

1-1 By: Williams, Janek S.B. No. 18
1-2 (In the Senate - Filed March 9, 2005; March 17, 2005, read
1-3 first time and referred to Committee on Finance; April 20, 2005,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 9, Nays 4; April 20, 2005, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 18 By: Williams

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the adoption of an ad valorem tax rate by a taxing unit
1-10 other than a school district.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsection (d), Section 26.05, Tax Code, is
1-13 amended to read as follows:

1-14 (d) The governing body of a taxing unit other than a school
1-15 district may not adopt a tax rate that exceeds the lower of the
1-16 rollback tax rate or ~~[103 percent of]~~ the effective tax rate
1-17 calculated as provided by this chapter until the governing body has
1-18 held a public hearing on the proposed tax rate and has otherwise
1-19 complied with Sections [Section] 26.06 and [Section] 26.065. The
1-20 governing body of a taxing unit to which this subsection applies
1-21 shall reduce a tax rate set by law or by vote of the electorate to
1-22 the lower of the rollback tax rate or ~~[103 percent of]~~ the effective
1-23 tax rate and may not adopt a higher rate unless it first complies
1-24 with Section 26.06.

1-25 SECTION 2. Subsection (e), Section 26.06, Tax Code, is
1-26 amended to read as follows:

1-27 (e) The meeting to vote on the tax increase may not be
1-28 earlier than the fifth business [third] day or later than the 14th
1-29 calendar day after the date of the public hearing. The meeting must
1-30 be held inside the boundaries of the taxing unit in a publicly owned
1-31 building or, if a suitable publicly owned building is not
1-32 available, in a suitable building to which the public normally has
1-33 access. At the meeting, the governing body must afford an adequate
1-34 opportunity for proponents and opponents of the tax increase to
1-35 present their views before the governing body votes on the tax
1-36 increase. If the governing body does not adopt a tax rate that
1-37 exceeds the lower of the rollback tax rate or ~~[103 percent of]~~ the
1-38 effective tax rate by the 14th day, it must give a new notice under
1-39 Subsection (d) before it may adopt a rate that exceeds the lower of
1-40 the rollback tax rate or ~~[103 percent of]~~ the effective tax rate.

1-41 SECTION 3. Section 26.07, Tax Code, is amended to read as
1-42 follows:

1-43 Sec. 26.07. ELECTION TO RATIFY TAX ~~[REPEAL]~~ INCREASE OF
1-44 TAXING UNIT OTHER THAN SCHOOL DISTRICT. (a) The [If the]
1-45 governing body of a taxing unit other than a school district may not
1-46 adopt [adopts] a tax rate that exceeds the rollback tax rate
1-47 calculated as provided by this chapter without voter approval as
1-48 provided by this section. To adopt a tax rate that exceeds the
1-49 rollback tax rate, the governing body must adopt the rate as a
1-50 proposed tax rate and call an election to permit[7] the qualified
1-51 voters of the taxing unit [by petition may require that an election
1-52 be held to determine whether or not] to approve or disapprove
1-53 [reduce] the proposed tax rate [adopted for the current year to the
1-54 rollback tax rate calculated as provided by this chapter].

1-55 (b) ~~The [A petition is valid only if:~~

1-56 ~~[(1) it states that it is intended to require an~~
1-57 ~~election in the taxing unit on the question of reducing the tax rate~~
1-58 ~~for the current year,~~

1-59 ~~[(2) it is signed by a number of registered voters of~~
1-60 ~~the taxing unit equal to at least 10 percent of the number of~~
1-61 ~~registered voters of the taxing unit according to the most recent~~
1-62 ~~official list of registered voters, and~~

1-63 ~~[(3) it is submitted to the governing body on or before~~

2-1 ~~the 90th day after the date on which the governing body adopted the~~
 2-2 ~~tax rate for the current year.~~

2-3 ~~[(c) Not later than the 20th day after the day a petition is~~
 2-4 ~~submitted, the governing body shall determine whether or not the~~
 2-5 ~~petition is valid and pass a resolution stating its finding. If the~~
 2-6 ~~governing body fails to act within the time allowed, the petition is~~
 2-7 ~~treated as if it had been found valid.~~

