BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires that voters petition for an election to reduce the tax rate if a taxing unit adopts a rate that is above the rollback rate, set at eight percent. The process is unnecessarily arduous and can be simplified.

S.B. 1395 increases voter transparency by triggering an automatic election in order for voters to approve or reject a tax rate when it exceeds the current rollback rate of eight percent.

As proposed, S.B. 1395 amends current law relating to voter approval of a proposed ad valorem tax rate that exceeds the rollback tax rate.

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 the heading to Section 26.08, Tax Code, to read as follows:

> Sec. 26.08. ELECTION TO RATIFY TAX RATE.

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

> (a) Requires the registered voters of the taxing unit, if the governing body of a taxing unit adopts a tax rate that exceeds the taxing unit's rollback tax rate, rather than requiring the registered voters of a school district, if the governing body of the district adopts a tax rate that exceeds the district's rollback tax rate, at an election held for that purpose, to determine whether to approve the adopted tax rate. Provides that 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 a disaster occurs when increased expenditure of money by a taxing unit 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 and the governor has requested federal disaster assistance for the area in which the taxing unit is located, rather than when increased expenditure of money by a 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 school district and the governor has requested federal disaster assistance for the area in which the school district is located.

> (b), (d), (d-1), and (d-2) Makes conforming changes to these subsections.

> (e) and (h) Makes nonsubstantive changes to these subsections.

SECTION 3. Amends Section 26.16(d), Tax Code, as follows:

> (d) Requires the county assessor-collector to post immediately below the table prescribed by Subsection (c) (relating to requiring certain information to be presented in the form of

a table under the heading "Truth in Taxation Summary") the statement: "The rollback tax rate is the highest tax rate a taxing unit may adopt before requiring voter approval at an election. An election will automatically be held if a taxing unit wishes to adopt a tax rate in excess of the unit's rollback tax rate," among certain other statements. Deletes existing text requiring the statement to include: "In the case of a taxing unit other than a school district, the voters by petition may require that a rollback election be held if the unit adopts a tax rate in excess of the unit's rollback tax rate. In the case of a school district, an election will automatically be held if the district wishes to adopt a tax rate in excess of the district's rollback tax rate."

SECTION 4. Amends Sections 31.12(a) and (b), Tax Code, as follows:

(a) Provides that, if a refund of a tax provided by Section 11.431(b) (relating to requiring the chief appraiser, if a late application is approved after approval of the appraisal records by the appraisal review board, to notify collector for each unit in which the residence is located not later than a certain date), 26.08(d-2) (relating to requiring the school district, if a property owner pays taxes calculated using the originally adopted tax rate of the school district and the proposition to approve the adopted tax rate is not approved by voters, to refund the difference between the amount of taxes paid for certain amounts), 26.15(f) (relating to requiring a taxing unit, if a correction that decreases the tax liability of a property owner is made after the owner has paid the tax, to refund the property owner who paid the tax the difference between the tax paid and the tax legally due, except for a certain exception), 31.11 (Refunds of Overpayments or Erroneous Payments), 31.111 (Refunds of Duplicate Payments), or 31.112 (Refunds of Payments Made to Multiple Like Taxing Units), rather than provided by Section 11.431(b), 26.07(g) (relating to requiring the taxing unit, if a property owner pays taxes calculated using the higher tax rate when the rate is reduced by a certain election, to refund the difference between the amount of taxes paid and the amount due under the reduced rate for certain amounts), 26.15(f), 31.11, 31.111, or 31.112, 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.

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

(1) makes no changes to this subdivision;

(2) if the refund is required by Section 26.08(d-2), rather than Section 26.07(g), on the date the results of the election to reduce the tax rate are certified; or

(3)–(6) makes no changes to these subdivisions.

SECTION 5. Amends Section 33.08(b), Tax Code, as follows:

(b) Authorizes the governing body of the taxing unit or appraisal district, in the manner required by law for official action, to provide that taxes that become delinquent on or after June 1 under Section 26.08(d-1) (relating to requiring the assessor for the school district, if, after tax bills for the school district have been mailed, a proposition to approve the school district's adopted tax rate is not approved by the voters of the district at a certain election, on subsequent adoption of a new tax rate by the governing body of the district, to prepare and mail corrected tax bills), 26.15(e) (relating to requiring the assessor for a taxing unit, if a correction that increases the tax liability of a property owner is made after the tax is paid, to prepare and mail a supplemental tax bill in a certain manner), 31.03 (Split Payment of Taxes), 31.031 (Installment Payments of Certain Homestead Taxes), 31.032 (Installment Payments of Taxes on Property in Disaster Area), 31.04 (Postponement of Delinquency Date), or 42.42 (Corrected and Supplemental Tax Bills), rather than under Section 26.07(f) (relating to requiring the assessor for the taxing unit, if the tax rate is reduced by an election called under this section after tax bills for the unit are mailed, to prepare and mail corrected tax bills), 26.15(e), 31.03, 31.031, 31.032, 31.04, or 42.42, incur an additional penalty to defray costs of collection.

