(f), Education Code, is amended to  
 1-40 read as follows:

1-41 (f) For a school year in which the dollar amount guaranteed  
 1-42 level of state and local funds per weighted student per cent of tax  
 1-43 effort ("GL") under Subsection (a-1)(2) exceeds the dollar amount  
 1-44 guaranteed level of state and local funds per weighted student per  
 1-45 cent of tax effort ("GL") under Subsection (a-1)(2) for the  
 1-46 preceding school year, a school district shall reduce the  
 1-47 district's tax rate under Section 45.0032(b)(2) for the tax year  
 1-48 that corresponds to that school year to a rate that results in the  
 1-49 amount of state and local funds per weighted student per cent of tax  
 1-50 effort available to the district at the dollar amount guaranteed  
 1-51 level for the preceding school year. A school district is not  
 1-52 entitled to the amount equal to the increase of revenue described by  
 1-53 this subsection for the school year for which the district must  
 1-54 reduce the district's tax rate. Unless Section 26.042(c)  
 1-55 [~~26.08(a-1)~~], Tax Code, applies to the district, for a tax year in  
 1-56 which a district must reduce the district's tax rate under this  
 1-57 subsection, the district may not increase the district's  
 1-58 maintenance and operations tax rate to a rate that exceeds the  
 1-59 maximum maintenance and operations tax rate permitted under Section  
 1-60 45.003(d) or (f), as applicable, minus the reduction of tax effort  
 1-61 required under this subsection. This subsection does not apply if

2-1 the amount of state funds appropriated for a school year  
 2-2 specifically excludes the amount necessary to provide the dollar  
 2-3 amount guaranteed level of state and local funds per weighted  
 2-4 student per cent of tax effort under Subsection (a-1)(2).

2-5 SECTION 3. Section 3828.157, Special District Local Laws  
 2-6 Code, is amended to read as follows:

2-7 Sec. 3828.157. INAPPLICABILITY OF CERTAIN TAX CODE  
 2-8 PROVISIONS. Sections 26.04, 26.042, 26.05, 26.07, and 26.075, Tax  
 2-9 Code, do not apply to a tax imposed under Section 3828.153 or  
 2-10 3828.156.

2-11 SECTION 4. Section 8876.152(a), Special District Local Laws  
 2-12 Code, is amended to read as follows:

2-13 (a) Sections 26.04, 26.042, 26.05, 26.06, 26.061, 26.07,  
 2-14 and 26.075, Tax Code, do not apply to a tax imposed by the district.

2-15 SECTION 5. Chapter 26, Tax Code, is amended by adding  
 2-16 Section 26.042 to read as follows:

2-17 Sec. 26.042. CALCULATION AND ADOPTION OF CERTAIN TAX RATES  
 2-18 IN DISASTER AREA. (a) Notwithstanding Sections 26.04 and 26.041,  
 2-19 the governing body of a taxing unit other than a special taxing unit  
 2-20 may direct the designated officer or employee to calculate the  
 2-21 voter-approval tax rate of the taxing unit in the manner provided  
 2-22 for a special taxing unit if any part of the taxing unit is located  
 2-23 in an area declared a disaster area during the current tax year by  
 2-24 the governor or by the president of the United States and the  
 2-25 disaster caused physical damage to property located in the taxing  
 2-26 unit. The designated officer or employee shall continue  
 2-27 calculating the voter-approval tax rate in the manner provided by  
 2-28 this subsection until the earlier of:

2-29 (1) the first tax year in which the total taxable value  
 2-30 of property taxable by the taxing unit as shown on the appraisal  
 2-31 roll for the taxing unit submitted by the assessor for the taxing  
 2-32 unit to the governing body exceeds the total taxable value of  
 2-33 property taxable by the taxing unit on January 1 of the tax year in  
 2-34 which the disaster occurred; or

2-35 (2) the third tax year after the tax year in which the  
 2-36 disaster occurred.

