

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017

July 21, 2017

TO: Honorable Paul Bettencourt, Chair, Senate Committee on Government Reform, Select

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB96 by Bettencourt (Relating to ad valorem taxation.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for SB96, As Introduced: a negative impact of (\$624,000) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1
2018	(\$312,000)
2019	(\$312,000)
2020	(\$312,000)
2021	(\$312,000)
2022	(\$312,000)

Hypothetical Fiscal Impact of Lowering the Rollback Rate from 108 to 104 Percent of the Equivalent Maintenance and Operations Rate Plus the Current Debt Rate:

The table below was provided by the Comptroller's office and is for illustrative purposes only. It addresses the bill's provision that would lower the rollback rate from 108 to 104 percent of the equivalent M&O rate plus the current debt rate. The fiscal effect of this provision cannot be estimated; however, the table below is a hypothetical example of potential costs of the bill to most special districts, cities, and counties assuming:

1. no proposed tax rate in excess of the reduced rollback rate proposed by the bill would be sustained in a rollback election;
2. future taxing unit rate setting practices would be similar to the rate setting practices demonstrated in the available historical tax rate data; and
3. the tax rate data, which is not available for all taxing units, is representative of all taxing units and is accurate.

Fiscal Year	Probable Revenue Gain/(Loss) from Counties	Probable Revenue Gain/(Loss) from Cities	Probable Revenue Gain/(Loss) from Other Special Districts
2018	\$0	\$0	\$0
2019	(\$144,374,000)	(\$114,730,000)	(\$139,337,000)
2020	(\$151,593,000)	(\$120,467,000)	(\$146,304,000)
2021	(\$159,173,000)	(\$126,490,000)	(\$153,619,000)
2022	(\$167,131,000)	(\$132,814,000)	(\$161,300,000)

Fiscal Analysis

The bill would amend Chapter 5 of the Tax Code, regarding state administration of the property tax, to require the Comptroller to appoint a property tax administration advisory board to advise the Comptroller regarding state administration of property tax, and state oversight of appraisal districts and local tax offices. The advisory board would be permitted to make recommendations, which must be provided at a meeting called by the Comptroller and posted on the Comptroller's Internet website, regarding improving the effectiveness and efficiency of the property tax system, best practices, and complaint resolution procedures. The bill would specify the make-up of the board, the members of which would serve at the Comptroller's pleasure. The bill would repeal Sections 403.302(m-1) and (n) of the Government Code, related to the Comptroller's Property Value Study Advisory Committee, and would make conforming changes related to the advisory board replacing certain duties of the advisory committee.

An appraisal district would be required to appraise property in accordance with any appraisal manuals prepared and issued by the Comptroller under Section 5.05 of the Tax Code.

The Comptroller would be required to prescribe tax rate calculation forms to be used by the designated officer or employee of each:

- taxing unit other than a school district to calculate and submit the equivalent tax rate, and the rollback tax rate for the unit; and
- school district to calculate and submit the equivalent tax rate, the rollback tax rate, and the rate to maintain the same amount of state and local revenue per weighted student that the district received in the school year beginning in the preceding tax year.

The forms would be required to be in a fillable electronic format and capable of being certified as accurately calculating the applicable tax rates using certified appraisal roll values. The

Comptroller would be required to prescribe the forms as soon as practicable after January 1, 2018. The bill would make other specifications regarding the forms. The Comptroller would be required to use the forms published on the Comptroller's Internet website as of January 1, 2017, modified as necessary to comply with the new requirements. The bill would provide for the forms to be updated as necessary to reflect changes in values and to make non-substantive changes at the Comptroller's discretion. The Comptroller would be permitted to revise the forms to reflect certain statutory changes, non-substantive changes, or on receipt of a request in writing if approved by the agreement of a majority of the members of a committee selected by the Comptroller. The bill would specify the makeup of the committee. The bill would provide for mediation regarding a revision if required.

The Comptroller would be required to include school district tax rates in the list of tax rates imposed by each taxing unit in this state as reported by each appraisal district, and to use the tax rates for the year in which the list is prepared (rather than for the preceding year). The Comptroller would be required to prescribe the manner in which appraisal districts submit the list and the deadline for the list, to list the tax rates according to specified criteria, and to publish the list on the Comptroller's Internet website not later than January 1 of the following year. The Comptroller would be required to comply with this provision not later than January 1, 2019.

The Comptroller would be required to review and issue findings regarding appraisal district compliance with standards, procedures, and methodology prescribed by Comptroller appraisal manuals in addition to existing review requirements. The bill would make conforming changes regarding appraisal manuals.

The bill would amend Chapter 6 of the Tax Code, regarding local property tax administration, to provide that an individual is ineligible to serve on an appraisal district board of directors if the individual has engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district at any time during the preceding three (rather than five) years.

