

BILL ANALYSIS

C.S.H.B. 3
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texans pay more in property taxes than for any other state or local tax. In tax year 2003, 3,702 local taxing units levied almost \$29 billion in property taxes, of which school districts accounted for more than 60 percent, according to the Comptroller of Public Accounts. From 1985-2003, the school district property tax levy increased by approximately 260 percent. Currently, Texas ranks 45th among the states in terms of homeownership levels. The high property tax burden impairs Texans' ability to own their own homes. C.S.H.B. 3 raises state revenue to fund a significant property tax reduction for Texas taxpayers.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 2.01, to the Health and Human Services Commission in SECTION 2.01, and to the Comptroller of Public Accounts in SECTIONS 2.01, 2.03, 3B.07, and 3D.01.

ANALYSIS

LIMITATION ON SCHOOL DISTRICT TAX RATE

The bill decreases the cap on the school district maintenance and operations (M&O) tax rate from \$1.50 to \$1.00.

The bill provides that an election held before September 1, 2005, authorizing a maintenance tax at a rate of at least \$1.00 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate not to exceed \$1.00. A district permitted by special law to impose a higher tax rate, may continue to impose a rate that is \$0.50 less than the rate previously authorized.

BUY-DOWN OF SCHOOL DISTRICT TAXES

The bill requires the Comptroller to make revenue certifications on the increase of available state revenue and the M&O tax levy before any legislative session. After such certifications, the Comptroller must distribute to the school districts the sum of: (1) 15 percent of the increase in available state revenue for the current fiscal biennium, and (2) the amount of available state revenue distributed in the preceding fiscal biennium under this provision. The school district tax rate may not be reduced to less than \$0.75 per \$100 of taxable value. The funds received by each school district must be applied to reducing the rollback tax rate. A school district is entitled to additional aid to the extent that an increase in the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302 applicable to that school year does not compensate the district for a reduction in property tax revenue caused by a rate reduction made pursuant to Subchapter O, Chapter 43, Government Code. The bill amends Section 26.08 of the Tax Code to require school districts receiving additional state aid for property tax relief to reduce their rollback tax rates commensurate with the additional aid.

MANDATORY SALES PRICE DISCLOSURE

The bill requires a purchaser or grantee of real property to file a sales price disclosure report with the chief appraiser. The bill sets forth the information to be contained in the report and how the report is to be handled by the chief appraiser and appraisal district. A sales price disclosure report is confidential and not open to public inspection. The bill establishes penalties for violations of certain provisions.

CONFIDENTIALITY OF CERTAIN APPRAISAL INFORMATION

The bill requires that photographs or floor plans of certain improvements to real property contained in appraisal records be confidential.

PROCEDURES FOR ADOPTION OF TAX RATE

The bill requires a taxing unit to comply with truth-in-taxation provisions contained in Chapter 26 of the Tax Code in order to adopt a tax rate higher than the rollback tax rate or effective tax rate.

REFORMED FRANCHISE TAX

The bill establishes the Reformed Franchise Tax (Tax). The Tax applies only to a business that is an employer that pays or is required to pay a contribution under Subtitle A, Title 4, Labor Code. The Tax is levied on employers at the rate of 1.15 percent of the base amount of wages they pay on employees for whom the taxable business pays or is required to pay a contribution for a calendar quarter. A Tax is imposed on each business for each individual who performs a service for the business for compensation, if the individual is an employee of the business. The bill sets forth indications of what constitutes an employee. The base amount of wages for each employee is the total amount of wages paid to the employee during the calendar quarter up to an amount that does not exceed \$90,000 for the calendar year. The Tax does not apply to governmental entities or certain charities. The bill establishes penalties for violations of certain provisions.

The bill prohibits businesses from deducting the Tax from employees' wages and creates a criminal and civil penalty for a violation. The bill makes reporting and payment requirements. The bill requires proceeds from the collection of the Tax will go to the general revenue fund.

The bill provides for Tax credits against insurance premium taxes that the business owes and for certain providers of health care services.

The bill repeals the franchise tax, Chapter 171 of the Tax Code.

The bill provides for conditions precedent and procedures for the forfeiture of corporate privileges, including the right to sue or defend in court and protection from personal liability for corporate officers and directors, for certain business entities, providing exceptions. The bill also provides for a revival of corporate privileges.

SALES TAX

The bill increases the sales tax rate from 6 1/4 percent to 7.25 percent. A sales tax is imposed on billboard advertising services, motor vehicle wash or detail services, motor vehicle repair services, and bottled water. The bill imposes a 3 percent tax, in addition to any other taxes levied, on the sale of soft drinks or snack food. The bill removes the sales tax exemption for newspapers.

