

By: Creighton

S.B. No. 894

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the additional tax imposed on land appraised for ad  
3 valorem tax purposes as agricultural, open-space, or timber land if  
4 the land is sold or diverted to a different use.

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

6 SECTION 1. Sections 23.46(c) and (d), Tax Code, are amended  
7 to read as follows:

8 (c) If land that has been designated for agricultural use in  
9 any year is sold or diverted to a nonagricultural use, the total  
10 amount of additional taxes for the three years preceding the year in  
11 which the land is sold or diverted [~~plus interest at the rate~~  
12 ~~provided for delinquent taxes~~] becomes due. Subject to Subsection  
13 (f), a determination that the land has been diverted to a  
14 nonagricultural use is made by the chief appraiser. For purposes of  
15 this subsection, the chief appraiser may not consider any period  
16 during which land is owned by the state in determining whether the  
17 land has been diverted to a nonagricultural use. The chief  
18 appraiser shall deliver a notice of the determination to the owner  
19 of the land as soon as possible after making the determination and  
20 shall include in the notice an explanation of the owner's right to  
21 protest the determination. If the owner does not file a timely  
22 protest or if the final determination of the protest is that the  
23 additional taxes are due, the assessor for each taxing unit shall  
24 prepare and deliver a bill for the additional taxes [~~plus interest~~]

1 as soon as practicable after the change of use occurs. If the  
2 additional taxes are due because of a sale of the land, the assessor  
3 for each taxing unit shall prepare and deliver the bill as soon as  
4 practicable after the sale occurs. The taxes [~~and interest~~] are due  
5 and become delinquent and incur penalties and interest as provided  
6 by law for other delinquent ad valorem taxes imposed by the taxing  
7 unit if not paid before the next February 1 that is at least 20 days  
8 after the date the bill is delivered to the owner of the land.

9 (d) A tax lien attaches to the land on the date the sale or  
10 change of use occurs to secure payment of the additional tax [~~and~~  
11 ~~interest~~] imposed by Subsection (c) [~~of this section~~] and any  
12 penalties and interest incurred if the tax becomes delinquent. The  
13 lien exists in favor of all taxing units for which the additional  
14 tax is imposed.

15 SECTION 2. Sections 23.47(c) and (d), Tax Code, are amended  
16 to read as follows:

17 (c) A provision in an instrument pertaining to a loan  
18 secured by a lien in favor of the lender on land appraised according  
19 to this subchapter that requires the borrower to make a payment to  
20 protect the lender from loss because of the imposition of  
21 additional taxes [~~and interest~~] under Section 23.46 is void unless  
22 the provision:

23 (1) requires the borrower to pay into an escrow  
24 account established by the lender an amount equal to the additional  
25 taxes [~~and interest~~] that would be due under Section 23.46 if a sale  
26 or change of use occurred on January 1 of the year in which the loan  
27 is granted or amended;

1           (2) requires the escrow account to bear interest to be  
2 credited to the account monthly;

3           (3) permits the lender to apply money in the escrow  
4 account to the payment of a bill for additional taxes [~~and interest~~]  
5 under Section 23.46 before the loan is paid and requires the lender  
6 to refund the balance remaining in the escrow account after the bill  
7 is paid to the borrower; and

8           (4) requires the lender to refund the money in the  
9 escrow account to the borrower on the payment of the loan.

10          (d) On the request of the borrower or the borrower's  
11 representative, the assessor for each taxing unit shall compute the  
12 additional taxes [~~and interest~~] that would be due that taxing unit  
13 under Section 23.46 if a sale or change of use occurred on January 1  
14 of the year in which the loan is granted or amended. The assessor  
15 may charge a reasonable fee not to exceed the actual cost of making  
16 the computation.

