

By: Toth

H.B. No. 268

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the repeal of or limitations on certain state and local
3 taxes, including school district maintenance and operations ad
4 valorem taxes, the enactment of state and local value added taxes,
5 and related school finance reform; imposing taxes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 ARTICLE 1. STATE VALUE ADDED TAX

8 SECTION 1.01. DEFINITIONS. In this article:

9 (1) "Input tax" means the aggregate amount of all
10 state and local value added taxes imposed under this Act that have
11 accrued with respect to services and property supplied to a
12 taxpayer during a calendar quarter and used or held for use by the
13 taxpayer in the ordinary course of the taxpayer's trade or
14 business.

15 (2) "Output tax" means the aggregate amount of all
16 state and local value added taxes imposed under this Act that have
17 accrued with respect to services and property supplied by a
18 taxpayer during a calendar quarter in the ordinary course of the
19 taxpayer's trade or business.

20 (3) "Taxpayer" means a person on whom the value added
21 tax is imposed.

22 (4) "Value added tax" means the tax imposed under
23 Section 1.02 of this article.

24 SECTION 1.02. VALUE ADDED TAX IMPOSED. A value added tax is

1 imposed on each person in this state who supplies any service or
2 property in the ordinary course of a trade or business in which the
3 person engages for profit.

4 SECTION 1.03. RATE OF TAX. The rate of the value added tax
5 is 6.72 percent of the taxpayer's taxable receipts from the supply
6 of services or property.

7 SECTION 1.04. DETERMINATION OF TAX PAYABLE. The total
8 amount of state and local value added taxes under this Act payable
9 by a taxpayer for a calendar quarter is the amount, if any, by which
10 the taxpayer's output tax exceeds the taxpayer's input tax.

11 SECTION 1.05. EXEMPTIONS. (a) The comptroller by rule
12 shall exempt from the value added tax:

- 13 (1) small businesses;
14 (2) governmental entities; and
15 (3) religious, educational, and public service
16 organizations.

17 (b) The comptroller shall refund the amount of any input tax
18 that has been accrued by an entity exempt under Subsection (a) of
19 this section.

20 SECTION 1.06. EXCLUSIONS. The comptroller by rule shall
21 exclude the following services and property from the value added
22 tax:

- 23 (1) monetary instruments, financial assets, and
24 investments;
25 (2) intercompany services;
26 (3) employment services;
27 (4) incidental transactions;

- 1 (5) transfers of common interests in property;
- 2 (6) services and property taxed by other law,
3 including Chapters 201 and 202, Tax Code; and
- 4 (7) services and property this state is prohibited
5 from taxing by federal law or the Texas Constitution.

6 SECTION 1.07. RULES. The comptroller shall adopt all rules
7 necessary to implement, administer, and enforce the state value
8 added tax and all local value added taxes under this Act.

9 SECTION 1.08. DISPOSITION OF REVENUE. All proceeds from
10 the collection of the value added tax shall be deposited to the
11 credit of the general revenue fund.

12 SECTION 1.09. EFFECTIVE DATE OF ARTICLE. This article
13 takes effect January 1, 2028.

14 ARTICLE 2. LOCAL VALUE ADDED TAXES

15 SECTION 2.01. LOCAL SALES AND USE TAXES PROHIBITED.
16 Notwithstanding any other law, a political subdivision may not
17 impose a sales or use tax on or after the effective date of this
18 article.

19 SECTION 2.02. LOCAL VALUE ADDED TAXES. (a) A political
20 subdivision that was authorized to impose a sales and use tax
21 immediately before the effective date of this article may impose a
22 local value added tax on and after the effective date of this
23 article.

24 (b) A local value added tax is administered, collected, and
25 enforced by the comptroller in the same manner as the state value
26 added tax. The tax applies to the supply of services or property in
27 the territory of the political subdivision.

1 (c) The comptroller shall allocate and remit to each
2 appropriate taxing jurisdiction proceeds from the collection of
3 local value added taxes by the comptroller.

4 SECTION 2.03. RATES OF LOCAL VALUE ADDED TAXES. (a) The
5 combined rate of all local value added taxes may not exceed two
6 percent at any location in the territory of a political
7 subdivision.

8 (b) The maximum combined rate provided by Subsection (a) of
9 this section does not apply to or include a school district
10 enrichment value added tax under Article 3 of this Act.

11 (c) On the effective date of this article, a political
12 subdivision may begin imposing the local value added tax at a rate
13 not to exceed the rate at which the political subdivision imposed a
14 sales and use tax immediately before the effective date of this
15 article. Subject to Subsection (a) of this section, the governing
16 body of a political subdivision that imposes a local value added tax
17 may adopt an order or ordinance changing the rate of or repealing
18 the tax imposed by the political subdivision.

