

BILL ANALYSIS

Senate Research Center
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S.B. 1760
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

REFUNDS

Current law allows a property owner to designate a lessee or other person to act as an agent of the owner for any purpose in connection with the property or the property owner. This bill will add refunds to the list of actions for which a property owner may direct someone to act on his/her behalf. This language will provide that a homeowner whose late application for a homestead exemption is granted need not apply for a refund in order to receive the refund, and if a correction to value decreases a property owner's tax liability after the tax has been paid, the homeowner need not apply for a refund to receive it.

INTEREST RATE PARITY

Currently, local taxing jurisdictions receive between seven percent and 12 percent interest on taxes that become delinquent and eight percent on taxes that taxpayers over 65 choose to defer. Taxpayers who obtain refunds from taxing jurisdictions are limited to two percent plus prime rate. At today's rate, this amounts to 5.25 percent. S.B. 1760 amends the law by stating that unless otherwise provided for in the code, interest will accrue at the annual rate equal to the sum of two percent and the most recent prime rate quoted and published by the Federal Reserve Board.

INFORMATION TRANSPARENCY

As in other states, the comptroller of public accounts of the State of Texas (comptroller) should be required to compile and annually publish a list of all individual tax rates in the state by taxing entity and rank them from highest to lowest. Publication of the information would cause a natural downward deterrent on increases in tax rates. S.B. 1760 amends Chapter 5 of the Tax Code by adding language requiring preparation and publication on the comptroller's Internet website the list of the total tax rate imposed by each taxing unit in the state. The bill excludes school districts.

NOTICE TRANSPARENCY

Currently in an election held to ratify certain school district taxes, the law requires the ballot to be prepared to permit voting for or against the proposition and to include the adopted tax rate and the difference between that rate and the rollback tax rate. More transparency could be obtained by requiring the purpose of the tax increase to be provided on the ballot. S.B. 1760 requires that the notice state the purpose of the increase. The bill also amends and adds to Chapter 49, Water Code, to require similar notices regarding rate increases for other taxing units.

QUALIFIED APPRAISAL TESTIMONY

Taxpayers are required to hire independent appraisers who are appropriately licensed by the state to prepare appraisals and testify in district court in lawsuits with appraisal districts. Appraisal districts should also be required to use licensed and qualified personnel. S.B. 1760 amends the Tax Code to require that any appraisal district employee that testifies in district court to the value of real property must be qualified to perform an appraisal of real estate.

As proposed, S.B. 1760 amends current law relating to the transparent and equitable application of ad valorem taxation procedures.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 1.111(f) and (j), Tax Code, as follows:

(f) Includes refunds among communications as set forth for which a property owner may direct the appraisal district, appraisal review board, and each taxing unit participating in the appraisal district to deliver to a specified person instead of to the property owner. Makes conforming changes.

(j) Makes a conforming change.

SECTION 2. Amends Chapter 1, Tax Code, adding Section 1.14, as follows:

Sec. 1.14. INTEREST RATE. Provides that, except as otherwise provided by this title, for purposes of a provision of this title providing for the accrual of interest, interest accrues at an annual rate equal to the sum of two percent and the most recent prime rate quoted and published by the Federal Reserve Board (board) as of the first day of the month in which the interest is first calculated.

SECTION 3. Amends Chapter 5, Tax Code, by adding Section 5.091, as follows:

Sec. 5.091. STATEWIDE LIST OF TAX RATES. (a) Requires the comptroller of public accounts of the State of Texas (comptroller), each year, to prepare a list that includes the total tax rate imposed by each taxing unit in this state, other than a school district, for the year preceding the year in which the list is prepared. Requires the comptroller to list the tax rates in descending order.

(b) Requires the comptroller to publish on the comptroller's Internet website the list required by Subsection (a) not later than December 31 of each year.

SECTION 4. Amends Section 11.135(c), Tax Code, to provide that, if an owner receives an exemption for property under Section 11.13 (Residence Homestead) under the circumstances described by Subsection (a) (relating to the continuation of residence homestead exemption if the residential homestead is rendered uninhabitable or unusable by a casualty or by wind or water damage) and sells the property before the owner completes construction of a replacement qualified residential structure on the property, an additional tax is imposed on the property equal to the difference between the taxes imposed on the property for each of the years in which the owner received the exemption and the tax that would have been imposed had the owner not received the exemption in each of those years, plus interest at the rate provided by Section 1.14, rather than at an annual rate of seven percent, calculated from the dates on which the differences would have become due.

SECTION 5. Amends Section 11.181(e), Tax Code, to provide that, if the organization that owns improved or unimproved real property that has been exempted under Subsection (a) (entitling an organization to exemption from property taxation if the organization fulfills certain criteria) sells the property to a person other than an individual or family satisfying the organization's low-income or other eligibility requirements, a penalty is imposed on the property equal to the amount of the taxes that would have been imposed on the property in each tax year that the property was exempted from taxation under Subsection (a), plus interest at the rate provided by Section 1.14, rather than at an annual rate of 12 percent, calculated from the dates on which the taxes would have become due.