The bill exempts from the taxes imposed by Chapter 151 of the Tax Code the receipts from the sales, use storage, rental, or other consumption in this state of services that became subject to the taxes because of the terms of this part and that are the subject of a written contract or bid entered into on or before June 1, 2005. This exemption expires July 1, 2007.

BOATS AND MOTOR VEHICLES

The tax on sales, rentals, and use of motor vehicles is increased from 6 1/4 percent to 7.35 percent.

The bill requires the county tax assessor-collector to compute the tax on the sale of a motor vehicle. If the amount paid for a motor vehicle is equal to or greater than the standard presumptive value of the vehicle, the tax is on the amount paid. If the amount is less than the standard presumptive value, the tax is on the standard presumptive value, unless the purchaser

establishes the retail value. The bill requires the Department of Transportation to maintain information on the standard presumptive values of motor vehicles.

The bill increases the tax on the sale and use of boats and motor boats from 6 1/4 percent to 7.35 percent.

TOBACCO PRODUCTS

The bill increases the tax on cigarettes from \$20.50 per thousand on cigarettes weighing three pounds or less per thousand to \$70.50 per thousand on cigarettes weighing three pounds or less per thousand. The bill increases the taxes on cigars in each of the four classes of cigar. The bill increases the tax on tobacco products other than cigars from 35.213 percent to 40 percent of the manufacturer's list price.

The bill imposes an additional \$.02 fee on each cigarette and on each .09 ounce of tobacco product sold by a nonsettling manufacturer. The bill requires the Comptroller to increase the fee annually.

TELECOMMUNICATIONS INFRASTRUCTURE FUND

Utilities are permitted to recover from their customers the assessment once the credit to the fund reaches \$1.5 billion. The bill subjects Telecommunications Infrastructure Fund (TIF) to the Sunset Act and extends the expiration date of the fund to September 1, 2011.

The bill requires the Comptroller to deposit the money collected by TIF assessments to the credit of the general revenue fund.

The bill requires the Comptroller to reset the rate of the assessment to 1.25 percent if, on or before the effect date of this article, the assessment is imposed at a rate of less than 1.25 percent.

EFFECTIVE DATE

The bill takes effect July 1, 2005, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005, except as otherwise provided.

The bill provides that ARTICLE 1 takes effect January 1, 2006, except SECTION 1D.01 and SECTIONS 1E.01 and 1E.02 which take effect upon passage, or, if the Act does not receive the necessary vote, these SECTIONS take effect August 29, 2005.

The bill specifies ARTICLE 2 takes effect January 1, 2006.

The bill provides that Part A of ARTICLE 3 takes effect July 1, 2005, or, if the Act does not receive the necessary vote, Part A takes effect October 1, 2005.

Section 152.0412 of the Tax Code in Part B of ARTICLE 3 takes effect October 1, 2005.

The bill stipulates that Part B of ARTICLE 3, except as provided and Part C of ARTICLE 3 take effect July 1, 2005, or, if the Act does not receive the necessary vote, the parts take effect September 1, 2005.

ARTICLE 4 takes effect July 1, 2005, or, if the Act does not receive the necessary vote, the article takes effect September 1, 2005.

ARTICLE 5 takes effect July 1, 2005, or, if the Act does not receive the necessary vote, the article takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3 adds new language :

- requiring the buy-down of school district taxes;
- mandating sales price disclosure;
- requiring the confidentiality of certain appraisal information;
- altering the procedures for adopting a tax rate;

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- establishing the reformed franchise tax;
- increasing the sales tax rate;
- expanding of the sales tax base to billboard advertising services, motor vehicle wash or detail services, motor vehicle repair services, and bottled water;
- imposing an additional sales tax on snack foods and soft drinks;
- increasing the taxes on boats and motor vehicles;
- increasing of taxes on cigars and other tobacco products;
- imposing an additional tax on nonsettling tobacco manufacturers;
- allowing utilities to recover the TIF assessment;
- depositing TIF assessments to the general revenue fund; and
- requiring the Comptroller to reset the rate of the TIF assessment.

The substitute removes provisions in the original that:

- altered the delivery date for rendition statements;
- required the county clerk to provide certain information to the chief appraiser;
- authorized the chief appraiser to consider alternate methods of appraisal;
- required the chief appraiser to prepare appraisal records by May 15;
- changed the end month for the period in which a tax is delinquent and changed the delinquent tax penalty;
- imposed a sales tax on newspaper inserts and magazines;
- increased the TIF caps; and
- authorized lottery ticket sales at motor fuel pumps.