

By: Isett

H.B. No. 164

A BILL TO BE ENTITLED

AN ACT

relating to certain limitations on the ad valorem tax rates of school districts and other taxing units.

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

SECTION 1. Section 26.04(c), Tax Code, is amended to read as follows:

(c) An officer or employee designated by the governing body shall calculate the effective tax rate and the rollback tax rate for the unit, where:

(1) "Effective tax rate" means a rate expressed in dollars per \$100 of taxable value calculated according to the following formula:

EFFECTIVE TAX RATE = (LAST YEAR'S LEVY - LOST PROPERTY LEVY) / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)

; and

(2) "Rollback tax rate" means a rate expressed in dollars per \$100 of taxable value calculated according to the following formula:

ROLLBACK TAX RATE = (EFFECTIVE MAINTENANCE AND OPERATIONS RATE x 1.05 [~~1.08~~]) + CURRENT DEBT RATE

SECTION 2. Sections 26.041(a), (b), and (c), Tax Code, are amended to read as follows:

(a) In the first year in which an additional sales and use tax is required to be collected, the effective tax rate and rollback

tax rate for the unit are calculated according to the following formulas:

EFFECTIVE TAX RATE = $\frac{[(\text{LAST YEAR'S LEVY} - \text{LOST PROPERTY LEVY}) / (\text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})]}{1} - \text{SALES TAX GAIN RATE}$
and

ROLLBACK TAX RATE = (EFFECTIVE MAINTENANCE AND OPERATIONS RATE x 1.05 [~~1.08~~]) + CURRENT DEBT RATE - SALES TAX GAIN RATE

where "sales tax gain rate" means a number expressed in dollars per \$100 of taxable value, calculated by dividing the revenue that will be generated by the additional sales and use tax in the following year as calculated under Subsection (d) [~~of this section~~] by the current total value.

(b) Except as provided by Subsections (a) and (c) [~~of this section~~], in a year in which a taxing unit imposes an additional sales and use tax the rollback tax rate for the unit is calculated according to the following formula, regardless of whether the unit levied a property tax in the preceding year:

ROLLBACK TAX RATE = $\frac{[(\text{LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE} \times \underline{1.05} [\underline{1.08}]) / ((\text{TOTAL} [\text{TOTAL}] \text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})) + (\text{CURRENT DEBT RATE} - \text{SALES TAX REVENUE RATE})]$

where "last year's maintenance and operations expense" means the amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year, and "sales tax revenue rate" means a number expressed in dollars per \$100 of taxable value, calculated by dividing the revenue that will be generated by the additional sales and use tax in the current year as calculated under Subsection (d) [~~of this section~~] by the current

total value.

(c) In a year in which a taxing unit that has been imposing an additional sales and use tax ceases to impose an additional sales and use tax the effective tax rate and rollback tax rate for the unit are calculated according to the following formulas:

EFFECTIVE TAX RATE = $[(\text{LAST YEAR'S LEVY} - \text{LOST PROPERTY LEVY}) / (\text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})] + \text{SALES TAX LOSS RATE}$

and

ROLLBACK TAX RATE = $[(\text{LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE} \times 1.05 [\text{1.08}]) / ((\text{TOTAL} [\text{TOTAL}]) \text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})] + \text{CURRENT DEBT RATE}$

where "sales tax loss rate" means a number expressed in dollars per \$100 of taxable value, calculated by dividing the amount of sales and use tax revenue generated in the last four quarters for which the information is available by the current total value and "last year's maintenance and operations expense" means the amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year.

SECTION 3. Section 26.07, Tax Code, is amended to read as follows:

Sec. 26.07. ELECTION TO RATIFY TAX ~~[REPEAL]~~ INCREASE OF TAXING UNIT OTHER THAN SCHOOL DISTRICT. (a) The ~~[If the]~~ governing body of a taxing unit other than a school district may not adopt ~~[adopts]~~ a tax rate that exceeds the rollback tax rate calculated as provided by this chapter without voter approval as provided by this section. To adopt a tax rate that exceeds the rollback tax rate, the governing body must adopt the rate as a proposed tax rate and

1 call an election to permit~~[7]~~ the qualified voters of the taxing
2 unit ~~[by petition may require that an election be held to determine~~
3 ~~whether or not]~~ to approve or disapprove ~~[reduce]~~ the proposed tax
4 rate ~~[adopted for the current year to the rollback tax rate~~
5 ~~calculated as provided by this chapter]~~.