19 SECTION 2.04. EFFECTIVE DATE OF ARTICLE. This article
20 takes effect January 1, 2028.

21 ARTICLE 3. SCHOOL DISTRICT ENRICHMENT VALUE ADDED TAX

22 SECTION 3.01. TAX AUTHORIZED. (a) A school district may
23 adopt or repeal a school district enrichment value added tax at an
24 election in which a majority of the qualified voters of the school
25 district approve the adoption or repeal of the tax.

26 (b) A school district enrichment value added tax is
27 administered, collected, and enforced by the comptroller in the

1 same manner as the state value added tax. The tax applies to the
2 supply of services or property in the territory of the school
3 district.

4 SECTION 3.02. MAXIMUM RATE. The rate of the school district
5 enrichment value added tax may not exceed 0.5 percent.

6 SECTION 3.03. USE OF TAX REVENUE BY SCHOOL DISTRICT. (a)
7 Revenue from the school district enrichment value added tax is for
8 the use and benefit of the school district. The revenue must be
9 used exclusively for school enrichment facilities and activities
10 and for the payment of the principal of and interest on debt
11 incurred to fund school enrichment facilities and activities.

12 (b) Revenue from the school district enrichment value added
13 tax may not be used for an expenditure or investment that is:

14 (1) necessary to comply with the legislature's duty
15 under Section 1, Article VII, Texas Constitution, to provide for
16 the general diffusion of knowledge and an efficient system of
17 public schools, including by providing funding for instructional
18 facilities; and

19 (2) eligible for funding through the Foundation School
20 Program.

21 SECTION 3.04. PLEDGE OF REVENUE. A school district may
22 pledge a portion of the revenue from the school district enrichment
23 value added tax for the payment of obligations issued to pay all or
24 part of the cost of a school enrichment project in the school
25 district.

26 SECTION 3.05. EFFECTIVE DATE OF ARTICLE. This article
27 takes effect January 1, 2028, but only if Section 4.01 of this Act

1 takes effect. If Section 4.01 of this Act does not take effect,
2 this article has no effect.

3 ARTICLE 4. SCHOOL DISTRICT MAINTENANCE AND OPERATIONS AD VALOREM
4 TAXES

5 SECTION 4.01. PROHIBITION ON IMPOSITION OF SCHOOL DISTRICT
6 MAINTENANCE AND OPERATIONS AD VALOREM TAXES. (a) Notwithstanding
7 any other law, a school district may not impose an ad valorem tax
8 for maintenance and operations purposes on or after January 1,
9 2028. To the extent of a conflict, this section controls over a
10 conflicting provision in a general or special law.

11 (b) The change in law made by this section does not affect
12 tax liability accruing before the effective date of this section.

13 (c) This section takes effect January 1, 2028, but only if
14 on or before that date a constitutional amendment to prohibit a
15 school district from imposing an ad valorem tax for maintenance and
16 operations purposes is approved by the voters. If such a
17 constitutional amendment is not approved by the voters on or before
18 that date, this section has no effect.

19 SECTION 4.02. REPORT. (a) The comptroller shall prepare a
20 report that recommends any change in constitutional or statutory
21 law needed to implement this Act.

22 (b) Not later than December 1, 2024, the comptroller shall
23 submit to the governor, lieutenant governor, speaker of the house
24 of representatives, and members of the legislature the report
25 required by Subsection (a) of this section.

26 (c) This section expires January 1, 2025.

27 SECTION 4.03. EFFECTIVE DATE OF ARTICLE. Except as

1 otherwise provided by this article, this article takes effect
2 September 1, 2023.

3 ARTICLE 5. SCHOOL FINANCE

4 SECTION 5.01. FOUNDATION SCHOOL PROGRAM FUNDING. (a)

5 Beginning with the 2028-2029 school year, the legislature shall
6 appropriate money to fund the Foundation School Program under
7 Chapter 48, Education Code, in an amount, excluding money collected
8 by a school district through the imposition of a tax, necessary to:

9 (1) comply with the legislature's duty under Section
10 1, Article VII, Texas Constitution, to provide for the general
11 diffusion of knowledge and an efficient system of public schools;

12 (2) achieve the state policy under Section 48.001,
13 Education Code, and the purposes of the Foundation School Program
14 under Section 48.002, Education Code;

15 (3) provide the basic allotment under Section 48.051,
16 Education Code, in an amount of at least \$6,160 per student in
17 average daily attendance; and

18 (4) provide a minimal level of revenue to provide
19 school districts an opportunity to pursue locally funded enrichment
20 programs.

21 (b) This section takes effect January 1, 2028, but only if
22 Section 4.01 of this Act takes effect. If Section 4.01 of this Act
23 does not take effect, this section has no effect.