SECTION 6. Amends Section 130.016(b), Education Code, as follows:

(b) Authorizes the junior college district, if the board of trustees of an independent school district that divests itself of the management, control, and operation of a junior college district under this section or under Section 130.017 (Petition and Election to Divest School Board Authority) was authorized by Section 45.105(e) (relating to authorizing the governing body of an independent school district that governs a junior college district in a county with a certain population to dedicate a specific percentage of the local tax levy to the use of the junior college district for facilities and equipment or for the maintenance and operating expenses of the junior college district) or under former Section 20.48(e), rather than was authorized by Subsection (e) of Section 20.48 of this code, to dedicate a portion of its tax levy to the junior college district before the divestment, to levy an ad valorem tax from and after the divestment. Prohibits the ad valorem tax rate adopted by the governing body of the junior college district, in the first two years in which the junior college district levies an ad valorem tax, from exceeding the rate that, if applied to the total taxable value submitted to the governing body under Section 26.04 (Submission of Roll to Governing Body; Effective and Rollback Tax Rates), Tax Code, would impose an amount equal to the amount of taxes of the school district dedicated to the junior college under Section 45.105(e) or former Section 20.48(e), rather than under Subsection (e) of Section 20.48 of this code, in the last dedication before the divestment. Provides that the tax rate of the junior college district is subject to Section 26.08 (Election to Ratify School Taxes), rather than Section 26.07 (Election to Repeal Increase), Tax Code.

SECTION 7. Amends Sections 281.124(d) and (e), Health and Safety Code, as follows:

(d) Provides that the tax rate for the specified tax year, if a majority of the votes cast in the election favor the proposition, is the rate approved by the voters, and that that rate is not subject to Section 26.08, Tax Code, rather than not subject to a rollback election under Section 26.07, Tax Code.

(e) Prohibits the board of hospital managers of a district, if the proposition is not approved as provided by Subsection (c) (relating to certain requirements for an election to approve an ad valorem tax rate), from adopting a tax rate for the district for the specified tax year that exceeds the rate that was not approved, and Section 26.08, Tax Code, applies to the adopted rate if that rate exceeds the district's rollback tax rate, rather than Section 26.07, Tax Code, applies to the adopted rate if that rate exceeds the rollback tax rate.

SECTION 8. Amends Section 140.010(e), 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 notice stating "the rollback tax rate is the highest tax rate that (insert name of county or municipality) may adopt without holding an election to ratify the rate," rather than "the rollback tax rate is the highest tax rate that (insert name of county or municipality) may adopt before voters are entitled to petition for an election to limit the rate that may be approved to the rollback rate" and certain other statements.

SECTION 9. Amends Section 1101.254(f), Special District Local Laws Code, as follows:

(f) Provides that this section (Limit on Annual Increase in Tax Rate) does not affect the applicability of Section 26.08, Tax Code, to the district's tax rate, except that if district voters approve a tax rate increase under this section, Section 26.08, Tax Code, does not apply to the tax rate for that year, rather than providing that this section does not affect any rights district voters may have to petition for an election under Section 26.07, Tax Code, except that if district voters approve a tax rate increase under this section, the voters may not petition for an election under Section 26.07, Tax Code, as to the tax rate for that year.

SECTION 10. Amends Sections 1122.2522, 3828.157, and 8876.152, Special District Local Laws Code, as follows:

Sec. 1122.2522. ROLLBACK TAX RATE PROVISIONS APPLICABLE. Creates this section from existing text. Requires an election under Section 26.08 of that code, if in any year the board of directors of the district (board) adopts a tax rate that exceeds the rollback tax rate calculated as provided by Chapter 26 (Assessment), Tax Code, to be held to determine whether or not to approve the tax rate adopted by the board for that year, rather than authorizing the qualified voters of the district by petition, if in any year the board adopts a tax rate that exceeds the rollback tax rate calculated as provided by Chapter 26, Tax Code, to require that an election be held to determine whether or not to reduce the tax rate adopted by the board for that year to the rollback tax rate.

(a) Deletes this subsection designation.

(b) Deletes this subsection and existing text providing that to the extent a conflict exists between this section and a provision of the Tax Code, the provision of the Tax Code prevails.

Sec. 3828.157. INAPPLICABILITY OF CERTAIN TAX CODE PROVISIONS. Provides that Sections 26.04, 26.05 (Tax Rate), and 26.08, Tax Code, rather than Sections 26.04, 26.05, and 26.07, Tax Code, do not apply to a tax imposed under Section 3828.153 (Maintenance and Operation Tax; Election) or 3828.156 (Taxes for Bonds and Other Obligations).