6 (b) The ~~[A petition is valid only if:~~

7 ~~[(1) it states that it is intended to require an~~
8 ~~election in the taxing unit on the question of reducing the tax rate~~
9 ~~for the current year;~~

10 ~~[(2) it is signed by a number of registered voters of~~
11 ~~the taxing unit equal to at least:~~

12 ~~[(A) seven percent of the number of registered~~
13 ~~voters of the taxing unit according to the most recent list of~~
14 ~~registered voters if the tax rate adopted for the current tax year~~
15 ~~would impose taxes for maintenance and operations in an amount of at~~
16 ~~least \$5 million; or~~

17 ~~[(B) 10 percent of the number of registered~~
18 ~~voters of the taxing unit according to the most recent official list~~
19 ~~of registered voters if the tax rate adopted for the current tax~~
20 ~~year would impose taxes for maintenance and operations in an amount~~
21 ~~of less than \$5 million; and~~

22 ~~[(3) it is submitted to the governing body on or before~~
23 ~~the 90th day after the date on which the governing body adopted the~~
24 ~~tax rate for the current year.~~

25 ~~[(c) Not later than the 20th day after the day a petition is~~
26 ~~submitted, the governing body shall determine whether or not the~~
27 ~~petition is valid and pass a resolution stating its finding. If the~~

governing body fails to act within the time allowed, the petition is treated as if it had been found valid.

~~[(d) If the]~~ governing body ~~[finds that the petition is valid (or fails to act within the time allowed), it]~~ shall order that the ~~[an]~~ election be held in the taxing unit on a date not less than 30 or more than 90 days after the ~~[last]~~ day on which the governing body adopted the proposed tax rate. Section 41.001, Election Code, ~~[it could have acted to approve or disapprove the petition. A state law requiring local elections to be held on a specified date]~~ does not apply to the election unless a ~~[specified]~~ date specified by that section falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving ~~["Reducing]~~ the proposed ad valorem tax rate of \$_____ per \$100 valuation in (name of taxing unit) for the current year, a rate that is \$_____ higher per \$100 valuation than the ~~[from (the rate adopted) to (the)]~~ rollback tax rate ~~[calculated as provided by this chapter)]~~." The ballot proposition must include the proposed tax rate and the difference between that rate and the rollback tax rate in the appropriate places.

(c) ~~[(e)]~~ If a majority of the votes cast ~~[qualified voters voting on the question]~~ in the election favor the proposition, the proposition is approved and the tax rate for the ~~[taxing unit for the]~~ current year is the proposed ~~[rollback]~~ tax rate that was ~~[calculated as provided by this chapter, otherwise, the tax rate for the current year is the one]~~ adopted by the governing body.

(d) ~~[(f)]~~ If the proposition is not approved as provided by

1 Subsection (c), the governing body may not adopt a tax rate for the
 2 taxing unit for the current year that exceeds the taxing unit's
 3 rollback tax rate [is reduced by an election called under this
 4 section after tax bills for the unit are mailed, the assessor for
 5 the unit shall prepare and mail corrected tax bills. He shall
 6 include with the bill a brief explanation of the reason for and
 7 effect of the corrected bill. The date on which the taxes become
 8 delinquent for the year is extended by a number of days equal to the
 9 number of days between the date the first tax bills were sent and
 10 the date the corrected tax bills were sent].

11 ~~[(g) If a property owner pays taxes calculated using the~~
 12 ~~higher tax rate when the rate is reduced by an election called under~~
 13 ~~this section, the taxing unit shall refund the difference between~~
 14 ~~the amount of taxes paid and the amount due under the reduced rate~~
 15 ~~if the difference between the amount of taxes paid and the amount~~
 16 ~~due under the reduced rate is \$1 or more. If the difference between~~
 17 ~~the amount of taxes paid and the amount due under the reduced rate~~
 18 ~~is less than \$1, the taxing unit shall refund the difference on~~
 19 ~~request of the taxpayer. An application for a refund of less than~~
 20 ~~\$1 must be made within 90 days after the date the refund becomes due~~
 21 ~~or the taxpayer forfeits the right to the refund.]~~