SECTION 6. Amends Section 11.185(e), Tax Code, to provide that, if the organization that owns improved or unimproved real property that has been exempted under Subsection (a) (entitling an organization to exemption from property taxation of the organizations fulfills certain

criteria) sells the property to a person other than a person described by Section 2306.786(b)(1), Government Code, a penalty is imposed on the property equal to the amount of the taxes that would have been imposed on the property in each tax year that the property was exempted from taxation under Subsection (a), plus interest at the rate provided by Section 1.14 of this code, rather than at an annual rate of 12 percent, computed from the dates on which the taxes would have become due.

SECTION 7. Amends Section 11.201(a), Tax Code, to provide that, if land is sold or otherwise transferred to another person in a year in which the land receives an exemption under Section 11.20(a)(6) (entitling a qualified religious organization to an exemption from taxation of the land that the organization owns for purposes as set forth), an additional tax is imposed on the land equal to the tax that would have been imposed on the land had the land been taxed for each of the five years preceding the year in which the sale or transfer occurs in which the land received an exemption under that subsection, plus interest at the rate provided by Section 1.14, rather than at an annual rate of seven percent, calculated from the dates on which the taxes would have become due.

SECTION 8. Amends Section 11.431(b), Tax Code, to provide that a person is not required to apply for a refund under this subsection to receive the refund.

SECTION 9. Amends Section 23.46(c), Tax Code, to provide that, if land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three years preceding the year in which the land is sold or diverted plus interest at the rate provided by Section 1.14, rather than at the rate provided for delinquent taxes, becomes due.

SECTION 10. Amends Section 23.55(a), Tax Code, to provide that, if the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at the rate provided by Section 1.14, rather than at an annual rate of seven percent, calculated from the dates on which the differences would have become due.

SECTION 11. Amends Section 23.76(a), Tax Code, to provide that, if the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at the rate provided by Section 1.14, rather than at an annual rate of seven percent, calculated from the dates on which the differences would have become due.

SECTION 12. Amends Section 23.86(a), Tax Code, to provide that, if land that has been appraised under this subchapter is no longer subject to a deed restriction or is diverted to a use other than recreational, park, or scenic uses, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs or the deed restriction expires that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land not been restricted to recreational, park, or scenic uses in each of those years, plus interest at the rate provided by Section 1.14, rather than at an annual rate of seven percent, calculated from the dates on which the differences would have become due.

SECTION 13. Amends Section 23.96(a), Tax Code, to provide that, if airport property that has been appraised under this subchapter is no longer subject to a deed restriction, an additional tax is imposed on the property equal to the difference between the taxes imposed on the property for each of the five years preceding the year in which the deed restriction expires that the property was appraised as provided by this subchapter and the tax that would have been imposed had the property not been restricted to use as public access airport property in each of those years, plus

interest at the rate provided by Section 1.14, rather than at an annual rate of seven percent, calculated from the dates on which the differences would have become due.

SECTION 14. Amends Sections 23.9807(a) and (b), Tax Code, as follows:

(a) Provides that, if the use of land that has been appraised as provided by this subchapter changes to a use that qualifies the land for appraisal under Subchapter E (Appraisal of Timber Land), an additional tax is imposed on the land equal to the sum of:

(1) Makes no change to this subdivision; and

(2) interest at the rate provided by Section 1.14, rather than at an annual rate of seven percent, calculated from the dates on which the differences would have become due.

(b) Provides that, if the use of land that has been appraised as provided by this subchapter changes to a use that does not qualify the land for appraisal under Subchapter E or under this subchapter, an additional tax is imposed on the land equal to the sum of:

(1) Makes no change to this subdivision; and

(2) interest at the rate provided by Section 1.14, rather than at an annual rate of seven percent, calculated from the dates on which the differences would have become due.

SECTION 15. Amends Section 26.06(d), Tax Code, to require the governing body of the taxing unit to, after each hearing, give notice of the meeting at which it will vote on the proposed tax rate and to set forth the required form and language of the notice.

SECTION 16. Amends Section 26.09(d), Tax Code, to change a reference to Section 33.01(c) (relating to the interest rate of a delinquent tax) to Section 1.14 and makes no further change.

SECTION 17. Amends Section 26.15(f), Tax Code, as follows:

(f) Requires the taxing unit to, if a correction that decreases the tax liability of a property owner is made after the owner has paid the tax, refund to the property owner the difference between the tax paid and the tax legally due, except as provided by Section 25.25(n) (providing the tax years for which a taxing unit is responsible for refunding taxes under an incorrect appraisal role). Provides that a property owner is not required to apply for a refund under this subsection to receive the refund.

SECTION 18. Amends Section 26.08(b), Tax Code, to require the governing body of a school district to order that the election be held in the school district on a date not less than 30 or more than 90 days after the day on which it adopted the tax rate and to set forth the required language of the ballots that are required to be prepared to permit voting for or against the proposition at the election.

SECTION 19. Amends Section 31.12(a), Tax Code, to provide that, if not paid on or before the 60th day after the date the liability for the refund arises, the amount of the tax to be refunded accrues interest at the rate provided by Section 1.14, rather than 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.

