

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 22, 2017

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB2239 by Bettencourt (Relating to ad valorem taxation.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2239, As Introduced: a negative impact of (\$10,747,000) 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.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|--------------------|---|
| 2018 | (\$7,077,000) |
| 2019 | (\$3,670,000) |
| 2020 | (\$3,670,000) |
| 2021 | (\$3,670,000) |
| 2022 | (\$3,670,000) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from General Revenue Fund | Change in Number of State Employees from FY 2017 |
|--------------------|--|---|
| 2018 | (\$7,077,000) | 39.0 |
| 2019 | (\$3,670,000) | 39.0 |
| 2020 | (\$3,670,000) | 39.0 |
| 2021 | (\$3,670,000) | 39.0 |
| 2022 | (\$3,670,000) | 39.0 |

Fiscal Analysis

The bill would amend Chapter 5 of the Tax Code, regarding state administration of property tax, to require the Comptroller to prescribe the form of the worksheets to be used by the designated officer or employee of each taxing unit in calculating the no-new-taxes tax rate (currently called the effective tax rate) and rollback tax rate for the unit. The bill would specify that the form must be in an electronic format and be capable of automatic calculations and other specified functions.

The bill would strike language excluding school district tax rates, and rates not reported to the Comptroller from the required Comptroller list of tax rates by taxing unit and would require that the list be ordered alphabetically by county and taxing unit within county. The Comptroller would be required to publish the tax rate list not later than January 1 of the following year (rather than December 31 for the preceding year's tax).

The Comptroller would be required to create, maintain and continuously update a public searchable statewide property tax database that contains for each taxable property: information about property values, taxing unit names, various kinds of tax rate, estimated tax amounts, dates and locations of public hearings and meetings, and other specified information. The database would be required to provide a link to each taxing unit's required internet website. The individual designated to calculate the no-new-taxes and rollback tax rates for each taxing unit would be required to electronically submit to the Comptroller information for the database and the required tax rate worksheets at the same time the individual submits the tax rates to the governing body of the taxing unit. The Comptroller would be required to incorporate the worksheets into the statewide property tax database not later than the third day after receipt. Not later than September 1, 2019, the Comptroller would be required to appoint a 13 member advisory group to provide advice and assistance regarding the creation and operation of the property tax database required by the bill and related matters. The bill would specify the makeup of the advisory group. The Comptroller would be required to comply with the requirements regarding the tax rate calculation worksheets and the statewide property tax database not later than June 1, 2020. The provisions regarding the tax rate calculation worksheets, and statewide property tax database would take effect on January 1, 2019. The provisions regarding the list of tax rates by taxing unit, and the advisory group would take effect September 1, 2017.

The bill would amend Chapter 25 of the Tax Code, regarding local property tax appraisal, to strike from the items required to be on the notice of appraised value, the amount of tax that would be imposed on the property on the basis of the tax rate for the preceding year (if the appraised value is greater than it was in the preceding year). This provision would take effect January 1, 2020.

The bill would amend Chapter 26 of the Tax Code, regarding property tax assessment, to specify in the definition of "debt" that the debt has been approved at an election. The bill, leaving certain definitions, terms, and calculations intact in an existing section of the Tax Code, would add a new section that, notwithstanding the existing section, would re-state, or re-define, for a taxing unit other than a school district, similar terms and calculations used to produce and publish effective tax rates, rollback tax rates, and required notices used in conjunction with certain hearings and tax rate elections. These terms, calculations, tax rates, notices, hearings, and tax rate elections are commonly referred to as "truth in taxation". Some terms would be defined that have not previously been defined. Notable truth in taxation changes made by the bill include:

1. re-defining the effective tax rate as the "no-new-taxes rate";
2. re-defining the "rollback tax rate", and requiring a taxing unit to increase the effective maintenance and operations tax rate by 4 percent as part of the rollback tax rate calculation (rather than 8 percent);
3. requiring a taxing unit to calculate the no-new-taxes and rollback tax rates using the electronic, fillable form promulgated by the Comptroller;
4. defining the actual collection rate and using a collection rate that is an average of the preceding three years' actual collections rates (rather than requiring estimation of the collections rate);
5. providing that if the actual collections rate exceeds 100 percent it shall not be reduced to 100 percent;
6. defining "current year total taxable value" to include any adjustments to taxable value resulting from final court decisions regardless of whether the appraisal roll has been corrected, the

taxable value of properties under protest at the value determined by the appraisal district, and the value of properties that are not on the certified appraisal roll but are reasonably likely to be included;