22 SECTION 4. Section 26.08, Tax Code, is amended by amending
 23 Subsections (i) and (k) and adding Subsections (n), (o), (p), and
 24 (q) to read as follows:

25 (i) For purposes of this section, the effective maintenance
 26 and operations ~~[rollback]~~ tax rate of a school district is ~~[the sum~~
 27 ~~of:~~

[~~(1)~~] the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year[+]

~~[(2) the rate of \$0.06 per \$100 of taxable value, and~~

~~[(3) the district's current debt rate].~~

(k) For purposes of this section, for the [~~2003, 2004, 2005,~~] 2006, 2007, or 2008 tax year, for a school district that is entitled to state funds under Sections 1581.1015(d), (e), and (f) [~~Section 4(a-1), (a-2), (a-3), (a-4), (a-5), or (a-6), Article 3.50-9~~], Insurance Code, the effective maintenance and operations [~~rollback~~] tax rate of the district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been

1 available to the district in the preceding year if the funding
2 elements for Chapters 41 and 42, Education Code, for the current
3 year had been in effect for the preceding year; and

4 (2) the tax rate that, applied to the current total
5 value for the district, would impose taxes in the amount that, when
6 added to state funds that would be distributed to the district under
7 Chapter 42, Education Code, for the school year beginning in the
8 current tax year using that tax rate, permits the district to comply
9 with Section 1581.052 [~~3, Article 3.50-9~~], Insurance Code[~~+~~

10 [~~(3) the rate of \$0.06 per \$100 of taxable value; and~~

11 [~~(4) the district's current debt rate~~].

12 (n) For purposes of this section, the rollback tax rate of a
13 school district whose maintenance and operations tax rate for the
14 2005 tax year was less than \$1.50 per \$100 of taxable value is:

15 (1) for the 2006 tax year, the sum of:

16 (A) the lesser of the following tax rates:

17 (i) the rate of \$1.36 per \$100 of taxable
18 value; or

19 (ii) the sum of the following tax rates:

20 (a) the rate that is equal to 88.67
21 percent of the maintenance and operations tax rate adopted by the
22 district for the 2005 tax year; and

23 (b) the rate of \$0.06 per \$100 of
24 taxable value; and

25 (B) the district's current debt rate; and

26 (2) for the 2007 and subsequent tax years, the
27 following tax rate, as applicable:

1 (A) if in the 2006 or any subsequent tax year the
2 district adopted a maintenance and operations tax rate of at least
3 \$1.36 per \$100 of taxable value, the sum of:

4 (i) the lesser of the following tax rates:

5 (a) the highest maintenance and
6 operations tax rate adopted by the district in any of those years;
7 or

8 (b) the sum of the following tax
9 rates:

10 (1) the effective maintenance
11 and operations tax rate of the district as computed under
12 Subsection (i) or (k), as applicable; and

13 (2) the rate of \$0.06 per \$100 of
14 taxable value; and

15 (ii) the district's current debt rate; or

16 (B) if in the 2006 and each subsequent tax year
17 the district adopted a maintenance and operations tax rate of less
18 than \$1.36 per \$100 of taxable value, the sum of:

19 (i) the lesser of the following tax rates:

20 (a) the rate of \$1.36 per \$100 of
21 taxable value; or

22 (b) the sum of the following tax
23 rates:

24 (1) the effective maintenance
25 and operations tax rate of the district as computed under
26 Subsection (i) or (k), as applicable; and

27 (2) the rate of \$0.06 per \$100 of

taxable value; and

(ii) the district's current debt rate.

(o) For purposes of this section, the rollback tax rate of a school district whose maintenance and operations tax rate for the 2005 tax year was \$1.50 per \$100 of taxable value is:

(1) for the 2006 tax year, the sum of:

(A) \$1.36 per \$100 of taxable value; and

(B) the district's current debt rate; and

(2) for the 2007 and subsequent tax years, the sum of:

(A) the lesser of the following tax rates:

(i) the highest maintenance and operations tax rate adopted by the district in the 2006 or any subsequent tax year; or

(ii) the sum of the following tax rates:

(a) the effective maintenance and operations tax rate of the district as computed under Subsection (i) or (k), as applicable; and

(b) the rate of \$0.06 per \$100 of taxable value; and

(B) the district's current debt rate.