SECTION 20. Amends Section 33.01(c), Tax Code, to provide that a delinquent tax accrues interest at the rate provided by Section 1.14, rather than at a rate of one percent for each month or portion of a month the tax remains unpaid.

SECTION 21. Amends Section 33.06(d), Tax Code, as follows:

(d) Provides that a tax lien remains on the property and interest continues to accrue during the period collection of taxes is deferred or abated under this section. Provides that the annual interest rate during the deferral or abatement period is the rate provided by Section 1.14, rather than provides that the annual interest rate during the deferral or abatement period is eight percent instead of the rate provided by Section 33.01 (Penalties and Interest).

SECTION 22. Amends Section 33.065(g), Tax Code, as follows:

(g) Provides that a tax lien remains on the property and interest continues to accrue during the period collection of delinquent taxes is deferred or abated under this section. Provides that the annual interest rate during the deferral or abatement period is the rate provided by Section 1.14, rather than provides that the annual interest rate during the deferral or abatement period is eight percent instead of the rate provided by Section 33.01.

SECTION 23. Amends Section 42.23, Tax Code, by adding Subsection (i) to prohibit an appraisal district employee from testifying as to the value of real property in an appeal under Section 42.25 (Remedy for Excessive Appraisal) or 42.26 (Remedy for Unequal Appraisal) unless the person is authorized to perform an appraisal of real estate under Section 1103.201 (Certificate or License Required), Occupations Code.

SECTION 24. Amends Sections 42.42(c) and (d), Tax Code, as follows:

(c) Requires the assessor for each affected taxing unit to, if the final determination of an appeal occurs after the property owner has paid a portion of the tax finally determined to be due as required by Section 42.08 (Forfeiture of Remedy for Nonpayment of Taxes), prepare and mail a supplemental tax bill in the form and manner prescribed by Subsection (b) (relating to the delivery of supplemental tax bills if the final determination of an appeal increases a property owner's tax liability). Provides that the additional tax is due and becomes delinquent as provided by Subsection (b), but the property owner is liable for interest on the tax included in the supplemental bill calculated at the rate provided by Section 1.14, rather than liable for penalties and interest on the tax included in the supplemental bill calculated as provided by Section 33.01, as if the tax included in the supplemental bill became delinquent on the original delinquency date prescribed by Chapter 31 (Collections). Authorizes the property owner and the chief appraiser to agree in writing to waive the interest provided by this subsection on the additional tax due each affected taxing unit for the period between the original delinquency date and the first day of the next month that is at least 21 days after the date the assessor for the taxing unit mails a supplemental tax bill under this subsection.

(d) Makes a conforming change.

SECTION 25. Amends Section 42.43(b), Tax Code, to require the taxing unit to, for a refund made under this section, include with the refund interest on the amount refunded at the rate provided by Section 1.14, rather than the amount refunded calculated at an annual rate that is equal to the sum of two percent and the most recent prime rate quoted and published by the Federal Reserve Board as of the first day of the month in which the refund is made, but not more than a total of eight percent, calculated from the delinquency date for the taxes until the date the refund is made.

SECTION 26. Amends Sections 140.010(e) and (f), Local Government Code, as follows:

(e) Requires a county or municipality that proposes a property tax rate that exceeds the lower of the effective tax rate or the rollback tax rate to provide a notice and sets forth the required language of the notice.

(f) Requires a county or municipality to:

(1) provide the notice required by Subsection (d) or (e), as applicable, by the earlier of October 1 or the 30th day after the date the taxing unit's appraisal roll is certified, rather than provide the notice required by Subsection (d) (relating to the notice that a county or municipality that proposes a property tax rate that does not exceed the lower of the effective tax rate or the rollback tax rate is required to provide) or (e), as applicable, not later than September 1, by publishing and mailing the notice in the manner as set forth; and

(2) post the notice on the Internet website of the county or municipality, if applicable, beginning by the earlier of October 1 or the 30th day after the date the taxing unit's appraisal roll is certified and continuing until the county or municipality adopts a tax rate. Makes a conforming change.

SECTION 27. Amends Subchapter H, Chapter 49, Water Code, by adding Section 49.2361, as follows:

Sec. 49.2361. ADDITIONAL NOTICE FOR CERTAIN TAX INCREASES. Requires that the notice required by Section 49.236 (Notice of Tax Hearing) include a description of the purpose of the proposed tax increase if a district proposes to adopt a combined tax rate that would authorize the qualified voters of the district by petition to require a rollback election to be held in the district.

SECTION 28. (a) Provides that, except as provided by Subsection (b), the changes in law made by this Act apply only to an ad valorem tax year that begins on or after the effective date of this Act.

(b) Provides that the change in law made by this Act to a provision of Title 1 (Property Tax Code), Tax Code, that affects the amount or rate of any penalty or interest due applies only to penalties and interest that accrue on or after the effective date of this Act. Provides that penalties and interest that accrued before the effective date of this Act are governed by the law in effect when the penalties and interest accrued, and that law is continued in effect for that purpose.

SECTION 29. Effective date: January 1, 2016.