17          SECTION 3. Sections 23.55(a), (b), (e), (f), (m), and (n),  
18 Tax Code, are amended to read as follows:

19          (a) If the use of land that has been appraised as provided by  
20 this subchapter changes, an additional tax is imposed on the land  
21 equal to the difference between the taxes imposed on the land for  
22 each of the three [~~five~~] years preceding the year in which the  
23 change of use occurs that the land was appraised as provided by this  
24 subchapter and the tax that would have been imposed had the land  
25 been taxed on the basis of market value in each of those years[~~+~~  
26 ~~plus interest at an annual rate of seven percent calculated from the~~  
27 ~~dates on which the differences would have become due~~]. For purposes

1 of this subsection, the chief appraiser may not consider any period  
2 during which land is owned by the state in determining whether a  
3 change in the use of the land has occurred.

4 (b) A tax lien attaches to the land on the date the change of  
5 use occurs to secure payment of the additional tax [~~and interest~~]  
6 imposed by this section and any penalties and interest incurred if  
7 the tax becomes delinquent. The lien exists in favor of all taxing  
8 units for which the additional tax is imposed.

9 (e) Subject to Section 23.551, a determination that a change  
10 in use of the land has occurred is made by the chief appraiser. The  
11 chief appraiser shall deliver a notice of the determination to the  
12 owner of the land as soon as possible after making the determination  
13 and shall include in the notice an explanation of the owner's right  
14 to protest the determination. If the owner does not file a timely  
15 protest or if the final determination of the protest is that the  
16 additional taxes are due, the assessor for each taxing unit shall  
17 prepare and deliver a bill for the additional taxes [~~plus interest~~]  
18 as soon as practicable. The taxes [~~and interest~~] are due and become  
19 delinquent and incur penalties and interest as provided by law for  
20 ad valorem taxes imposed by the taxing unit if not paid before the  
21 next February 1 that is at least 20 days after the date the bill is  
22 delivered to the owner of the land.

23 (f) The sanctions provided by Subsection (a) [~~of this~~  
24 ~~section~~] do not apply if the change of use occurs as a result of:

- 25 (1) a sale for right-of-way;  
26 (2) a condemnation;  
27 (3) a transfer of the property to the state or a

1 political subdivision of the state to be used for a public purpose;  
2 or

3           (4) a transfer of the property from the state, a  
4 political subdivision of the state, or a nonprofit corporation  
5 created by a municipality with a population of more than one million  
6 under the Development Corporation Act (Subtitle C1, Title 12, Local  
7 Government Code) to an individual or a business entity for purposes  
8 of economic development if the comptroller determines that the  
9 economic development is likely to generate for deposit in the  
10 general revenue fund during the next two fiscal bienniums an amount  
11 of taxes and other revenues that equals or exceeds 20 times the  
12 amount of additional taxes [~~and interest~~] that would have been  
13 imposed under Subsection (a) had the sanctions provided by that  
14 subsection applied to the transfer.

15           (m) For purposes of determining whether a transfer of land  
16 qualifies for the exemption from additional taxes provided by  
17 Subsection (f)(4), on an application of the entity transferring or  
18 proposing to transfer the land or of the individual or entity to  
19 which the land is transferred or proposed to be transferred, the  
20 comptroller shall determine the amount of taxes and other revenues  
21 likely to be generated as a result of the economic development for  
22 deposit in the general revenue fund during the next two fiscal  
23 bienniums. If the comptroller determines that the amount of those  
24 revenues is likely to equal or exceed 20 times the amount of  
25 additional taxes [~~and interest~~] that would be imposed under  
26 Subsection (a) if the sanctions provided by that subsection applied  
27 to the transfer, the comptroller shall issue a letter to the

1 applicant stating the comptroller's determination and shall send a  
2 copy of the letter by regular mail to the chief appraiser.

3 (n) Within one year of the conclusion of the two fiscal  
4 bienniums for which the comptroller issued a letter as provided  
5 under Subsection (m), the board of directors of the appraisal  
6 district, by official board action, may direct the chief appraiser  
7 to request the comptroller to determine if the amount of revenues  
8 was equal to or exceeded 20 times the amount of taxes [~~and interest~~]  
9 that would have been imposed under Subsection (a). The comptroller  
10 shall issue a finding as to whether the amount of revenue met the  
11 projected increases. The chief appraiser shall review the results  
12 of the comptroller's finding and shall make a determination as to  
13 whether sanctions under Subsection (a) should be imposed. If the  
14 chief appraiser determines that the sanctions provided by  
15 Subsection (a) shall be imposed, the sanctions shall be based on the  
16 date of the transfer of the property under Subsection (f)(4).

