

By: Zedler

H.B. No. 2456

A BILL TO BE ENTITLED

AN ACT

relating to the rollback tax rate of a taxing unit other than a school district.

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

SECTION 1. Section 26.012, Tax Code, is amended by adding Subdivisions (2-a) and (10-a) to read as follows:

(2-a) "Consumer price index" means the index that the comptroller considers to most accurately report changes in the purchasing power of the dollar for consumers in this state.

(10-a) "Inflation rate" means the amount, expressed in decimal form rounded to the nearest thousandth, computed by determining the percentage change in the consumer price index for the most recent 12-month period for which the index can be determined as compared to the consumer price index for the 12-month period preceding that period.

SECTION 2. Chapter 26, Tax Code, is amended by adding Section 26.013 to read as follows:

Sec. 26.013. INFLATION RATE. By July 1 or as soon thereafter as practicable, the comptroller shall determine the inflation rate for the current year and publish that rate in the Texas Register.

SECTION 3. Section 26.04(c), Tax Code, is amended to read as follows:

(c) An officer or employee designated by the governing body

1 shall calculate the effective tax rate and the rollback tax rate for
2 the unit, where:

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

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

8 ; and

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

12 ROLLBACK TAX RATE = [~~+~~EFFECTIVE MAINTENANCE AND OPERATIONS RATE
13 x (1 + INFLATION RATE [~~1.08~~])] + CURRENT DEBT RATE

14 SECTION 4. Sections 26.041(a), (b), and (c), Tax Code, are
15 amended to read as follows:

16 (a) In the first year in which an additional sales and use
17 tax is required to be collected, the effective tax rate and rollback
18 tax rate for the unit are calculated according to the following
19 formulas:

20 EFFECTIVE TAX RATE = [(LAST YEAR'S LEVY - LOST PROPERTY LEVY) /
21 (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)] - SALES TAX GAIN RATE

22 and

23 ROLLBACK TAX RATE = [~~+~~EFFECTIVE MAINTENANCE AND OPERATIONS RATE
24 x (1 + INFLATION RATE [~~1.08~~])] + CURRENT DEBT RATE - SALES TAX GAIN
25 RATE

26 where "sales tax gain rate" means a number expressed in dollars per
27 \$100 of taxable value, calculated by dividing the revenue that will

1 be generated by the additional sales and use tax in the following
 2 year as calculated under Subsection (d) [~~of this section~~] by the
 3 current total value.

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

9 ROLLBACK TAX RATE = $\frac{[(\text{LAST YEAR'S MAINTENANCE AND OPERATIONS$
 10 $\text{EXPENSE} \times (1 + \text{INFLATION RATE } [1.08]) / ((\text{TOTAL}] \text{ CURRENT } \underline{\text{TOTAL VALUE}}$
 11 $\text{ - NEW PROPERTY VALUE})]}{+ (\text{CURRENT DEBT RATE - SALES TAX REVENUE$
 12 $\text{RATE})}$

13 where "last year's maintenance and operations expense" means the
 14 amount spent for maintenance and operations from property tax and
 15 additional sales and use tax revenues in the preceding year, and
 16 "sales tax revenue rate" means a number expressed in dollars per
 17 \$100 of taxable value, calculated by dividing the revenue that will
 18 be generated by the additional sales and use tax in the current year
 19 as calculated under Subsection (d) [~~of this section~~] by the current
 20 total value.

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

25 EFFECTIVE TAX RATE = $\frac{[(\text{LAST YEAR'S LEVY - LOST PROPERTY LEVY}) /$
 26 $(\text{CURRENT TOTAL VALUE - NEW PROPERTY VALUE})]}{+ \text{SALES TAX LOSS RATE}}$

27 and

1 ROLLBACK TAX RATE = $\frac{[\text{LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE} \times (1 + \text{INFLATION RATE } [1.08]) - \text{NEW PROPERTY VALUE}]}{([\text{TOTAL}] \text{ CURRENT } \text{TOTAL VALUE})} + \text{CURRENT DEBT RATE}$

4 where "sales tax loss rate" means a number expressed in dollars per
 5 \$100 of taxable value, calculated by dividing the amount of sales
 6 and use tax revenue generated in the last four quarters for which
 7 the information is available by the current total value and "last
 8 year's maintenance and operations expense" means the amount spent
 9 for maintenance and operations from property tax and additional
 10 sales and use tax revenues in the preceding year.