Each chief appraiser would be required to establish in the appraisal district an office of tax rate notices administered by a tax rate officer appointed by the chief appraiser. In all communications this office would be required to identify itself as the (county name) County Office of Tax Rate Notices rather than as the appraisal district. The office would be responsible for delivering specified notices and for creating and maintaining the real-time tax rate database as provided by the bill under Chapter 26 of the Tax Code.

The board of directors of an appraisal district would be permitted to transmit property owner or taxing unit complaints about the appraisal of a specific property to the chief appraiser if the transmission is in writing and without comment.

The bill would establish special three-member appraisal review board panels for properties appraised at \$50 million or more that are in one of the specified property categories in a county with a population of one million or more. The bill would prescribe the eligibility requirements, and other matters related to the special appraisal review board panels.

The bill would provide that an appraisal district board of directors for an appraisal district established in a county with a population of one million or more by resolution of a majority of the board's members is required to increase the size of the district's appraisal review board to the number of members the board of directors considers appropriate to manage the duties of the appraisal review board, including the established duties of special panels. In selecting individuals

who are to serve as members of the appraisal review board, the local administrative district judge would be required to select an adequate number of qualified individuals to permit the chairman of the appraisal review board to fill the positions on each special panel. These provisions would apply to appraisal review board appointments for terms beginning on or after January 1, 2019.

An auxiliary board member would not be permitted to hear taxpayer protests before a special panel unless the member is eligible to be appointed to the special panel.

The concurrence of a majority of the members of the appraisal review board or a panel of the board present at a meeting of the board or panel would be sufficient for a recommendation, determination, decision, or other action by the board or panel, and a requirement that more than a majority of the members of the board concur would be prohibited.

The bill would amend Chapter 23 of the Tax Code, regarding appraisal methods and procedures, to require that the market value of property be determined by the application of appraisal methods and techniques prescribed by appraisal manuals prepared and issued by the Comptroller, in addition to generally accepted appraisal methods and techniques as prescribed in current law.

The bill would amend Chapter 25 of the Tax Code, regarding local property tax appraisal, to provide that, effective January 1, 2019, in an appraisal district with a population of one million or more, in addition to other required information, the chief appraiser shall state in a notice of appraised value that an owner of certain specified property has the right to a protest to be heard by a special panel of the appraisal review board. Effective January 1, 2020, the bill would strike the requirement that if the appraised value is greater than it was in the preceding year, the amount of tax that would be imposed on the property on the basis of the tax rate for the preceding year be included in a notice of appraised value. From January 1, 2019 until January 1, 2020 this requirement applies only to a notice of appraised value required to be delivered by the chief appraiser of an appraisal district established in a county with a population of less than 120,000. Instead, a notice that an estimate of taxes may be found in the real-time tax rate database will be sent to each property owner in the county by the tax rate officer of each appraisal district.

The bill would amend Chapter 26 of the Tax Code, regarding property taxation and assessment, to re-name the effective tax rate as the "equivalent tax rate" and the effective maintenance and operations tax rate as the "equivalent maintenance and operations tax rate". The designated officer or employee of a taxing unit would be required to use the tax rate calculation forms prescribed by the Comptroller in calculating the equivalent tax rate and the rollback tax rate. The designated officer or employee of taxing units other than school districts or certain water districts would not be permitted to submit these rates to the governing body of the taxing unit and the unit would not be permitted to adopt a tax rate until the designated officer or employee certifies on the tax rate calculation forms that the tax rate calculations are accurate and the values are the same as the values shown in the unit's certified appraisal roll.

The bill would define a "small taxing unit" as a taxing unit, other than a school district, for which the total tax rate proposed for the current tax year is two cents or less per \$100 of taxable value, or would impose taxes of \$20 million or less when applied to the current total value for the taxing unit. For a small taxing unit the percentage by which the equivalent maintenance and operations tax rate is increased in the rollback tax rate calculation would remain at 8 percent while for other taxing units the percentage would be reduced to 4 percent. The separate rollback rate calculation for school districts was not amended by the bill and these calculations do not apply to water districts. A taxing unit other than a small taxing unit would be permitted to direct the designated officer or employee to calculate the rollback tax rate of the unit in the manner provided for a small taxing unit if any part of the unit is located in an area declared a disaster area during the current

tax year by the governor or by the president of the United States.

In a small taxing unit, a number of qualified voters equal to at least 10 percent of the number of registered voters of the taxing unit who voted in the most recent gubernatorial election would be permitted to trigger a tax rate reduction election by petition submitted to the governing body on or before the 90th day after the date on which the governing body adopted the tax rate. Except for certain specified districts including water districts other taxing units would be required to hold an automatic election to approve a tax rate that exceeds the rollback rate except in the event of a disaster as specified. The bill would provide the election date and other matters related to the election.

