

By: Seliger

S.B. No. 1395

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to voter approval of a proposed ad valorem tax rate that  
3 exceeds the rollback tax rate.

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

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

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

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

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

24 (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 proposition:  
7 "Approving the ad valorem tax rate of \$\_\_\_\_\_ per \$100 valuation in  
8 (name of taxing unit [~~school district~~]) for the current year, a rate  
9 that is \$\_\_\_\_\_ higher per \$100 valuation than the [~~school district~~]  
10 rollback tax rate of (name of taxing unit), for the purpose of  
11 (description of purpose of increase)." The ballot proposition must  
12 include the adopted tax rate and the difference between that rate  
13 and the rollback tax rate in the appropriate places.

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

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

1 to the number of days between the date the first tax bills were sent  
2 and the date the corrected tax bills were sent.

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

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

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

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

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

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

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

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

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

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

25 "The effective maintenance and operations rate is the tax  
26 rate that would generate the same amount of revenue for maintenance  
27 and operations in the current tax year as was generated by a taxing

1 unit's maintenance and operations rate in the preceding tax year  
2 from property that is taxable in both the current tax year and the  
3 preceding tax year.

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

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

14 (a) If a refund of a tax provided by Section 11.431(b),  
15 26.08(d-2) [~~26.07(g)~~], 26.15(f), 31.11, 31.111, or 31.112 is paid  
16 on or before the 60th day after the date the liability for the  
17 refund arises, no interest is due on the amount refunded. If not  
18 paid on or before that 60th day, the amount of the tax to be refunded  
19 accrues interest at a rate of one percent for each month or part of a  
20 month that the refund is unpaid, beginning with the date on which  
21 the liability for the refund arises.

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

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

27 (2) if the refund is required by Section 26.08(d-2)

1 ~~[26.07(g)]~~, on the date the results of the election to reduce the  
2 tax rate are certified;

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

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

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

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

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

19 (6) if the refund is required by Section 31.112, on the  
20 date required by Section 31.112(d) or (e), as applicable.

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

23 (b) The governing body of the taxing unit or appraisal  
24 district, in the manner required by law for official action, may  
25 provide that taxes that become delinquent on or after June 1 under  
26 Section 26.08(d-1) ~~[26.07(f)]~~, 26.15(e), 31.03, 31.031, 31.032,  
27 31.04, or 42.42 incur an additional penalty to defray costs of

1 collection. The amount of the penalty may not exceed the amount of  
2 the compensation specified in the applicable contract with an  
3 attorney under Section 6.30 to be paid in connection with the  
4 collection of the delinquent taxes.

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

7 (b) If the board of trustees of an independent school  
8 district that divests itself of the management, control, and  
9 operation of a junior college district under this section or under  
10 Section 130.017 [~~of this code~~] was authorized by [~~Subsection (e)~~  
11 ~~of~~] Section 45.105(e) or under former Section 20.48(e) [~~20.48 of~~  
12 ~~this code~~] to dedicate a portion of its tax levy to the junior  
13 college district before the divestment, the junior college district  
14 may levy an ad valorem tax from and after the divestment. In the  
15 first two years in which the junior college district levies an ad  
16 valorem tax, the tax rate adopted by the governing body may not  
17 exceed the rate that, if applied to the total taxable value  
18 submitted to the governing body under Section 26.04, Tax Code,  
19 would impose an amount equal to the amount of taxes of the school  
20 district dedicated to the junior college under [~~Subsection (e) of~~  
21 Section 45.105(e) or former Section 20.48(e) [~~20.48 of this code~~]  
22 in the last dedication before the divestment. In subsequent years,  
23 the tax rate of the junior college district is subject to Section  
24 26.08 [~~26.07~~], Tax Code.