17 SECTION 4. Sections 23.58(c) and (d), Tax Code, are amended  
18 to read as follows:

19 (c) A provision in an instrument pertaining to a loan  
20 secured by a lien in favor of the lender on land appraised according  
21 to this subchapter that requires the borrower to make a payment to  
22 protect the lender from loss because of the imposition of  
23 additional taxes [~~and interest~~] under Section 23.55 is void unless  
24 the provision:

25 (1) requires the borrower to pay into an escrow  
26 account established by the lender an amount equal to the additional  
27 taxes [~~and interest~~] that would be due under Section 23.55 if a

1 change of use occurred on January 1 of the year in which the loan is  
2 granted or amended;

3 (2) requires the escrow account to bear interest to be  
4 credited to the account monthly;

5 (3) permits the lender to apply money in the escrow  
6 account to the payment of a bill for additional taxes [~~and interest~~]  
7 under Section 23.55 before the loan is paid and requires the lender  
8 to refund the balance remaining in the escrow account after the bill  
9 is paid to the borrower; and

10 (4) requires the lender to refund the money in the  
11 escrow account to the borrower on the payment of the loan.

12 (d) On the request of the borrower or the borrower's  
13 representative, the assessor for each taxing unit shall compute the  
14 additional taxes [~~and interest~~] that would be due that taxing unit  
15 under Section 23.55 if a change of use occurred on January 1 of the  
16 year in which the loan is granted or amended. The assessor may  
17 charge a reasonable fee not to exceed the actual cost of making the  
18 computation.

19 SECTION 5. Sections 23.76(a), (b), and (e), Tax Code, are  
20 amended to read as follows:

21 (a) If the use of land that has been appraised as provided by  
22 this subchapter changes, an additional tax is imposed on the land  
23 equal to the difference between the taxes imposed on the land for  
24 each of the three [~~five~~] years preceding the year in which the  
25 change of use occurs that the land was appraised as provided by this  
26 subchapter and the tax that would have been imposed had the land  
27 been taxed on the basis of market value in each of those years[7

1 ~~plus interest at an annual rate of seven percent calculated from the~~  
2 ~~dates on which the differences would have become due].~~

3 (b) A tax lien attaches to the land on the date the change of  
4 use occurs to secure payment of the additional tax ~~[and interest]~~  
5 imposed by this section and any penalties and interest incurred if  
6 the tax becomes delinquent. The lien exists in favor of all taxing  
7 units for which the additional tax is imposed.

8 (e) A determination that a change in use of the land has  
9 occurred is made by the chief appraiser. The chief appraiser shall  
10 deliver a notice of the determination to the owner of the land as  
11 soon as possible after making the determination and shall include  
12 in the notice an explanation of the owner's right to protest the  
13 determination. If the owner does not file a timely protest or if  
14 the final determination of the protest is that the additional taxes  
15 are due, the assessor for each taxing unit shall prepare and deliver  
16 a bill for the additional taxes ~~[and interest]~~ as soon as  
17 practicable after the change of use occurs. The taxes ~~[and~~  
18 ~~interest]~~ are due and become delinquent and incur penalties and  
19 interest as provided by law for ad valorem taxes imposed by the  
20 taxing unit if not paid before the next February 1 that is at least  
21 20 days after the date the bill is delivered to the owner of the  
22 land.

