

By: Davis of Harris

H.B. No. 1144

A BILL TO BE ENTITLED

AN ACT

relating to voter approval of a proposed ad valorem tax rate that exceeds the rollback tax rate.

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

SECTION 1. The heading to Section 26.08, Tax Code, is amended to read as follows:

Sec. 26.08. ELECTION TO RATIFY TAX RATE [~~SCHOOL TAXES~~].

SECTION 2. Sections 26.08(a), (b), (d), (d-1), (d-2), (e), and (h), Tax Code, are amended to read as follows:

(a) If the governing body of a taxing unit [~~school district~~] adopts a tax rate that exceeds the taxing unit's [~~district's~~] rollback tax rate, the registered voters of the taxing unit [~~district~~] at an election held for that purpose must determine whether to approve the adopted tax rate. When increased expenditure of money by a taxing unit [~~school district~~] is necessary to respond to a disaster, including a tornado, hurricane, flood, or other calamity, but not including a drought, that has impacted the taxing unit [~~a school district~~] and the governor has requested federal disaster assistance for the area in which the taxing unit [~~school district~~] is located, an election is not required under this section to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs.

(b) The governing body shall order that the election be held

1 in the taxing unit [~~school district~~] on a date not less than 30 or
 2 more than 90 days after the day on which it adopted the tax rate.
 3 Section 41.001, Election Code, does not apply to the election
 4 unless a date specified by that section falls within the time
 5 permitted by this section. At the election, the ballots shall be
 6 prepared to permit voting for or against the
 7 proposition: "Approving the ad valorem tax rate of \$_____ per \$100
 8 valuation in (name of taxing unit [~~school district~~]) for the
 9 current year, a rate that is \$_____ higher per \$100 valuation than
 10 the [~~school district~~] rollback tax rate of (name of taxing unit),
 11 for the purpose of (description of purpose of increase)." The
 12 ballot proposition must include the adopted tax rate and the
 13 difference between that rate and the rollback tax rate in the
 14 appropriate places.

15 (d) If the proposition is not approved as provided by
 16 Subsection (c), the governing body may not adopt a tax rate for the
 17 taxing unit [~~school district~~] for the current year that exceeds the
 18 taxing unit's [~~school district's~~] rollback tax rate.

19 (d-1) If, after tax bills for the taxing unit [~~school~~
 20 ~~district~~] have been mailed, a proposition to approve the taxing
 21 unit's [~~school district's~~] adopted tax rate is not approved by the
 22 voters of the taxing unit [~~district~~] at an election held under this
 23 section, on subsequent adoption of a new tax rate by the governing
 24 body of the taxing unit [~~district~~], the assessor for the taxing unit
 25 [~~school~~] shall prepare and mail corrected tax bills. The assessor
 26 shall include with each bill a brief explanation of the reason for
 27 and effect of the corrected bill. The date on which the taxes

1 become delinquent for the year is extended by a number of days equal
2 to the number of days between the date the first tax bills were sent
3 and the date the corrected tax bills were sent.

4 (d-2) If a property owner pays taxes calculated using the
5 originally adopted tax rate of the taxing unit [~~school district~~]
6 and the proposition to approve the adopted tax rate is not approved
7 by the voters, the taxing unit [~~school district~~] shall refund the
8 difference between the amount of taxes paid and the amount due under
9 the subsequently adopted rate if the difference between the amount
10 of taxes paid and the amount due under the subsequent rate is \$1 or
11 more. If the difference between the amount of taxes paid and the
12 amount due under the subsequent rate is less than \$1, the taxing
13 unit [~~school district~~] shall refund the difference on request of
14 the taxpayer. An application for a refund of less than \$1 must be
15 made within 90 days after the date the refund becomes due or the
16 taxpayer forfeits the right to the refund.

17 (e) For purposes of this section, local tax funds dedicated
18 to a junior college district under Section 45.105(e), Education
19 Code, shall be eliminated from the calculation of the tax rate
20 adopted by the governing body of a [~~the~~] school district. However,
21 the funds dedicated to the junior college district are subject to
22 Section 26.085.

23 (h) For purposes of this section, increases in taxable
24 values and tax levies occurring within a reinvestment zone under
25 Chapter 311 (Tax Increment Financing Act), in which a school [~~the~~]
26 district is a participant, shall be eliminated from the calculation
27 of the tax rate adopted by the governing body of the school

1 district.

2 SECTION 3. Section 26.16(d), Tax Code, is amended to read as
3 follows:

4 (d) The county assessor-collector shall post immediately
5 below the table prescribed by Subsection (c) the following
6 statement:

7 "The county is providing this table of property tax rate
8 information as a service to the residents of the county. Each
9 individual taxing unit is responsible for calculating the property
10 tax rates listed in this table pertaining to that taxing unit and
11 providing that information to the county.