11 SECTION 5. Section 26.07, Tax Code, is amended to read as
 12 follows:

13 Sec. 26.07. ELECTION TO RATIFY TAX ~~[REPEAL]~~ INCREASE OF
 14 TAXING UNIT OTHER THAN SCHOOL DISTRICT. (a) The ~~[if the]~~ governing
 15 body of a taxing unit other than a school district may not adopt
 16 ~~[adopts]~~ a tax rate that exceeds the rollback tax rate calculated as
 17 provided by this chapter without voter approval as provided by this
 18 section. To adopt a tax rate that exceeds the rollback tax rate,
 19 the governing body must adopt the rate as a proposed tax rate and
 20 call an election to permit~~[7]~~ the qualified voters of the taxing
 21 unit ~~[by petition may require that an election be held to determine~~
 22 ~~whether or not]~~ to approve or disapprove ~~[reduce]~~ the proposed tax
 23 rate ~~[adopted for the current year to the rollback tax rate~~
 24 ~~calculated as provided by this chapter]~~.

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

26 ~~[(1) it states that it is intended to require an~~
 27 ~~election in the taxing unit on the question of reducing the tax rate~~

1 ~~for the current year;~~

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

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

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

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

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

22 ~~[(d) If the] governing body [finds that the petition is~~
23 ~~valid (or fails to act within the time allowed), it] shall order~~
24 ~~that the [an] election be held in the taxing unit on a date not less~~
25 ~~than 30 or more than 90 days after the [last] day on which the~~
26 ~~governing body adopted the proposed tax rate. Section 41.001,~~
27 ~~Election Code, [it could have acted to approve or disapprove the~~

1 ~~petition. A state law requiring local elections to be held on a~~
 2 ~~specified date] does not apply to the election unless a [specified]~~
 3 ~~date specified by that section falls within the time permitted by~~
 4 ~~this section. At the election, the ballots shall be prepared to~~
 5 ~~permit voting for or against the proposition: "Approving~~
 6 ~~["Reducing] the proposed ad valorem tax rate of \$_____ per \$100~~
 7 ~~valuation in (name of taxing unit) for the current year, a rate that~~
 8 ~~is \$_____ higher per \$100 valuation than the [from (the rate~~
 9 ~~adopted) to (the] rollback tax rate [~~calculated as provided by this~~~~
 10 ~~chapter)]." The ballot proposition must include the proposed tax~~
 11 ~~rate and the difference between that rate and the rollback tax rate~~
 12 ~~in the appropriate places.~~

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

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

1 ~~number of days between the date the first tax bills were sent and~~
2 ~~the date the corrected tax bills were sent].~~

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

14 SECTION 6. Sections 31.12(a) and (b), Tax Code, are amended
15 to read as follows:

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

24 (b) For purposes of this section, liability for a refund
25 arises:

26 (1) if the refund is required by Section 11.431(b), on
27 the date the chief appraiser notifies the collector for the unit of

1 the approval of the late homestead exemption;

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

5 [~~3~~] if the refund is required by Section 26.15(f):

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

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

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

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

21 SECTION 7. Section 33.08(b), Tax Code, is amended to read as
22 follows:

23 (b) The governing body of the taxing unit or appraisal
24 district, in the manner required by law for official action, may
25 provide that taxes that become delinquent on or after June 1 under
26 Section [~~26.07(f),~~] 26.15(e), 31.03, 31.031, 31.032, or 31.04 incur
27 an additional penalty to defray costs of collection. The amount of

1 the penalty may not exceed the amount of the compensation specified
2 in the applicable contract with an attorney under Section 6.30 to be
3 paid in connection with the collection of the delinquent taxes.