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

27 (d) If a majority of the votes cast in the election favor the

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

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

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

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

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

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

25	PROPOSED TAX RATE	\$_____ per \$100
26	PRECEDING YEAR'S TAX RATE	\$_____ per \$100
27	EFFECTIVE TAX RATE	\$_____ per \$100



1           ROLLBACK TAX RATE                               \$\_\_\_\_\_ per \$100

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

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

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

13     property tax amount = (rate) x (taxable value of your property) /  
14   100

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

17           (insert name of county or municipal tax assessor-collector)  
18           (insert name of county or municipality) tax  
19 assessor-collector  
20           (insert address)  
21           (insert telephone number)  
22           (insert e-mail address)  
23           (insert Internet website address, if applicable)

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

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

1 Second Hearing: (insert date and time) at (insert location  
2 of meeting)."

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

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

12 SECTION 10. Sections [1122.2522](#), [3828.157](#), and [8876.152](#),  
13 Special District Local Laws Code, are amended to read as follows:

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

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

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

27 Sec. 8876.152. APPLICABILITY OF CERTAIN TAX PROVISIONS.

1 (a) Sections [26.04](#), [26.05](#), [26.06](#), and [26.08](#) [~~26.07~~], Tax Code, do  
2 not apply to a tax imposed by the district.

3 (b) Sections [49.236](#)(a)(1) and (2) and (b) [Section ~~49.236~~],  
4 Water Code, apply [~~as added by Chapter 248 (H.B. 1541), Acts of the~~  
5 ~~78th Legislature, Regular Session, 2003, applies~~] to the district.

6 SECTION 11. Section [49.107](#)(g), Water Code, is amended to  
7 read as follows:

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

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

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

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

20 (a) Before the board adopts an ad valorem tax rate for the  
21 district for debt service, operation and maintenance purposes, or  
22 contract purposes, the board shall give notice of each meeting of  
23 the board at which the adoption of a tax rate will be considered.  
24 The notice must:

25 (1) contain a statement in substantially the following  
26 form:

27 "NOTICE OF PUBLIC HEARING ON TAX RATE

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

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

10           (2) contain the following information:

11                   (A) the district's total adopted tax rate for the  
12 preceding year and the proposed tax rate, expressed as an amount per  
13 \$100;

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

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

27                   (D) the amount of tax that would have been

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

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

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

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

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

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

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

1 must be held to determine whether to ratify [~~reduce~~] the operation  
2 and maintenance tax rate [~~to the rollback tax rate~~] under Section  
3 49.236(d), Water Code."

4 (d) If the governing body of a district adopts a combined  
5 debt service, operation and maintenance, and contract tax rate that  
6 exceeds the rollback tax rate, [~~would impose more than 1.08 times~~  
7 ~~the amount of tax imposed by the district in the preceding year on a~~  
8 ~~residence homestead appraised at the average appraised value of a~~  
9 ~~residence homestead in the district in that year, disregarding any~~  
10 ~~homestead exemption available only to disabled persons or persons~~  
11 ~~65 years of age or older, the qualified voters of the district by~~  
12 ~~petition may require that~~] an election must be held to determine  
13 whether [~~or not~~] to ratify [~~reduce~~] the tax rate adopted for the  
14 current year [~~to the rollback tax rate~~] in accordance with the  
15 procedures provided by Sections 26.08(b)-(d) [~~26.07(b)-(g) and~~  
16 ~~26.081~~], Tax Code. For purposes of Sections 26.08(b)-(d)  
17 [~~26.07(b)-(g)~~] and this section [~~subsection~~], the rollback tax rate  
18 is the sum of the following tax rates:

- 19 (1) the current year's debt service tax rate;
- 20 (2) the current year's [and] contract tax rate; and
- 21 (3) [~~rates plus~~] the operation and maintenance tax  
22 rate that would impose 1.08 times the amount of the operation and  
23 maintenance tax imposed by the district in the preceding year on a  
24 residence homestead appraised at the average appraised value of a  
25 residence homestead in the district in that year, disregarding any  
26 homestead exemption available only to disabled persons or persons  
27 65 years of age or older.

1 SECTION 14. The following provisions are repealed:

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

4 (2) Section 26.07, Tax Code;

5 (3) Section 49.236, Water Code, as added by Chapter  
6 248 (H.B. 1541), Acts of the 78th Legislature, Regular Session,  
7 2003; and

8 (4) Section 49.2361, Water Code.

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

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

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