12 "The adopted tax rate is the tax rate adopted by the governing
13 body of a taxing unit.

14 "The maintenance and operations rate is the component of the
15 adopted tax rate of a taxing unit that will impose the amount of
16 taxes needed to fund maintenance and operation expenditures of the
17 unit for the following year.

18 "The debt rate is the component of the adopted tax rate of a
19 taxing unit that will impose the amount of taxes needed to fund the
20 unit's debt service for the following year.

21 "The effective tax rate is the tax rate that would generate
22 the same amount of revenue in the current tax year as was generated
23 by a taxing unit's adopted tax rate in the preceding tax year from
24 property that is taxable in both the current tax year and the
25 preceding tax year.

26 "The effective maintenance and operations rate is the tax
27 rate that would generate the same amount of revenue for maintenance

1 and operations in the current tax year as was generated by a taxing
2 unit's maintenance and operations rate in the preceding tax year
3 from property that is taxable in both the current tax year and the
4 preceding tax year.

5 "The rollback tax rate is the highest tax rate a taxing unit
6 may adopt before requiring voter approval at an election. An [~~In~~
7 ~~the case of a taxing unit other than a school district, the voters~~
8 ~~by petition may require that a rollback election be held if the unit~~
9 ~~adopts a tax rate in excess of the unit's rollback tax rate. In the~~
10 ~~case of a school district, an~~] election will automatically be held
11 if a taxing unit [~~the district~~] wishes to adopt a tax rate in excess
12 of the unit's [~~district's~~] rollback tax rate."

13 SECTION 4. Sections 31.12(a) and (b), Tax Code, are amended
14 to read as follows:

15 (a) If a refund of a tax provided by Section 11.431(b),
16 26.08(d-2) [~~26.07(g)~~], 26.15(f), 31.11, or 31.111 is paid on or
17 before the 60th day after the date the liability for the refund
18 arises, no interest is due on the amount refunded. If not paid on or
19 before that 60th day, the amount of the tax to be refunded accrues
20 interest at a rate of one percent for each month or part of a month
21 that the refund is unpaid, beginning with the date on which the
22 liability for the refund arises.

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

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

1 (2) if the refund is required by Section 26.08(d-2)
2 ~~[26.07(g)]~~, on the date the results of the election to reduce the
3 tax rate are certified;

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

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

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

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

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

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

22 (b) The governing body of the taxing unit or appraisal
23 district, in the manner required by law for official action, may
24 provide that taxes that become delinquent on or after June 1 under
25 Section 26.08(d-1) ~~[26.07(f)]~~, 26.15(e), 31.03, 31.031, 31.032,
26 31.04, or 42.42 incur an additional penalty to defray costs of
27 collection. The amount of the penalty may not exceed the amount of

1 the compensation specified in the applicable contract with an
2 attorney under Section 6.30 to be paid in connection with the
3 collection of the delinquent taxes.

4 SECTION 6. Section 130.016(b), Education Code, is amended
5 to read as follows:

6 (b) If the board of trustees of an independent school
7 district that divests itself of the management, control, and
8 operation of a junior college district under this section or under
9 Section 130.017 ~~[of this code]~~ was authorized by ~~[Subsection (e)~~
10 ~~of]~~ Section 45.105(e) or under former Section 20.48(e) ~~[20.48 of~~
11 ~~this code]~~ to dedicate a portion of its tax levy to the junior
12 college district before the divestment, the junior college district
13 may levy an ad valorem tax from and after the divestment. In the
14 first two years in which the junior college district levies an ad
15 valorem tax, the tax rate adopted by the governing body may not
16 exceed the rate that, if applied to the total taxable value
17 submitted to the governing body under Section 26.04, Tax Code,
18 would impose an amount equal to the amount of taxes of the school
19 district dedicated to the junior college under ~~[Subsection (e) of]~~
20 Section 45.105(e) or former Section 20.48(e) ~~[20.48 of this code]~~
21 in the last dedication before the divestment. In subsequent years,
22 the tax rate of the junior college district is subject to Section
23 26.08 ~~[26.07]~~, Tax Code.

24 SECTION 7. Sections 281.124(d) and (e), Health and Safety
25 Code, are amended to read as follows:

26 (d) If a majority of the votes cast in the election favor the
27 proposition, the tax rate for the specified tax year is the rate

approved by the voters, and that rate is not subject to [~~a rollback election under~~] Section 26.08 [~~26.07~~], Tax Code. The board shall adopt the tax rate as provided by Chapter 26, Tax Code.