(p) For purposes of this section, the rollback tax rate of a school district permitted by special law on April 1, 2006, to impose a maintenance and operations tax at a rate greater than \$1.50 per \$100 of taxable value is:

(1) for the 2006 tax year, the sum of:

(A) the rate that is equal to 88.67 percent of the maintenance and operations tax rate adopted by the district for the

1 2005 tax year;

2 (B) the rate of \$0.03 per \$100 of taxable value;

3 and

4 (C) the district's current debt rate; and

5 (2) for the 2007 and subsequent tax years, the sum of:

6 (A) the lesser of the following tax rates:

7 (i) the highest maintenance and operations
8 tax rate adopted by the district in the 2006 or any subsequent tax
9 year; or

10 (ii) the sum of the following tax rates:

11 (a) the effective maintenance and
12 operations tax rate of the district as computed under Subsection
13 (i) or (k), as applicable; and

14 (b) the rate of \$0.06 per \$100 of
15 taxable value; and

16 (B) the district's current debt rate.

17 (g) Notwithstanding Section 45.003, Education Code, or any
18 other law, a school district described by Subsection (p) may not
19 adopt a maintenance and operations tax rate that exceeds the sum of
20 the tax rate described by Subsection (p)(1)(A) and \$0.17 per \$100 of
21 taxable value.

22 SECTION 5. Sections 31.12(a) and (b), Tax Code, are amended
23 to read as follows:

24 (a) If a refund of a tax provided by Section 11.431(b),
25 ~~[26.07(g)],~~ 26.15(f), 31.11, or 31.111 is paid on or before the 60th
26 day after the date the liability for the refund arises, no interest
27 is due on the amount refunded. If not paid on or before that 60th

1 day, the amount of the tax to be refunded accrues interest at a rate
2 of one percent for each month or part of a month that the refund is
3 unpaid, beginning with the date on which the liability for the
4 refund arises.

5 (b) For purposes of this section, liability for a refund
6 arises:

7 (1) if the refund is required by Section 11.431(b), on
8 the date the chief appraiser notifies the collector for the unit of
9 the approval of the late homestead exemption;

10 ~~(2) [if the refund is required by Section 26.07(g), on~~
11 ~~the date the results of the election to reduce the tax rate are~~
12 ~~certified,~~

13 ~~[(3)]~~ if the refund is required by Section 26.15(f):

14 (A) for a correction to the tax roll made under
15 Section 26.15(b), on the date the change in the tax roll is
16 certified to the assessor for the taxing unit under Section 25.25;
17 or

18 (B) for a correction to the tax roll made under
19 Section 26.15(c), on the date the change in the tax roll is ordered
20 by the governing body of the taxing unit;

21 (3) ~~[(4)]~~ if the refund is required by Section 31.11,
22 on the date the auditor for the taxing unit determines that the
23 payment was erroneous or excessive or, if the amount of the refund
24 exceeds the applicable amount specified by Section 31.11(a), on the
25 date the governing body of the unit approves the refund; or

26 (4) ~~[(5)]~~ if the refund is required by Section 31.111,
27 on the date the collector for the taxing unit determines that the

1 payment was erroneous.

2 SECTION 6. Section 33.08(b), Tax Code, is amended to read as
3 follows:

4 (b) The governing body of the taxing unit or appraisal
5 district, in the manner required by law for official action, may
6 provide that taxes that become delinquent on or after June 1 under
7 Section [~~26.07(f)~~], 26.15(e), 31.03, 31.031, 31.032, or 31.04 incur
8 an additional penalty to defray costs of collection. The amount of
9 the penalty may not exceed the amount of the compensation specified
10 in the applicable contract with an attorney under Section 6.30 to be
11 paid in connection with the collection of the delinquent taxes.

12 SECTION 7. Section 49.236, Water Code, as added by Chapters
13 248 and 335, Acts of the 78th Legislature, Regular Session, 2003, is
14 reenacted and amended to read as follows:

15 Sec. 49.236. NOTICE OF TAX HEARING. (a) Before the board
16 adopts an ad valorem tax rate for the district for debt service,
17 operation and maintenance purposes, or contract purposes, the board
18 shall give notice of each meeting of the board at which the adoption
19 of a tax rate will be considered. The notice must:

20 (1) contain a statement in substantially the following
21 form:

22 "NOTICE OF PUBLIC HEARING ON TAX RATE

23 "The (name of the district) will hold a public hearing on a
24 proposed tax rate for the tax year (year of tax levy) on (date and
25 time) at (meeting place). Your individual taxes may increase or
26 decrease, depending on the change in the taxable value of your
27 property in relation to the change in taxable value of all other

1 property and the tax rate that is adopted.

