

By: Patrick

S.B. No. 32

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

ROLLBACK TAX RATE = (EFFECTIVE MAINTENANCE AND OPERATIONS RATE x 1.05 [~~1.08~~]) + CURRENT DEBT RATE

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

(a) In the first year in which an additional sales and use

tax is required to be collected, the effective tax rate and rollback tax rate for the unit are calculated according to the following formulas:

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

and

$$\text{ROLLBACK TAX RATE} = (\text{EFFECTIVE MAINTENANCE AND OPERATIONS RATE} \times \underline{1.05} \text{ [1.08]}) + \text{CURRENT DEBT RATE} - \text{SALES TAX GAIN RATE}$$

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

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

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

where "last year's maintenance and operations expense" means the amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year, and

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

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

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

and

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

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

SECTION 3. 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:~~

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

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

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

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

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

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

~~(c) [(e)] If a majority of the votes cast [~~qualified voters voting on the question~~] in the election favor the proposition, the~~

proposition is approved and the tax rate for the ~~[taxing unit for~~
~~the]~~ current year is the proposed ~~[rollback]~~ tax rate that was
~~[calculated as provided by this chapter; otherwise, the tax rate~~
~~for the current year is the one]~~ adopted by the governing body.

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

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

SECTION 4. Sections 31.12(a) and (b), Tax Code, are amended

to read as follows:

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

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

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

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

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

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

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

(3) ~~[(4)]~~ if the refund is required by Section 31.11, on the date the auditor for the taxing unit determines that the

1 payment was erroneous or excessive or, if the amount of the refund
2 exceeds the applicable amount specified by Section 31.11(a), on the
3 date the governing body of the unit approves the refund; or

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

7 SECTION 5. Section 33.08(b), Tax Code, is amended to read as
8 follows:

9 (b) The governing body of the taxing unit or appraisal
10 district, in the manner required by law for official action, may
11 provide that taxes that become delinquent on or after June 1 under
12 Section ~~[26.07(f)]~~ 26.15(e), 31.03, 31.031, 31.032, 31.04, or
13 42.42 incur an additional penalty to defray costs of
14 collection. The amount of the penalty may not exceed the amount of
15 the compensation specified in the applicable contract with an
16 attorney under Section 6.30 to be paid in connection with the
17 collection of the delinquent taxes.

18 SECTION 6. Section 1101.254(f), Special District Local Laws
19 Code, as effective April 1, 2013, is amended to read as follows:

20 (f) This section does not affect the applicability of ~~[any~~
21 ~~rights district voters may have to petition for an election under]~~
22 Section 26.07, Tax Code, to the district's tax rate, except that if
23 district voters approve a tax rate increase under this section,
24 ~~[the voters may not petition for an election under]~~ Section 26.07,
25 Tax Code, does not apply ~~[as]~~ to the tax rate for that year.

26 SECTION 7. Section 49.236, Water Code, as added by Chapters
27 248 (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 year;

(C) the average appraised value of a residence

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

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

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

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

27 (3) contain a statement in substantially the following

form:

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

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

(b) Notice of the hearing shall be:

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

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

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

(d) If the governing body of a district adopts a combined debt service, operation and maintenance, and contract tax rate that would impose more than 1.05 [~~1.08~~] times the amount of tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or

1 older, ~~[the qualified voters of the district by petition may~~
 2 ~~require that]~~ an election must be held to determine whether ~~[or not]~~
 3 to ratify ~~[reduce]~~ the tax rate adopted for the current year ~~[to the~~
 4 ~~rollback tax rate]~~ in accordance with the procedures provided by
 5 Section 26.07 ~~[Sections 26.07(b)-(g) and 26.081]~~, Tax Code. For
 6 purposes of Section 26.07, Tax Code, ~~[Sections 26.07(b)-(g)]~~ and
 7 this subsection, the rollback tax rate is the current year's debt
 8 service and contract tax rates plus the operation and maintenance
 9 tax rate that would impose 1.05 ~~[1.08]~~ times the amount of the
 10 operation and maintenance tax imposed by the district in the
 11 preceding year on a residence homestead appraised at the average
 12 appraised value of a residence homestead in the district in that
 13 year, disregarding any homestead exemption available only to
 14 disabled persons or persons 65 years of age or older.

15 SECTION 8. Section 1063.255, Special District Local Laws
 16 Code, is repealed.

17 SECTION 9. (a) The change in law made by this Act applies to
 18 the ad valorem tax rate of a taxing unit beginning with the 2013 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 2013 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 2014 tax year, and the law in effect when the tax rate was
 25 adopted applies to the 2013 tax year with respect to that taxing
 26 unit.

27 SECTION 10. This Act takes effect immediately if it

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1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2013.