(e) If the proposition is not approved as provided by Subsection (c), the board may not adopt a tax rate for the district for the specified tax year that exceeds the rate that was not approved, and Section 26.08 [~~26.07~~], Tax Code, applies to the adopted rate if that rate exceeds the district's rollback tax rate.

SECTION 8. Section 140.010(e), Local Government Code, is amended to read as follows:

(e) A county or municipality that proposes a property tax rate that exceeds the lower of the effective tax rate or the rollback tax rate shall provide the following notice:

"NOTICE OF (INSERT CURRENT TAX YEAR) TAX YEAR PROPOSED PROPERTY TAX RATE FOR (INSERT NAME OF COUNTY OR MUNICIPALITY)

"A tax rate of \$_____ per \$100 valuation has been proposed for adoption by the governing body of (insert name of county or municipality). This rate exceeds the lower of the effective or rollback tax rate, and state law requires that two public hearings be held by the governing body before adopting the proposed tax rate. The governing body of (insert name of county or municipality) proposes to use revenue attributable to the tax rate increase for the purpose of (description of purpose of increase).

PROPOSED TAX RATE	\$_____ per \$100
PRECEDING YEAR'S TAX RATE	\$_____ per \$100
EFFECTIVE TAX RATE	\$_____ per \$100
ROLLBACK TAX RATE	\$_____ per \$100

"The effective tax rate is the total tax rate needed to raise the same amount of property tax revenue for (insert name of county or municipality) from the same properties in both the (insert preceding tax year) tax year and the (insert current tax year) tax year.

"The rollback tax rate is the highest tax rate that (insert name of county or municipality) may adopt without holding ~~[before voters are entitled to petition for]~~ an election to ratify ~~[limit]~~ the rate ~~[that may be approved to the rollback rate]~~.

"YOUR TAXES OWED UNDER ANY OF THE ABOVE RATES CAN BE CALCULATED AS
FOLLOWS:

$$\text{property tax amount} = (\text{rate}) \times (\text{taxable value of your property}) / 100$$

"For assistance or detailed information about tax calculations, please contact:

(insert name of county or municipal tax assessor-collector)
(insert name of county or municipality) tax
assessor-collector
(insert address)
(insert telephone number)
(insert e-mail address)
(insert Internet website address, if applicable)

"You are urged to attend and express your views at the following public hearings on the proposed tax rate:

First Hearing: (insert date and time) at (insert location of meeting).

Second Hearing: (insert date and time) at (insert location

1 of meeting)."

2 SECTION 9. Section 1101.254(f), Special District Local Laws
3 Code, is amended to read as follows:

4 (f) This section does not affect the applicability of [~~any~~
5 ~~rights district voters may have to petition for an election under~~]
6 Section 26.08 [~~26.07~~], Tax Code, to the district's tax rate, except
7 that if district voters approve a tax rate increase under this
8 section, [~~the voters may not petition for an election under~~]
9 Section 26.08 [~~26.07~~], Tax Code, does not apply [~~as~~] to the tax rate
10 for that year.

11 SECTION 10. Sections 1122.2522, 3828.157, and 8876.152,
12 Special District Local Laws Code, are amended to read as follows:

13 Sec. 1122.2522. ROLLBACK TAX RATE PROVISIONS APPLICABLE.
14 [~~(a)~~] If in any year the board adopts a tax rate that exceeds the
15 rollback tax rate calculated as provided by Chapter 26, Tax Code,
16 [~~the qualified voters of the district by petition may require that~~]
17 an election under Section 26.08 of that code must be held to
18 determine whether or not to approve [~~reduce~~] the tax rate adopted by
19 the board for that year [~~to the rollback tax rate~~].

20 [~~(b) To the extent a conflict exists between this section~~
21 ~~and a provision of the Tax Code, the provision of the Tax Code~~
22 ~~prevails.~~]

23 Sec. 3828.157. INAPPLICABILITY OF CERTAIN TAX CODE
24 PROVISIONS. Sections 26.04, 26.05, and 26.08 [~~26.07~~], Tax Code, do
25 not apply to a tax imposed under Section 3828.153 or 3828.156.

26 Sec. 8876.152. APPLICABILITY OF CERTAIN TAX PROVISIONS.

27 (a) Sections 26.04, 26.05, 26.06, and 26.08 [~~26.07~~], Tax Code, do

not apply to a tax imposed by the district.

(b) Sections 49.236(a)(1) and (2) and (b) [Section 49.236], Water Code, apply [~~as added by Chapter 248 (H.B. 1541), Acts of the 78th Legislature, Regular Session, 2003, applies~~] to the district.

SECTION 11. Section 49.107(g), Water Code, is amended to read as follows:

(g) Sections 26.04, 26.05, and 26.08 [26.07], Tax Code, do not apply to a tax levied and collected under this section or an ad valorem tax levied and collected for the payment of the interest on and principal of bonds issued by a district.