As soon as practicable after the designated officer or employee calculates the equivalent tax rate and the rollback tax rate of the taxing unit, the designated officer or employee would be required to submit the worksheets used in calculating the rates to the county assessor-collector for each county in which all or part of the territory of the unit is located.

Taxpayer notices containing specified tax bill information would be required. The bill would revise requirements for certain public tax rate hearings and for related notices.

A person who owns taxable property would be entitled to an injunction restraining the collection of taxes by a taxing unit in which the property is taxable if the assessor or designated officer or employee of the unit, the tax rate officer of the applicable appraisal district, or the taxing unit, as applicable, has not complied with certain computation, publication, posting or other requirements (rather than has not complied and the failure to comply was not in good faith).

Each appraisal district would be required to maintain a searchable, continuously updated, and publicly accessible real-time tax rate database containing specified information provided by taxing units according to Comptroller rules. The information would include property values, property taxes, various kinds of tax rate, hearing dates, and other related information. The database would be required to be capable of generating a real-time tax rate notice for each property. The bill would specify the contents of the notice including various tax rates and property values for each taxing unit. A taxing unit would not be permitted to hold a public hearing on a proposed tax rate until the 14th day after the date the officer or employee designated by the taxing unit has entered certain specified information into the database and submitted the specified calculation forms to the appraisal district. A taxing unit other than a school district would not be permitted to adopt a tax rate until:

- the tax rate officer of each appraisal district has delivered a specified notice regarding estimated taxes;
- the designated officer or employee of the taxing unit has entered in the real-time tax rate database the required information for the current tax year and incorporated the completed tax rate calculation forms into the real-time tax rate database; and
- the taxing unit has posted the required information on the Internet website used by the taxing unit for that purpose.

Each taxing unit would be required to maintain or have access to a generally accessible Internet website including specified taxing unit, contact, budget, tax rate, tax revenue, and audit information in a format prescribed by the Comptroller.

The bill would amend Chapter 41 of the Tax Code, regarding local review, to strike the provision permitting a taxing unit to challenge before the appraisal review board the level of appraisals of any category of property in the district or in any territory in the district. A notice of protest would be required to permit a property owner to request that the protest be heard by a special panel if the

protest will be determined by an appraisal review board that has special panels and the property is in a category for which a special panel is provided. The bill would make other provisions for special panels.

The first appraisal review board hearing on a weekday would not be permitted to begin after 7:00 p.m. and a Sunday hearing would be prohibited.

The bill would amend Chapter 41A of the Tax Code, regarding appeal through binding arbitration, to strike the provision that to be eligible for appointment as an arbitrator the arbitrator must reside in the county in which the property that is the subject of the appeal is located. Instead, the bill would provide that in appointing an initial arbitrator the Comptroller shall appoint an arbitrator who resides in the county in which the property that is the subject of the appeal is located if there is an available arbitrator who resides in that county. In appointing a substitute arbitrator the Comptroller is not required to appoint an arbitrator who resides in the county in which the property that is the subject of the appeal is located regardless of whether there is an available arbitrator who resides in that county. These provisions apply only to a request for binding arbitration received by the Comptroller from an appraisal district on or after January 1, 2018.

The bill would adjust certain deadlines, and make clarifying or conforming repeals and amendments in the Tax Code and various other codes.

With certain specified exceptions, this bill would take effect on January 1, 2018 and apply beginning with the 2018 tax year.

Methodology

The bill's provision that would lower the rollback rate from 108 to 104 percent of the equivalent maintenance and operations (M&O) rate plus the current debt rate could create a cost to taxing units other than small taxing units, school districts, and water districts by making it more difficult to increase M&O tax rates by more than 104 percent of the equivalent M&O rate. If these taxing units propose a tax rate higher than the rollback rate, the automatic rollback election might result in reducing the proposed rate to 104 percent of the equivalent M&O rate plus the current debt rate. Future proposed tax rates and the outcome of any elections cannot be predicted and the increase in cost attributable to the proposed provision to units of local government cannot be estimated. There would be no cost to school districts or to the state through the school funding formula.

The Comptroller's office reports that administrative costs would total \$312,000 per year to employ seasonal workers. The Comptroller's office anticipates that the Property Tax Assistance Division (PTAD) would become the resource for individual taxpayers and over 4,200 taxing authorities when there are questions or issues about the calculation of a tax rate. Each year, from June 15 through September 15, the Comptroller's Office would need to contract with one property tax attorney and three Truth in Taxation subject matter experts to handle the dramatically increased number of legal and worksheet related questions during this peak period while tax rates are calculated.

Local Government Impact

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Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, SJS