2-8 ~~[(d) If the] governing body [finds that the petition is~~
 2-9 ~~valid (or fails to act within the time allowed), it] shall order~~
 2-10 ~~that the [an] election be held in the taxing unit on a date not less~~
 2-11 ~~than 30 or more than 90 days after the [last] day on which the~~
 2-12 ~~governing body adopted the proposed tax rate. Section 41.001,~~
 2-13 ~~Election Code, [it could have acted to approve or disapprove the~~
 2-14 ~~petition. A state law requiring local elections to be held on a~~
 2-15 ~~specified date] does not apply to the election unless a [specified]~~
 2-16 ~~date specified by that section falls within the time permitted by~~
 2-17 ~~this section. At the election, the ballots shall be prepared to~~
 2-18 ~~permit voting for or against the proposition: "Approving~~
 2-19 ~~["Reducing] the proposed ad valorem tax rate of \$_____ per \$100~~
 2-20 ~~valuation in (name of taxing unit) for the current year, a rate that~~
 2-21 ~~is \$_____ higher per \$100 valuation than the [from (the rate~~
 2-22 ~~adopted) to (the] rollback tax rate [calculated as provided by this~~
 2-23 ~~chapter]."~~ The ballot proposition must include the proposed tax
 2-24 rate and the difference between that rate and the rollback tax rate
 2-25 in the appropriate places.

2-26 ~~(c) [(e)] If a majority of the votes cast [qualified voters~~
 2-27 ~~voting on the question] in the election favor the proposition, the~~
 2-28 ~~proposition is approved and the tax rate for the [taxing unit for~~
 2-29 ~~the] current year is the proposed [rollback] tax rate that was~~
 2-30 ~~[calculated as provided by this chapter; otherwise, the tax rate~~
 2-31 ~~for the current year is the one] adopted by the governing body.~~

2-32 ~~(d) [(f)] If the proposition is not approved as provided by~~
 2-33 ~~Subsection (c), the governing body may not adopt a tax rate for the~~
 2-34 ~~taxing unit for the current year that exceeds the taxing unit's~~
 2-35 ~~rollback tax rate [is reduced by an election called under this~~
 2-36 ~~section after tax bills for the unit are mailed, the assessor for~~
 2-37 ~~the unit shall prepare and mail corrected tax bills. He shall~~
 2-38 ~~include with the bill a brief explanation of the reason for and~~
 2-39 ~~effect of the corrected bill. The date on which the taxes become~~
 2-40 ~~delinquent for the year is extended by a number of days equal to the~~
 2-41 ~~number of days between the date the first tax bills were sent and~~
 2-42 ~~the date the corrected tax bills were sent].~~

2-43 ~~[(g) If a property owner pays taxes calculated using the~~
 2-44 ~~higher tax rate when the rate is reduced by an election called under~~
 2-45 ~~this section, the taxing unit shall refund the difference between~~
 2-46 ~~the amount of taxes paid and the amount due under the reduced rate~~
 2-47 ~~if the difference between the amount of taxes paid and the amount~~
 2-48 ~~due under the reduced rate is \$1 or more. If the difference between~~
 2-49 ~~the amount of taxes paid and the amount due under the reduced rate~~
 2-50 ~~is less than \$1, the taxing unit shall refund the difference on~~
 2-51 ~~request of the taxpayer. An application for a refund of less than~~
 2-52 ~~\$1 must be made within 90 days after the date the refund becomes due~~
 2-53 ~~or the taxpayer forfeits the right to the refund.]~~

2-54 SECTION 4. Subsections (a) and (b), Section 31.12, Tax
 2-55 Code, are amended to read as follows:

2-56 (a) If a refund of a tax provided by Section 11.431(b),
 2-57 ~~[26.07(g),] 26.15(f), 31.11, or 31.111 is paid on or before the 60th~~
 2-58 ~~day after the date the liability for the refund arises, no interest~~
 2-59 ~~is due on the amount refunded. If not paid on or before that 60th~~
 2-60 ~~day, the amount of the tax to be refunded accrues interest at a rate~~
 2-61 ~~of one percent for each month or part of a month that the refund is~~
 2-62 ~~unpaid, beginning with the date on which the liability for the~~
 2-63 ~~refund arises.~~