2 "(Names of all board members and, if a vote was taken, an
3 indication of how each voted on the proposed tax rate and an
4 indication of any absences.)";

5 (2) contain the following information:

6 (A) the district's total adopted tax rate for the
7 preceding year and the proposed tax rate, expressed as an amount per
8 \$100;

9 (B) the difference, expressed as an amount per
10 \$100 and as a percent increase or decrease, as applicable, in the
11 proposed tax rate compared to the adopted tax rate for the preceding
12 year;

13 (C) the average appraised value of a residence
14 homestead in the district in the preceding year and in the current
15 year; the district's total homestead exemption, other than an
16 exemption available only to disabled persons or persons 65 years of
17 age or older, applicable to that appraised value in each of those
18 years; and the average taxable value of a residence homestead in the
19 district in each of those years, disregarding any homestead
20 exemption available only to disabled persons or persons 65 years of
21 age or older;

22 (D) the amount of tax that would have been
23 imposed by the district in the preceding year on a residence
24 homestead appraised at the average appraised value of a residence
25 homestead in that year, disregarding any homestead exemption
26 available only to disabled persons or persons 65 years of age or
27 older;

(E) the amount of tax that would be imposed by the district in the current year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted; and

(F) the difference between the amounts of tax calculated under Paragraphs (D) and (E), expressed in dollars and cents and described as the annual percentage increase or decrease, as applicable, in the tax to be imposed by the district on the average residence homestead in the district in the current year if the proposed tax rate is adopted; and

(3) contain a statement in substantially the following form:

"NOTICE OF VOTE ON TAX RATE [~~TAXPAYERS' RIGHT TO ROLLBACK ELECTION~~]

"If taxes on the average residence homestead increase by more than five [~~eight~~] percent, [~~the qualified voters of the district by petition may require that~~] an election must be held to determine whether to ratify [~~reduce~~] the operation and maintenance tax rate [~~to the rollback tax rate~~] under Section 49.236(d), Water Code."

(b) Notice of the hearing shall be:

(1) published at least once in a newspaper having general circulation in the district at least seven days before the date of the hearing; or

(2) mailed to each owner of taxable property in the district, at the address for notice shown on the most recently

certified tax roll of the district, at least 10 days before the date of the hearing.

(c) The notice provided under this section may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper of general circulation, and the headline on the notice must be in 18-point or larger type.

(d) If the governing body of a district adopts a combined debt service, operation and maintenance, and contract tax rate that would impose more than 1.05 [~~1.08~~] times the amount of tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, [~~the qualified voters of the district by petition may require that~~] an election must be held to determine whether [~~or not~~] to ratify [~~reduce~~] the tax rate adopted for the current year [~~to the rollback tax rate~~] in accordance with the procedures provided by Section 26.07 [~~Sections 26.07(b)-(g) and 26.081~~], Tax Code. For purposes of Section 26.07, Tax Code, [~~Sections 26.07(b)-(g)~~] and this subsection, the rollback tax rate is the current year's debt service and contract tax rates plus the operation and maintenance tax rate that would impose 1.05 [~~1.08~~] times the amount of the operation and maintenance tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older.

1 SECTION 8. (a) The change in law made by this Act applies to
2 the ad valorem tax rate of a taxing unit beginning with the 2006 tax
3 year, except as provided by Subsection (b) of this section.

4 (b) If the governing body of a taxing unit adopted an ad
5 valorem tax rate for the taxing unit for the 2006 tax year before
6 the effective date of this Act, the change in law made by this Act
7 applies to the ad valorem tax rate of that taxing unit beginning
8 with the 2007 tax year, and the law in effect when the tax rate was
9 adopted applies to the 2006 tax year with respect to that taxing
10 unit.

11 SECTION 9. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect on the 91st day after the last day of the
16 legislative session.