

By: Paxton

H.B. No. 3186

A BILL TO BE ENTITLED

AN ACT

relating to voter approval of a proposed tax rate of a taxing unit other than a school district that exceeds the rollback tax rate.

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

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

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

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

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

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

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

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

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

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

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

11 SECTION 2. Sections 31.12(a) and (b), Tax Code, are amended  
12 to read as follows:

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

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

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

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

1 ~~certified,~~

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

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

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

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

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

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

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

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

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

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

"NOTICE OF PUBLIC HEARING ON TAX RATE

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

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

(2) contain the following information:

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

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

1 year;

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

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

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

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

1 the proposed tax rate is adopted; and

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

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

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

11 (b) Notice of the hearing shall be:

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

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

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

23 (d) If the governing body of a district adopts a combined  
24 debt service, operation and maintenance, and contract tax rate that  
25 would impose more than 1.08 times the amount of tax imposed by the  
26 district in the preceding year on a residence homestead appraised  
27 at the average appraised value of a residence homestead in the



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

17 SECTION 5. (a) The change in law made by this Act applies to  
18 the ad valorem tax rate of a taxing unit beginning with the 2011 tax  
19 year, except as provided by Subsection (b) of this section.

20 (b) If the governing body of a taxing unit adopted an ad  
21 valorem tax rate for the taxing unit for the 2011 tax year before  
22 the effective date of this Act, the change in law made by this Act  
23 applies to the ad valorem tax rate of that taxing unit beginning  
24 with the 2012 tax year, and the law in effect when the tax rate was  
25 adopted applies to the 2011 tax year with respect to that taxing  
26 unit.

27 SECTION 6. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2011.