Sec. 8876.152. APPLICABILITY OF CERTAIN TAX PROVISIONS. (a) Provides that Sections 26.04, 26.05, 26.06 (Notice, Hearing, and Vote on Tax Increase), and 26.08, Tax Code, rather than Sections 26.04, 26.05, 26.06, and 26.07, Tax Code, do not apply to a tax imposed by the district.

(b) Provides that Sections 49.236(a)(1) (relating to requiring a certain statement in the required notice provided by the governing body of a district before the governing body adopts an ad valorem tax rate for the district for certain purposes) and (2) (relating to requiring certain information in the required notice provided by the governing body of a district before the governing body adopts an ad valorem tax rate for the district for certain purposes) and (b) (relating to certain requirements for notice of a tax hearing by the governing body of a district), Water Code, rather than Section 49.236 (Notice of Tax Hearing), Water Code, as added by Chapter 248 (H.B. 1541), Acts of the 78th Legislature, Regular Session, 2003, apply to the district. Makes a nonsubstantive change.

SECTION 11. Amends Section 49.107(g), Water Code, as follows:

(g) Provides that Sections 26.04, 26.05, and 26.08, Tax Code, rather than Sections 26.04, 26.05, and 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. Amends Section 49.108(f), Water Code, as follows:

(f) Provides that Sections 26.04, 26.05, and 26.08, Tax Code, rather than Sections 26.04, 26.05, and 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. Amends Sections 49.236(a) and (d), Water Code, as added by Chapter 335 (S.B. 392), Acts of the 78th Legislature, Regular Session, 2003, as follows:

(a) Requires the governing body of a district, before the governing body of a district adopts an ad valorem tax rate for the district for debt service, operation and maintenance

purposes, or contract purposes, to give notice of each meeting of the governing body of a district at which the adoption of a tax rate will be considered. Requires the notice to:

(1) makes no changes to this subdivision;

(2) contain the following information:

(A)-(D) makes no changes to these paragraphs;

(E) makes a nonsubstantive change to this paragraph;

(F) makes no changes to this paragraph; and

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

(3) contain a statement substantially stating "NOTICE OF VOTE ON TAX RATE if operation and maintenance taxes on the average residence homestead increase by more than eight percent, an election must be held to determine whether to ratify the operation and maintenance tax rate under Section 49.236(d), Water Code," rather than substantially stating "NOTICE OF TAXPAYERS' RIGHT TO ROLLBACK ELECTION if taxes on the average residence homestead increase by more than eight percent, the qualified voters of the district by petition may require that an election be held to determine whether to reduce the operation and maintenance tax rate to the rollback tax rate under Section 49.236(d), Water Code."

(d) Requires an election, 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, to be held to determine whether to ratify the tax rate adopted for the current year in accordance with the procedures provide by Sections 26.08(b)-(d) (relating to requiring certain procedures for an election to ratify a school district tax rate that exceeds the district's rollback tax rate), Tax Code, rather than authorizing the qualified voters of the district by petition, 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, to require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to the rollback tax rate in accordance with the procedures provided by Sections 26.07(b)-(g) (relating to requiring certain procedures for an election to ratify a tax rate for a taxing unit other than a school district that exceeds the unit's rollback tax rate) and 26.081 (Petition Signatures), Tax Code. Provides that, for purposes of Sections 26.08(b)-(d) and this section, the rollback tax rate is the sum of the following tax rates, rather than providing that, for purposes of Sections 26.07(b)-(g) and this subsection, the rollback tax rate is the current year's debt service and contract tax 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:

(1) the current year's debt service tax rate;

(2) the current year's contract tax rate; and

(3) creates this subdivision from existing text and makes no further changes to this subdivision.

SECTION 14. Repealer: Section 1063.255 (Petition and Order For Election to Reduce Tax Rate), Special District Local Laws Code.

Repealer: Section 26.07 (Election to Repeal Increase), Tax Code.

Repealer: Section 49.236 (Notice of Tax Hearing), Water Code, as added by Chapter 248 (H.B. 1541), Acts of the 78th Legislature, Regular Session, 2003.

Repealer: Section 49.2361 (Additional Notice For Certain Tax Increases), Water Code.

SECTION 15. (a) Provides that the change in law made by this Act applies to the ad valorem tax rate of a taxing unit beginning with the 2019 tax year, except as provided by Subsection (b) of this section.

(b) Provides that if the governing body of a taxing unit adopted an ad valorem tax rate for the taxing unit for the 2019 tax year before the effective date of this Act, the change in law made by this Act applies to the ad valorem tax rate of that taxing unit beginning with the 2020 tax year, and the law in effect when the tax rate was adopted applies to the 2019 tax year with respect to that taxing unit.

SECTION 16. Effective date: upon passage or on the 91st day after the last day of the legislative session.