23 SECTION 6. Sections [23.9807](#)(a), (b), (c), and (f), Tax  
24 Code, are amended to read as follows:

25 (a) If the use of land that has been appraised as provided by  
26 this subchapter changes to a use that qualifies the land for  
27 appraisal under Subchapter E, an additional tax is imposed on the



1 land equal to ~~[the sum of:~~

2 ~~[(1)]~~ the difference between:

3 (1) ~~[(A)]~~ the taxes imposed on the land for each of the  
4 three ~~[five]~~ years preceding the year in which the change of use  
5 occurs that the land was appraised as provided by this subchapter;  
6 and

7 (2) ~~[(B)]~~ the taxes that would have been imposed had  
8 the land been appraised under Subchapter E in each of those years~~+~~  
9 ~~and~~

10 ~~[(2) interest at an annual rate of seven percent~~  
11 ~~calculated from the dates on which the differences would have~~  
12 ~~become due].~~

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

17 ~~[(1)]~~ the difference between:

18 (1) ~~[(A)]~~ the taxes imposed on the land for each of the  
19 three ~~[five]~~ years preceding the year in which the change of use  
20 occurs that the land was appraised as provided by this subchapter;  
21 and

22 (2) ~~[(B)]~~ the taxes that would have been imposed had  
23 the land been taxed on the basis of market value in each of those  
24 years~~+~~ ~~and~~

25 ~~[(2) interest at an annual rate of seven percent~~  
26 ~~calculated from the dates on which the differences would have~~  
27 ~~become due].~~

1 (c) A tax lien attaches to the land on the date the change of  
2 use occurs to secure payment of the additional tax [~~and interest~~]  
3 imposed by this section and any penalties and interest incurred if  
4 the tax becomes delinquent. The lien exists in favor of all taxing  
5 units for which the additional tax is imposed.

6 (f) A determination that a change in use of the land has  
7 occurred is made by the chief appraiser. The chief appraiser shall  
8 deliver a notice of the determination to the owner of the land as  
9 soon as possible after making the determination and shall include  
10 in the notice an explanation of the owner's right to protest the  
11 determination. If the owner does not file a timely protest or if  
12 the final determination of the protest is that the additional taxes  
13 are due, the assessor for each taxing unit shall prepare and deliver  
14 a bill for the additional taxes [~~and interest~~] as soon as  
15 practicable after the change of use occurs. The taxes [~~and~~  
16 ~~interest~~] are due and become delinquent and incur penalties and  
17 interest as provided by law for ad valorem taxes imposed by the  
18 taxing unit if not paid before the next February 1 that is at least  
19 20 days after the date the bill is delivered to the owner of the  
20 land.

21 SECTION 7. Sections 23.46(c) and (d), Tax Code, as amended  
22 by this Act, apply only to a sale or diversion to a nonagricultural  
23 use of land appraised under Subchapter C, Chapter 23, Tax Code, that  
24 occurs on or after the effective date of this Act.

25 SECTION 8. Sections 23.47(c) and (d), Tax Code, as amended  
26 by this Act, apply only to a loan secured by a lien on land  
27 designated for agricultural use that is contracted for on or after

1 the effective date of this Act.

2 SECTION 9. Sections 23.55(a), (b), (e), (f), (m), and (n),  
3 Tax Code, as amended by this Act, apply only to a change of use of  
4 land appraised under Subchapter D, Chapter 23, Tax Code, that  
5 occurs on or after the effective date of this Act.

6 SECTION 10. Sections 23.58(c) and (d), Tax Code, as amended  
7 by this Act, apply only to a loan secured by a lien on open-space  
8 land that is contracted for on or after the effective date of this  
9 Act.

10 SECTION 11. Sections 23.76(a), (b), and (e), Tax Code, as  
11 amended by this Act, apply only to a change of use of land appraised  
12 under Subchapter E, Chapter 23, Tax Code, that occurs on or after  
13 the effective date of this Act.

14 SECTION 12. Sections 23.9807(a), (b), (c), and (f), Tax  
15 Code, as amended by this Act, apply only to a change of use of land  
16 appraised under Subchapter H, Chapter 23, Tax Code, that occurs on  
17 or after the effective date of this Act.

18 SECTION 13. This Act takes effect September 1, 2019.