7. defining "prior year total taxable value" to include one-third over valuation error corrections (this value is excluded in current law);
8. excluding the amount of debt taxes refunded by the taxing unit in the preceding year for tax years before that year in calculations involving debt;
9. defining "current year taxable value of new improvements" to exclude the value of new personal property in those improvements (current law includes the value of the new improvements), and to exclude the value of certain land subdivided by plat, land on which water, on which water, sewer, or drainage lines were installed, or undeveloped land that was paved in the prior year (the value of this land is included in current law);
10. defining "no-new-taxes maintenance & operations rate" as the percentage of the prior year tax levy attributable to maintenance & operations multiplied by the no-new-taxes rate for the current year;
11. including the portion of the captured appraised value of real property taxable by a taxing unit that corresponds to the portion of the tax increment that the unit has agreed to pay into the tax increment fund for a reinvestment zone, and including the portion of the tax increment itself from the value and levy calculations (current law excludes these value and levy portions).
12. removing the new property deduction in the criminal justice mandate and indigent health care adjustments to the rollback tax rate calculation; and
13. repealing pollution control property rollback tax rate relief.

School districts would be required to calculate and publish two different calculations of the effective and rollback tax rates.

The officer or employee designated by a taxing unit to perform tax rate calculations would be required to use the worksheet forms specified by the Comptroller in calculating the no-new-taxes and rollback tax rates. The bill would specify requirements regarding the submission of the worksheets to the chief appraiser, and to the chief financial officer or auditor for the taxing unit. The chief appraiser would be required to certify the values used and the chief financial officer or auditor would be required to certify that the rollback tax rate has been calculated correctly before a taxing unit may adopt a tax rate. The Comptroller would be required to adopt rules governing the form of the certifications and the manner in which they are required to be submitted.

By August 7th, or as soon thereafter as practicable, the tax assessor would be required to deliver by regular mail or email to each property owner a notice that the estimated amount of taxes to be imposed on the owner's property by each taxing unit may be found in the property tax database maintained by the Comptroller. The bill would specify items that the notice must include and provide that the notice must be posted on the assessor's website.

A property owner would be able to file an injunction to prohibit the adoption of a tax rate if the tax rate calculations and database information are not submitted to the Comptroller as provided, even if the failure to comply was in good faith. The governing body of a taxing unit would not be permitted to hold a public hearing on a proposed tax rate or a public meeting to adopt a tax rate until the 14th day after the date the designated officer or employee electronically submits to the Comptroller the required worksheets, and certain required information regarding the taxing unit, property identification, property value, tax amount, and various tax rates for the property tax database. The governing body of a taxing unit other than a school district would not be permitted to adopt a tax rate until the Comptroller has included the worksheets and other required information in the Comptroller's property tax database, and the chief appraiser has delivered the required notice regarding the property tax database to each property owner.

Each taxing unit would be required to maintain an Internet website and to post, in a Comptroller prescribed format, specified information required by this bill and required elsewhere in Title 1 (Property Tax Code) of the Tax Code.

The bill would make conforming changes and repeal specified sections in the Tax Code.

With certain specified exceptions the bill would take effect January 1, 2018.

Methodology

Several of the bill's proposed truth in taxation changes would tend to lower rollback tax rates for taxing units other than school districts. In particular, the bill's provision that would reduce the increment in the effective maintenance and operations tax rate used in the rollback tax rate calculation from 8 percent to 4 percent could create a cost to taxing units other than school districts by making it more difficult to increase maintenance and operations tax rates by more than 104 percent of the no-new-taxes maintenance and operations rate. If these taxing units propose a tax rate higher than the rollback rate, a tax rate election might result in reducing the proposed rate to 104 percent of the no-new-taxes maintenance and operations rate plus the current debt rate. Future proposed tax rates and the outcome of any elections cannot be predicted and the cost of the proposed provisions 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 administrative cost includes the funds necessary to hire 39 FTEs to oversee and implement provisions of this bill. The cost also includes \$424,000 to contract with seasonal subject matter experts and data entry personnel during peak periods.