2-64 (b) For purposes of this section, liability for a refund
 2-65 arises:

2-66 (1) if the refund is required by Section 11.431(b), on
 2-67 the date the chief appraiser notifies the collector for the unit of
 2-68 the approval of the late homestead exemption;

2-69 (2) ~~[if the refund is required by Section 26.07(g), on~~

3-1 ~~the date the results of the election to reduce the tax rate are~~
3-2 ~~certified,~~

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

3-4 (A) for a correction to the tax roll made under
3-5 Section 26.15(b), on the date the change in the tax roll is
3-6 certified to the assessor for the taxing unit under Section 25.25;
3-7 or

3-8 (B) for a correction to the tax roll made under
3-9 Section 26.15(c), on the date the change in the tax roll is ordered
3-10 by the governing body of the taxing unit;

3-11 (3) [~~4~~] if the refund is required by Section 31.11,
3-12 on the date the auditor for the taxing unit determines that the
3-13 payment was erroneous or excessive or, if the amount of the refund
3-14 exceeds the applicable amount specified by Section 31.11(a), on the
3-15 date the governing body of the unit approves the refund; or

3-16 (4) [~~5~~] if the refund is required by Section 31.111,
3-17 on the date the collector for the taxing unit determines that the
3-18 payment was erroneous.

3-19 SECTION 5. Subsection (b), Section 33.08, Tax Code, is
3-20 amended to read as follows:

3-21 (b) The governing body of the taxing unit or appraisal
3-22 district, in the manner required by law for official action, may
3-23 provide that taxes that become delinquent on or after June 1 under
3-24 Section [~~26.07(f)~~] 26.15(e), 31.03, 31.031, 31.032, or 31.04 incur
3-25 an additional penalty to defray costs of collection. The amount of
3-26 the penalty may not exceed the amount of the compensation specified
3-27 in the applicable contract with an attorney under Section 6.30 to be
3-28 paid in connection with the collection of the delinquent taxes.

3-29 SECTION 6. Subsections (a) and (d), Section 49.236, Water
3-30 Code, as added by Chapter 335, Acts of the 78th Legislature, Regular
3-31 Session, 2003, are amended to read as follows:

3-32 (a) Before the board adopts an ad valorem tax rate for the
3-33 district for debt service, operation and maintenance purposes, or
3-34 contract purposes, the board shall give notice of each meeting of
3-35 the board at which the adoption of a tax rate will be considered.
3-36 The notice must:

3-37 (1) contain a statement in substantially the following
3-38 form:

3-39 "NOTICE OF PUBLIC HEARING ON TAX RATE
3-40 "The (name of the district) will hold a public hearing on a
3-41 proposed tax rate for the tax year (year of tax levy) on (date and
3-42 time) at (meeting place). Your individual taxes may increase or
3-43 decrease, depending on the change in the taxable value of your
3-44 property in relation to the change in taxable value of all other
3-45 property and the tax rate that is adopted.

3-46 "(Names of all board members and, if a vote was taken, an
3-47 indication of how each voted on the proposed tax rate and an
3-48 indication of any absences.)";

3-49 (2) contain the following information:

3-50 (A) the district's total adopted tax rate for the
3-51 preceding year and the proposed tax rate, expressed as an amount per
3-52 \$100;

3-53 (B) the difference, expressed as an amount per
3-54 \$100 and as a percent increase or decrease, as applicable, in the
3-55 proposed tax rate compared to the adopted tax rate for the preceding
3-56 year;

3-57 (C) the average appraised value of a residence
3-58 homestead in the district in the preceding year and in the current
3-59 year; the district's total homestead exemption, other than an
3-60 exemption available only to disabled persons or persons 65 years of
3-61 age or older, applicable to that appraised value in each of those
3-62 years; and the average taxable value of a residence homestead in the
3-63 district in each of those years, disregarding any homestead
3-64 exemption available only to disabled persons or persons 65 years of
3-65 age or older;

