

By: Williams, Janek

S.B. No. 18

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the adoption of an ad valorem tax rate by a taxing unit
3 other than a school district.

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

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

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

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

13
$$\text{EFFECTIVE TAX RATE} = \left[\left(\text{LAST YEAR'S LEVY} \left[\text{--- LOST PROPERTY LEVY} \right] \right) / \right.$$

14
$$\left. \left(\text{CURRENT TOTAL VALUE} \left[\text{--- NEW PROPERTY VALUE} \right] \right) \right]$$

15 ; and

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

19
$$\text{ROLLBACK TAX RATE} = (\text{EFFECTIVE MAINTENANCE AND OPERATIONS RATE} \times$$

20
$$\underline{1.05} \left[\text{1.08} \right]) + \text{CURRENT DEBT RATE}$$

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

23 (a) In the first year in which an additional sales and use
24 tax is required to be collected, the effective tax rate and rollback
25 tax rate for the unit are calculated according to the following

1 formulas:

2 EFFECTIVE TAX RATE = $\frac{[(\text{LAST YEAR'S LEVY } [\text{---LOST PROPERTY LEVY---}]) /$
3 $[(\text{CURRENT TOTAL VALUE}] [\text{---NEW PROPERTY VALUE---}]) - \text{SALES TAX GAIN RATE}$

4 and

5 ROLLBACK RATE = (EFFECTIVE MAINTENANCE AND OPERATIONS RATE x 1.05
6 ~~1.08~~) + CURRENT DEBT RATE - SALES TAX GAIN RATE

7 where "sales tax gain rate" means a number expressed in dollars per
8 \$100 of taxable value, calculated by dividing the revenue that will
9 be generated by the additional sales and use tax in the following
10 year as calculated under Subsection (d) ~~[of this section]~~ by the
11 current total value.

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

17 ROLLBACK RATE = $[(\text{LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE } \times$
18 1.05 ~~1.08~~)] / $[(\text{---TOTAL--- CURRENT TOTAL VALUE } [\text{---NEW PROPERTY
19 ~~VALUE---}])]~~$ + (CURRENT DEBT RATE - SALES TAX REVENUE RATE)

20 where "last year's maintenance and operations expense" means the
21 amount spent for maintenance and operations from property tax and
22 additional sales and use tax revenues in the preceding year, and
23 "sales tax revenue rate" means a number expressed in dollars per
24 \$100 of taxable value, calculated by dividing the revenue that will
25 be generated by the additional sales and use tax in the current year
26 as calculated under Subsection (d) ~~[of this section]~~ by the current
27 total value.

28 (c) In a year in which a taxing unit that has been imposing

1 an additional sales and use tax ceases to impose an additional sales
2 and use tax the effective tax rate and rollback tax rate for the
3 unit are calculated according to the following formulas:

4 EFFECTIVE TAX RATE = [~~(~~LAST YEAR'S LEVY [~~= LOST PROPERTY LEVY~~)] /
5 [~~(~~CURRENT TOTAL VALUE [~~= NEW PROPERTY VALUE~~])] + SALES TAX LOSS RATE

6 and

7 ROLLBACK TAX RATE = [(LAST YEAR'S MAINTENANCE AND OPERATIONS
8 EXPENSE x 1.05 [~~1.08~~)] / [~~(TOTAL~~] CURRENT TOTAL VALUE [~~= NEW PROPERTY~~
9 VALUE~~)~~]] + CURRENT DEBT RATE

10 where "sales tax loss rate" means a number expressed in dollars per
11 \$100 of taxable value, calculated by dividing the amount of sales
12 and use tax revenue generated in the last four quarters for which
13 the information is available by the current total value and "last
14 year's maintenance and operations expense" means the amount spent
15 for maintenance and operations from property tax and additional
16 sales and use tax revenues in the preceding year.

17 SECTION 3. Subsection (d), Section 26.05, Tax Code, is
18 amended to read as follows:

19 (d) The governing body of a taxing unit other than a school
20 district may not adopt a tax rate that exceeds the lower of the
21 rollback tax rate or [~~103 percent of~~] the effective tax rate
22 calculated as provided by this chapter until the governing body has
23 held a public hearing on the proposed tax rate and has otherwise
24 complied with Sections [~~Section~~] 26.06 and [~~Section~~] 26.065. The
25 governing body of a taxing unit to which this subsection applies
26 shall reduce a tax rate set by law or by vote of the electorate to
27 the lower of the rollback tax rate or [~~103 percent of~~] the effective
28 tax rate and may not adopt a higher rate unless it first complies

1 with Section 26.06.