SECTION 12. Section 49.108(f), Water Code, is amended to read as follows:

(f) Sections 26.04, 26.05, and 26.08 [26.07], Tax Code, do not apply to a tax levied and collected for payments made under a contract approved in accordance with this section.

SECTION 13. Sections 49.236(a) and (d), Water Code, as added by Chapter 335 (S.B. 392), Acts of the 78th Legislature, Regular Session, 2003, are amended to read as follows:

(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

1 proposed tax rate for the tax year (year of tax levy) on (date and
2 time) at (meeting place). Your individual taxes may increase or
3 decrease, depending on the change in the taxable value of your
4 property in relation to the change in taxable value of all other
5 property and the tax rate that is adopted.

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

9 (2) contain the following information:

10 (A) the district's total adopted tax rate for the
11 preceding year and the proposed tax rate, expressed as an amount per
12 \$100;

13 (B) the difference, expressed as an amount per
14 \$100 and as a percent increase or decrease, as applicable, in the
15 proposed tax rate compared to the adopted tax rate for the preceding
16 year;

17 (C) the average appraised value of a residence
18 homestead in the district in the preceding year and in the current
19 year; the district's total homestead exemption, other than an
20 exemption available only to disabled persons or persons 65 years of
21 age or older, applicable to that appraised value in each of those
22 years; and the average taxable value of a residence homestead in the
23 district in each of those years, disregarding any homestead
24 exemption available only to disabled persons or persons 65 years of
25 age or older;

26 (D) the amount of tax that would have been
27 imposed by the district in the preceding year on a residence

1 homestead appraised at the average appraised value of a residence
2 homestead in that year, disregarding any homestead exemption
3 available only to disabled persons or persons 65 years of age or
4 older;

5 (E) the amount of tax that would be imposed by the
6 district in the current year on a residence homestead appraised at
7 the average appraised value of a residence homestead in that year,
8 disregarding any homestead exemption available only to disabled
9 persons or persons 65 years of age or older, if the proposed tax
10 rate is adopted; ~~and~~

11 (F) the difference between the amounts of tax
12 calculated under Paragraphs (D) and (E), expressed in dollars and
13 cents and described as the annual percentage increase or decrease,
14 as applicable, in the tax to be imposed by the district on the
15 average residence homestead in the district in the current year if
16 the proposed tax rate is adopted; and

17 (G) if the proposed combined debt service,
18 operation and maintenance, and contract tax rate exceeds the
19 rollback tax rate, a description of the purpose of the proposed tax
20 increase; and

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

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

24 "If operation and maintenance taxes on the average residence
25 homestead increase by more than eight percent, ~~[the qualified~~
26 ~~voters of the district by petition may require that]~~ an election
27 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."

(d) If the governing body of a district adopts a combined debt service, operation and maintenance, and contract tax rate that exceeds the rollback tax rate, [~~would impose more than 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 older, the qualified voters of the district by petition may require that~~] an election must be held to determine whether [~~or not~~] to ratify [~~reduce~~] the tax rate adopted for the current year [~~to the rollback tax rate~~] in accordance with the procedures provided by Sections 26.08(b)-(d) [~~26.07(b)-(g) and 26.081~~], Tax Code. For purposes of Sections 26.08(b)-(d) [~~26.07(b)-(g)~~] and this section [~~subsection~~], the rollback tax rate is the sum of the following tax rates:

- (1) the current year's debt service tax rate;
- (2) the current year's [~~and~~] contract tax rate; and
- (3) [~~rates plus~~] the operation and maintenance tax rate that would impose 1.08 times the amount of the operation and maintenance 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 older.

SECTION 14. The following provisions are repealed:

1 (1) Section 1063.255, Special District Local Laws
2 Code;

3 (2) Section 26.07, Tax Code;

4 (3) Section 49.236, Water Code, as added by Chapter
5 248 (H.B. 1541), Acts of the 78th Legislature, Regular Session,
6 2003; and

7 (4) Section 49.2361, Water Code.

8 SECTION 15. (a) The change in law made by this Act applies
9 to the ad valorem tax rate of a taxing unit beginning with the 2017
10 tax year, except as provided by Subsection (b) of this section.

11 (b) If the governing body of a taxing unit adopted an ad
12 valorem tax rate for the taxing unit for the 2017 tax year before
13 the effective date of this Act, the change in law made by this Act
14 applies to the ad valorem tax rate of that taxing unit beginning
15 with the 2018 tax year, and the law in effect when the tax rate was
16 adopted applies to the 2017 tax year with respect to that taxing
17 unit.

18 SECTION 16. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect on the 91st day after the last day of
23 the legislative session.