4 SECTION 8. Section 49.236, Water Code, as added by Chapters
5 248 (H.B. 1541) and 335 (S.B. 392), Acts of the 78th Legislature,
6 Regular Session, 2003, is reenacted and amended to read as follows:

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

12 (1) contain a statement in substantially the following
13 form:

14 "NOTICE OF PUBLIC HEARING ON TAX RATE

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

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

24 (2) contain the following information:

25 (A) the district's total adopted tax rate for the
26 preceding year and the proposed tax rate, expressed as an amount per
27 \$100;

1 (B) the difference, expressed as an amount per
2 \$100 and as a percent increase or decrease, as applicable, in the
3 proposed tax rate compared to the adopted tax rate for the preceding
4 year;

5 (C) the average appraised value of a residence
6 homestead in the district in the preceding year and in the current
7 year; the district's total homestead exemption, other than an
8 exemption available only to disabled persons or persons 65 years of
9 age or older, applicable to that appraised value in each of those
10 years; and the average taxable value of a residence homestead in the
11 district in each of those years, disregarding any homestead
12 exemption available only to disabled persons or persons 65 years of
13 age or older;

14 (D) the amount of tax that would have been
15 imposed by the district in the preceding year on a residence
16 homestead appraised at the average appraised value of a residence
17 homestead in that year, disregarding any homestead exemption
18 available only to disabled persons or persons 65 years of age or
19 older;

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

26 (F) the difference between the amounts of tax
27 calculated under Paragraphs (D) and (E), expressed in dollars and

1 cents and described as the annual percentage increase or decrease,
2 as applicable, in the tax to be imposed by the district on the
3 average residence homestead in the district in the current year if
4 the proposed tax rate is adopted; and

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

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

9 "If taxes on the average residence homestead increase by more
10 than the inflation rate, [~~eight percent, the qualified voters of~~
11 ~~the district by petition may require that~~] an election must be held
12 to determine whether to ratify [~~reduce~~] the operation and
13 maintenance tax rate [~~to the rollback tax rate~~] under Section
14 49.236(d), Water Code."

15 (b) Notice of the hearing shall be:

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

19 (2) mailed to each owner of taxable property in the
20 district, at the address for notice shown on the most recently
21 certified tax roll of the district, at least 10 days before the date
22 of the hearing.

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

27 (d) If the governing body of a district adopts a combined

1 debt service, operation and maintenance, and contract tax rate that
2 would impose an amount of tax that exceeds by at least the inflation
3 rate as defined by Section 26.012, Tax Code, [~~more than 1.08 times~~]
4 the amount of tax imposed by the district in the preceding year on a
5 residence homestead appraised at the average appraised value of a
6 residence homestead in the district in that year, disregarding any
7 homestead exemption available only to disabled persons or persons
8 65 years of age or older, [~~the qualified voters of the district by~~
9 ~~petition may require that~~] an election must be held to determine
10 whether [~~or not~~] to ratify [~~reduce~~] the tax rate adopted for the
11 current year [~~to the rollback tax rate~~] in accordance with the
12 procedures provided by Section 26.07 [~~Sections 26.07(b)-(g) and~~
13 ~~26.081~~], Tax Code. For purposes of Section 26.07, Tax Code,
14 [~~Sections 26.07(b)-(g)~~] and this subsection, the rollback tax rate
15 is the current year's debt service and contract tax rates plus the
16 operation and maintenance tax rate that would impose an amount of
17 tax that exceeds by the inflation rate as defined by Section 26.012,
18 Tax Code, [~~1.08 times~~] the amount of the operation and maintenance
19 tax imposed by the district in the preceding year on a residence
20 homestead appraised at the average appraised value of a residence
21 homestead in the district in that year, disregarding any homestead
22 exemption available only to disabled persons or persons 65 years of
23 age or older.

24 SECTION 9. (a) The change in law made by this Act applies to
25 the ad valorem tax rate of a taxing unit beginning with the 2011 tax
26 year, except as provided by Subsection (b) of this section.

27 (b) If the governing body of a taxing unit adopted an ad

1 valorem tax rate for the taxing unit for the 2011 tax year before
2 the effective date of this Act, the change in law made by this Act
3 applies to the ad valorem tax rate of that taxing unit beginning
4 with the 2012 tax year, and the law in effect when the tax rate was
5 adopted applies to the 2011 tax year with respect to that taxing
6 unit.

7 SECTION 10. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect September 1, 2011.