The bill requires the Comptroller's Office to convert the truth-in-taxation (TNT) worksheets, which the Comptroller currently produces for informational purposes as guidelines, into TNT worksheets that taxing units would have to use to calculate their effective tax rate and rollback tax rates. The agency would also need to provide educational resources for school districts, counties, cities, water districts, and other special districts. This analysis anticipates that the Property Tax Assistance Division (PTAD) of the Comptroller's Office 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. The Comptroller would need to hire three FTEs (one attorney VI, one program specialist VII, and one administrative assistant II) to create and maintain publications and worksheets, provide technical support on any necessary computer programming changes, answer legal questions, coordinate the submission of tax rates so that only authenticated designated officers and employees of taxing units submit tax rates, handle questions regarding the TNT database and submission issues, oversee the required email after receipt of the worksheets, and receive calls from the public regarding tax rates. Each year, from June 15 through September 15, CPA would contract with three TNT subject matter experts to handle the dramatically increased number of legal, worksheet, and database questions during this peak period while tax rates are calculated. The agency would also require four seasonal workers to collect and enter tax rates for approximately 4,200 taxing units for 2 months.

The bill would require that a property owner's constitutional notice of estimated taxes would be contained on the proposed statewide property tax database. An accurate notice would require continuously updated value information from the 253 appraisal districts in the state. Because exemptions sometimes apply to only certain taxing units, the taxable value information for one piece of property is often different for each type of taxing unit. Moreover, the information on certain types of property is complex and hard to keep updated, especially personal property and

oil and gas accounts. As a result, the information for each type of taxing unit would need to be thoroughly reviewed. Currently, PTAD annually reviews school district property value information submitted by appraisal districts for school funding purposes. This review looks for submission errors, missing information, and numbers that were not updated from the previous year. This review takes from August through the end of January in the subsequent tax year. To ensure that taxpayers are receiving proper notification of their estimated taxes, PTAD would have to review the value information submitted for each type of taxing unit for submission errors. School districts make up almost 25 percent of local taxing units and PTAD currently has 12 FTEs assigned to review school district information. To review and verify information submitted on a continuous basis from the remaining 75 percent of taxing units, the Comptroller's Office would need five program specialist IVs and 31 accounts examiners.

Technology

There would be a one-time technology cost of \$3,870,000 in fiscal 2018 and an ongoing annual cost of \$463,000. The Comptroller's Office estimates it will require approximately 16,000 hours to build and maintain an electronic property tax database and worksheets for over 21 million pieces of property in the state along with the constitutionally required estimation of taxes. Designated officers or employees would need to enter live data and receive automatic calculations of the no-new-taxes tax rate and rollback tax rate. The database and worksheets are required to have the capability to create/run reports that include the total tax rate imposed by each taxing unit in the state for the year in which report is prepared. The agency also anticipates the need to expand our existing network and server capacity, provide for data storage, and purchase business intelligence analytics modeling software at an estimated cost of \$1,470,000. The new database would also require an estimated 1,920 hours annually in ongoing application support as well as server and storage infrastructure growth.

Local Government Impact

Several of the bill's proposed truth in taxation changes would tend to lower rollback tax rates for taxing units other than school districts. In particular, the bill's provision that would reduce the increment in the effective maintenance and operations tax rate used in the rollback tax rate calculation from 8 percent to 4 percent could create a cost to taxing units other than school districts by making it more difficult to increase maintenance and operations tax rates by more than 104 percent of the no-new-taxes maintenance and operations rate. If these taxing units propose a tax rate higher than the rollback rate, a tax rate election might result in reducing the proposed rate to 104 percent of the no-new-taxes maintenance and operations rate plus the current debt rate. Future proposed tax rates and the outcome of any elections cannot be predicted and the cost of the proposed provisions to units of local government cannot be estimated. There would be no cost to school districts.

Hypothetical Table Lowering the Rollback Rate from 108 to 104 Percent of the No-New-Taxes Maintenance and Operations Rate, Plus the Current Debt Rate

The fiscal effects of this provision cannot be estimated; however, the table below is a hypothetical example of potential costs of the bill to special districts, cities, and counties assuming:

- 1) no proposed tax rate in excess of the reduced rollback rate proposed by the bill would be adopted;
- 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 | Gain/(Loss) to Special Districts | Gain (Loss) to Cities | Gain/(Loss) to Counties |
|--------------------|---|------------------------------|--------------------------------|
| 2018 | \$0 | \$0 | \$0 |
| 2019 | (139,337,000) | (114,730,000) | (144,374,000) |
| 2020 | (146,304,000) | (120,467,000) | (151,593,000) |
| 2021 | (153,619,000) | (126,490,000) | (159,173,000) |
| 2022 | (161,300,000) | (132,814,000) | (167,131,000) |

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, SJS