2-37 (b) When increased expenditure of money by a taxing unit  
 2-38 other than a school district is necessary to respond to a disaster,  
 2-39 including a tornado, hurricane, flood, wildfire, or other calamity,  
 2-40 but not including a drought, epidemic, or pandemic, that has  
 2-41 impacted the taxing unit and the governor has declared any part of  
 2-42 the area in which the taxing unit is located as a disaster area, an  
 2-43 election is not required under Section 26.07 to approve the tax rate  
 2-44 adopted by the governing body for the year following the year in  
 2-45 which the disaster occurs.

2-46 (c) When increased expenditure of money by a school district  
 2-47 is necessary to respond to a disaster, including a tornado,  
 2-48 hurricane, flood, wildfire, or other calamity, but not including a  
 2-49 drought, epidemic, or pandemic, that has impacted the school  
 2-50 district and the governor has requested federal disaster assistance  
 2-51 for the area in which the school district is located, an election is  
 2-52 not required under Section 26.08 to approve the tax rate adopted by  
 2-53 the governing body of the school district for the year following the  
 2-54 year in which the disaster occurs. A tax rate adopted under this  
 2-55 subsection applies only in the year for which the rate is adopted.

2-56 (d) If a taxing unit adopts a tax rate under Subsection (b)  
 2-57 or (c), the amount by which that rate exceeds the taxing unit's  
 2-58 voter-approval tax rate for that tax year may not be considered when  
 2-59 calculating the taxing unit's voter-approval tax rate for the tax  
 2-60 year following the year in which the taxing unit adopts the rate.

2-61 SECTION 6. Section 26.07(b), Tax Code, is amended to read as  
 2-62 follows:

2-63 (b) If the governing body of a special taxing unit or a  
 2-64 municipality with a population of 30,000 or more adopts a tax rate  
 2-65 that exceeds the taxing unit's voter-approval tax rate, or the  
 2-66 governing body of a taxing unit other than a special taxing unit or  
 2-67 a municipality with a population of less than 30,000 regardless of  
 2-68 whether it is a special taxing unit adopts a tax rate that exceeds  
 2-69 the greater of the taxing unit's voter-approval tax rate or de

3-1 minimis rate, the registered voters of the taxing unit at an  
3-2 election held for that purpose must determine whether to approve  
3-3 the adopted tax rate. [~~When increased expenditure of money by a  
3-4 taxing unit is necessary to respond to a disaster, including a  
3-5 tornado, hurricane, flood, wildfire, or other calamity, but not  
3-6 including a drought, that has impacted the taxing unit and the  
3-7 governor has declared any part of the area in which the taxing unit  
3-8 is located as a disaster area, an election is not required under  
3-9 this section to approve the tax rate adopted by the governing body  
3-10 for the year following the year in which the disaster occurs.]~~

3-11 SECTION 7. Section 49.107(g), Water Code, is amended to  
3-12 read as follows:

3-13 (g) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and  
3-14 26.075, Tax Code, do not apply to a tax levied and collected under  
3-15 this section or an ad valorem tax levied and collected for the  
3-16 payment of the interest on and principal of bonds issued by a  
3-17 district.

3-18 SECTION 8. Section 49.108(f), Water Code, is amended to  
3-19 read as follows:

3-20 (f) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and  
3-21 26.075, Tax Code, do not apply to a tax levied and collected for  
3-22 payments made under a contract approved in accordance with this  
3-23 section.

3-24 SECTION 9. Sections 26.04(c-1), 26.041(c-1), and  
3-25 26.08(a-1), Tax Code, are repealed.

3-26 SECTION 10. This Act takes effect immediately if it  
3-27 receives a vote of two-thirds of all the members elected to each  
3-28 house, as provided by Section 39, Article III, Texas Constitution.  
3-29 If this Act does not receive the vote necessary for immediate  
3-30 effect, this Act takes effect September 1, 2021.

3-31 \* \* \* \* \*