2 SECTION 4. Subsection (e), Section 26.06, Tax Code, is
3 amended to read as follows:

4 (e) The meeting to vote on the tax increase may not be
5 earlier than the fifth business ~~[third]~~ day or later than the 14th
6 calendar day after the date of the public hearing. The meeting must
7 be held inside the boundaries of the taxing unit in a publicly owned
8 building or, if a suitable publicly owned building is not
9 available, in a suitable building to which the public normally has
10 access. At the meeting, the governing body must afford an adequate
11 opportunity for proponents and opponents of the tax increase to
12 present their views before the governing body votes on the tax
13 increase. If the governing body does not adopt a tax rate that
14 exceeds the lower of the rollback tax rate or ~~[103 percent of]~~ the
15 effective tax rate by the 14th day, it must give a new notice under
16 Subsection (d) before it may adopt a rate that exceeds the lower of
17 the rollback tax rate or ~~[103 percent of]~~ the effective tax rate.

18 SECTION 5. Section 26.07, Tax Code, is amended to read as
19 follows:

20 Sec. 26.07. ELECTION TO RATIFY TAX ~~[REPEAL]~~ INCREASE OF
21 TAXING UNIT OTHER THAN SCHOOL DISTRICT. (a) The ~~[If the]~~
22 governing body of a taxing unit other than a school district may not
23 adopt ~~[adopts]~~ a tax rate that exceeds the rollback tax rate
24 calculated as provided by this chapter without voter approval as
25 provided by this section. To adopt a tax rate that exceeds the
26 rollback tax rate, the governing body must adopt the rate as a
27 proposed tax rate and call an election to permit~~[7]~~ the qualified
28 voters of the taxing unit ~~[by petition may require that an election~~

1 ~~be held to determine whether or not~~ to approve or disapprove
2 ~~[reduce]~~ the proposed tax rate ~~[adopted for the current year to the~~
3 ~~rollback tax rate calculated as provided by this chapter].~~

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

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

8 ~~[(2) it is signed by a number of registered voters of~~
9 ~~the taxing unit equal to at least 10 percent of the number of~~
10 ~~registered voters of the taxing unit according to the most recent~~
11 ~~official list of registered voters; and~~

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

15 ~~[(c) Not later than the 20th day after the day a petition is~~
16 ~~submitted, the governing body shall determine whether or not the~~
17 ~~petition is valid and pass a resolution stating its finding. If the~~
18 ~~governing body fails to act within the time allowed, the petition is~~
19 ~~treated as if it had been found valid.~~

20 ~~[(d) If the]~~ governing body ~~[finds that the petition is~~
21 ~~valid (or fails to act within the time allowed), it]~~ shall order
22 that the ~~[an]~~ election be held in the taxing unit on a date not less
23 than 30 or more than 90 days after the ~~[last]~~ day on which the
24 governing body adopted the proposed tax rate. Section 41.001,
25 Election Code, ~~[it could have acted to approve or disapprove the~~
26 ~~petition. A state law requiring local elections to be held on a~~
27 ~~specified date]~~ does not apply to the election unless a ~~[specified]~~
28 date specified by that section falls within the time permitted by

1 this section. At the election, the ballots shall be prepared to
 2 permit voting for or against the proposition: "Approving
 3 ~~["Reducing]~~ the proposed ad valorem tax rate of \$_____ per \$100
 4 valuation in (name of taxing unit) for the current year, a rate that
 5 is \$_____ higher per \$100 valuation than the ~~[from (the rate~~
 6 ~~adopted) to (the)]~~ rollback tax rate ~~[calculated as provided by this~~
 7 ~~chapter)]."~~ The ballot proposition must include the proposed tax
 8 rate and the difference between that rate and the rollback tax rate
 9 in the appropriate places.

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

16 (d) [(f)] If the proposition is not approved as provided by
 17 Subsection (c), the governing body may not adopt a tax rate for the
 18 taxing unit for the current year that exceeds the taxing unit's
 19 rollback tax rate ~~[is reduced by an election called under this~~
 20 ~~section after tax bills for the unit are mailed, the assessor for~~
 21 ~~the unit shall prepare and mail corrected tax bills. He shall~~
 22 ~~include with the bill a brief explanation of the reason for and~~
 23 ~~effect of the corrected bill. The date on which the taxes become~~
 24 ~~delinquent for the year is extended by a number of days equal to the~~
 25 ~~number of days between the date the first tax bills were sent and~~
 26 ~~the date the corrected tax bills were sent)].~~

27 ~~[(g) If a property owner pays taxes calculated using the~~
 28 ~~higher tax rate when the rate is reduced by an election called under~~