24 SECTION 5.02. EFFECT OF PROHIBITION ON SCHOOL DISTRICT

25 MAINTENANCE AND OPERATIONS TAX. (a) Article 4 of this Act does not

26 affect the authority of a school district to impose an enrichment
27 value added tax at a rate not to exceed 0.5 percent in accordance

1 with Article 3 of this Act for the purpose of providing additional
2 revenue to enrich the educational opportunities of students
3 enrolled in the district. The revenue attributable to the tax
4 described by this subsection is in addition to any money the
5 district receives from the state.

6 (b) A reference in the Education Code, the Tax Code, or any
7 other law to a school district's authority to impose a maintenance
8 tax or a maintenance and operations tax may not be construed in a
9 manner inconsistent with Article 4 of this Act or this section.

10 (c) This section takes effect January 1, 2028, but only if
11 Section 4.01 of this Act takes effect. If Section 4.01 of this Act
12 does not take effect, this section has no effect.

13 SECTION 5.03. STATE ASSISTANCE FOR TRANSITION TO SCHOOL
14 DISTRICT ENRICHMENT VALUE ADDED TAX. (a) For purposes of budgeting
15 for and funding of maintenance and operations and enrichment, the
16 commissioner of education shall assist school districts in
17 transitioning from the use of maintenance and operations tax
18 revenue to the use of state funding and enrichment value added tax
19 revenue.

20 (b) Not later than March 1, 2028, each school district shall
21 prepare and submit to the commissioner of education a transition
22 report certified by the comptroller that provides for the following
23 10 state fiscal years estimates regarding:

- 24 (1) budgets;
- 25 (2) sources of funding; and
- 26 (3) operating and capital expenditures.

27 (c) In the transition report prepared under Subsection (b)

1 of this section, a school district shall, in accordance with the
2 policy and purposes described by Sections 48.001 and 48.002,
3 Education Code, classify as "foundational" or "enrichment":

4 (1) each projected operating and capital expenditure
5 and the proportion of each current and projected debt; and

6 (2) the proportional amounts of current and projected
7 debts, based on the proposed uses for the revenue.

8 (d) Based on school districts' reports under Subsection (b)
9 of this section, the commissioner of education shall prepare and
10 present to the comptroller recommendations for refunding,
11 redeeming, or amending outstanding bonds for which school districts
12 pledged maintenance and operations tax revenue for payment.

13 (e) Notwithstanding any other law, the commissioner of
14 education shall provide state funding for the payment of any bonds
15 classified by a school district as a "foundational" bond under
16 Subsection (c) of this section. A school district assumes full
17 financial responsibility for any bond classified as an "enrichment"
18 bond.

19 (f) The commissioner of education shall annually prepare
20 and provide a report to the legislature and the comptroller
21 regarding funding under the Foundation School Program and the
22 transition by school districts to imposing a value added enrichment
23 tax. The report must include recommendations for legislative
24 action to facilitate the funding transitions required under this
25 Act while maintaining and improving the efficiency, quality, and
26 results of public education in this state.

27 (g) Subsection (e) of this section takes effect January 1,

1 2028, but only if Section 4.01 of this Act takes effect. If Section
2 4.01 of this Act does not take effect, Subsection (e) of this
3 section has no effect.

4 SECTION 5.04. EFFECTIVE DATE OF ARTICLE. Except as
5 otherwise provided by this article, this article takes effect
6 September 1, 2023.

7 ARTICLE 6. REPEALED PROVISIONS

8 SECTION 6.01. TAX CODE. (a) The following provisions of
9 the Tax Code are repealed:

- 10 (1) Chapter 142;
11 (2) Subtitles E, F, G, H, and J, Title 2; and
12 (3) Subtitle C, Title 3.

13 (b) The repeal of a provision by this section does not
14 affect tax liability accruing before the effective date of this
15 article. That liability continues in effect as if this article had
16 not been enacted, and the former law is continued in effect for the
17 collection of taxes due and for civil and criminal enforcement of
18 the liability for those taxes.

19 SECTION 6.02. EDUCATION CODE. (a) The following
20 provisions of the Education Code are repealed:

- 21 (1) Sections 45.0032, 48.255, 48.2551, 48.2552,
22 48.2553, 48.256, 48.257, and 48.275; and
23 (2) Chapter 49.

24 (b) This section takes effect only if Section 4.01 of this
25 Act takes effect. If Section 4.01 of this Act does not take effect,
26 this section has no effect.

27 SECTION 6.03. EFFECTIVE DATE OF ARTICLE. Except as

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1 otherwise provided by this article, this article takes effect
2 January 1, 2028.