3-66 (D) the amount of tax that would have been
3-67 imposed by the district in the preceding year on a residence
3-68 homestead appraised at the average appraised value of a residence
3-69 homestead in that year, disregarding any homestead exemption

4-1 available only to disabled persons or persons 65 years of age or
4-2 older;

4-3 (E) the amount of tax that would be imposed by the
4-4 district in the current year on a residence homestead appraised at
4-5 the average appraised value of a residence homestead in that year,
4-6 disregarding any homestead exemption available only to disabled
4-7 persons or persons 65 years of age or older, if the proposed tax
4-8 rate is adopted; and

4-9 (F) the difference between the amounts of tax
4-10 calculated under Paragraphs (D) and (E), expressed in dollars and
4-11 cents and described as the annual percentage increase or decrease,
4-12 as applicable, in the tax to be imposed by the district on the
4-13 average residence homestead in the district in the current year if
4-14 the proposed tax rate is adopted; and

4-15 (3) contain a statement in substantially the following
4-16 form:

4-17 "NOTICE OF VOTE ON TAX RATE [~~TAXPAYERS' RIGHT TO~~
4-18 ROLLBACK ELECTION]

4-19 "If taxes on the average residence homestead increase by more
4-20 than eight percent, [~~the qualified voters of the district by~~
4-21 ~~petition may require that~~] an election must be held to determine
4-22 whether to ratify [~~reduce~~] the operation and maintenance tax rate
4-23 [~~to the rollback tax rate~~] under Section 49.236(d), Water Code."

4-24 (d) If the governing body of a district adopts a combined
4-25 debt service, operation and maintenance, and contract tax rate that
4-26 would impose more than 1.08 times the amount of tax imposed by the
4-27 district in the preceding year on a residence homestead appraised
4-28 at the average appraised value of a residence homestead in the
4-29 district in that year, disregarding any homestead exemption
4-30 available only to disabled persons or persons 65 years of age or
4-31 older, [~~the qualified voters of the district by petition may~~
4-32 ~~require that~~] an election must be held to determine whether [~~or not~~]
4-33 to ratify [~~reduce~~] the tax rate adopted for the current year [~~to the~~
4-34 ~~rollback tax rate~~] in accordance with the procedures provided by
4-35 Section 26.07 [~~Sections 26.07(b)-(g) and 26.081~~], Tax Code. For
4-36 purposes of Section 26.07 [~~Sections 26.07(b)-(g)~~] and this
4-37 subsection, the rollback tax rate is the current year's debt
4-38 service and contract tax rates plus the operation and maintenance
4-39 tax rate that would impose 1.08 times the amount of the operation
4-40 and maintenance tax imposed by the district in the preceding year on
4-41 a residence homestead appraised at the average appraised value of a
4-42 residence homestead in the district in that year, disregarding any
4-43 homestead exemption available only to disabled persons or persons
4-44 65 years of age or older.

4-45 SECTION 7. Section 49.236, Water Code, as added by Chapter
4-46 248, Acts of the 78th Legislature, Regular Session, 2003, is
4-47 repealed.

4-48 SECTION 8. This Act takes effect immediately if it receives
4-49 a vote of two-thirds of all the members elected to each house, as
4-50 provided by Section 39, Article III, Texas Constitution. If this
4-51 Act does not receive the vote necessary for immediate effect, this
4-52 Act takes effect on the 91st day after the last day of the
4-53 legislative session.

4-54 SECTION 9. (a) The change in law made by this Act applies
4-55 to the ad valorem tax rate of a taxing unit beginning with the 2005
4-56 tax year, except as provided by Subsection (b) of this section.

4-57 (b) If the governing body of a taxing unit has adopted an ad
4-58 valorem tax rate for the taxing unit for the 2005 tax year before
4-59 the effective date of this Act, the change in law made by this Act
4-60 applies to the ad valorem tax rate of that taxing unit beginning
4-61 with the 2006 tax year, and the law in effect when the tax rate was
4-62 adopted applies to the 2005 tax year with respect to that taxing
4-63 unit.

4-64 * * * * *