1 ~~this section, the taxing unit shall refund the difference between~~
2 ~~the amount of taxes paid and the amount due under the reduced rate~~
3 ~~if the difference between the amount of taxes paid and the amount~~
4 ~~due under the reduced rate is \$1 or more. If the difference between~~
5 ~~the amount of taxes paid and the amount due under the reduced rate~~
6 ~~is less than \$1, the taxing unit shall refund the difference on~~
7 ~~request of the taxpayer. An application for a refund of less than~~
8 ~~\$1 must be made within 90 days after the date the refund becomes due~~
9 ~~or the taxpayer forfeits the right to the refund.]~~

10 SECTION 6. Subsections (a) and (b), Section 31.12, Tax
11 Code, are amended to read as follows:

12 (a) If a refund of a tax provided by Section 11.431(b),
13 ~~[26.07(g),]~~ 26.15(f), 31.11, or 31.111 is paid on or before the 60th
14 day after the date the liability for the refund arises, no interest
15 is due on the amount refunded. If not paid on or before that 60th
16 day, the amount of the tax to be refunded accrues interest at a rate
17 of one percent for each month or part of a month that the refund is
18 unpaid, beginning with the date on which the liability for the
19 refund arises.

20 (b) For purposes of this section, liability for a refund
21 arises:

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

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

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

1 (A) for a correction to the tax roll made under
2 Section 26.15(b), on the date the change in the tax roll is
3 certified to the assessor for the taxing unit under Section 25.25;
4 or

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

8 (3) [~~(4)~~] if the refund is required by Section 31.11,
9 on the date the auditor for the taxing unit determines that the
10 payment was erroneous or excessive or, if the amount of the refund
11 exceeds the applicable amount specified by Section 31.11(a), on the
12 date the governing body of the unit approves the refund; or

13 (4) [~~(5)~~] if the refund is required by Section 31.111,
14 on the date the collector for the taxing unit determines that the
15 payment was erroneous.

16 SECTION 7. Subsection (b), Section 33.08, Tax Code, is
17 amended to read as follows:

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

26 SECTION 8. Subsections (a) and (d), Section 49.236, Water
27 Code, as added by Chapter 335, Acts of the 78th Legislature, Regular
28 Session, 2003, are amended to read as follows:

1 (a) Before the board adopts an ad valorem tax rate for the
2 district for debt service, operation and maintenance purposes, or
3 contract purposes, the board shall give notice of each meeting of
4 the board at which the adoption of a tax rate will be considered.
5 The notice must:

6 (1) contain a statement in substantially the following
7 form:

8 "NOTICE OF PUBLIC HEARING ON TAX RATE

9 "The (name of the district) will hold a public hearing on a
10 proposed tax rate for the tax year (year of tax levy) on (date and
11 time) at (meeting place). Your individual taxes may increase or
12 decrease, depending on the change in the taxable value of your
13 property in relation to the change in taxable value of all other
14 property and the tax rate that is adopted.

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

18 (2) contain the following information:

19 (A) the district's total adopted tax rate for the
20 preceding year and the proposed tax rate, expressed as an amount per
21 \$100;

22 (B) the difference, expressed as an amount per
23 \$100 and as a percent increase or decrease, as applicable, in the
24 proposed tax rate compared to the adopted tax rate for the preceding
25 year;

26 (C) the average appraised value of a residence
27 homestead in the district in the preceding year and in the current
28 year; the district's total homestead exemption, other than an

1 exemption available only to disabled persons or persons 65 years of
2 age or older, applicable to that appraised value in each of those
3 years; and the average taxable value of a residence homestead in the
4 district in each of those years, disregarding any homestead
5 exemption available only to disabled persons or persons 65 years of
6 age or older;

7 (D) the amount of tax that would have been
8 imposed by the district in the preceding year on a residence
9 homestead appraised at the average appraised value of a residence
10 homestead in that year, disregarding any homestead exemption
11 available only to disabled persons or persons 65 years of age or
12 older;

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

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

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

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

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

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

1 SECTION 9. Section 49.236, Water Code, as added by Chapter
2 248, Acts of the 78th Legislature, Regular Session, 2003, is
3 repealed.

4 SECTION 10. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect on the 91st day after the last day of
9 the legislative session.

10 SECTION 11. (a) The change in law made by this Act applies
11 to the ad valorem tax rate of a taxing unit beginning with the 2005
12 tax year, except as provided by Subsection (b) of this section.

13 (b) If the governing body of a taxing unit has adopted an ad
14 valorem tax rate for the taxing unit for the 2005 tax year before
15 the effective date of this Act, the change in law made by this Act
16 applies to the ad valorem tax rate of that taxing unit beginning
17 with the 2006 tax year, and the law in effect when the tax rate was
18 adopted applies to the 2005 tax year with respect to that taxing
19 unit.