LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 2, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

FROM: John McGeady, Assistant Director   Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB2** by Burrows (relating to ad valorem taxation; authorizing fees.), **Committee Report 1st House, Substituted**

The bill would prohibit an appraisal review board from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas.

Additionally, the Comptroller's office reports that administrative costs to implement provisions of the bill would total $1,241,000 per year starting in fiscal year 2020 and require 18 FTEs.

The bill would amend several chapters of the Tax Code regarding general property tax provisions.

Provisions Affecting the Rollback Tax Rate

The bill would amend Chapter 26 of the Tax Code, regarding property taxation and assessment to define "revenue enrichment amount" as the amount for the current tax year published by the Comptroller. The bill requires the Comptroller to determine the revenue enrichment amount for the current tax year and publish that amount in the Texas Register by August 1 or as soon as practicable. The revenue enrichment amount for the 2020 tax year would be $250,000. For each succeeding tax year, the revenue enrichment amount would be equal to the revenue enrichment amount for the preceding tax year as adjusted by the Comptroller to reflect the inflation rate.

The bill would define "revenue enrichment rate" as the rate that, when applied to a taxing unit's current total value, would impose an amount of tax equal to the revenue enrichment amount.

The bill would define "special taxing unit" as a taxing unit, other than a school district, for which the maintenance and operations tax rate proposed for the current tax year is 2.5 cents or less per $100 of taxable value; a junior college district; a hospital district; or an emergency services district created under Chapter 775, Health and Safety Code.

The bill would establish the unused increment rate as the rate equal to the positive difference between the aggregate rate by which a taxing unit's rollback tax rate exceeded the taxing unit's adopted tax rate in the preceding five tax years and the aggregate rate by which a taxing unit's adopted tax rate exceeded the taxing unit's rollback tax rate in the preceding five tax years. None of the preceding five years may be years that begin before January 1, 2020.

The bill would establish differing rollback tax rate calculations for taxing units. For a special taxing unit, the percentage by which the no-new-revenue maintenance and operations tax rate would be increased in the rollback tax rate calculation would remain at 8 percent while for other taxing units the percentage would be 2.5 percent. The other taxing units would also be able to include their revenue enrichment rate and unused increment rate in calculating the rollback tax rate.

Taxing units that adopt a tax rate above the rollback tax rate would have to hold an election to approve the adopted rate.

The bill would re-name the effective tax rate as the "no-new-revenue tax rate" and the effective maintenance and operations tax rate as the "no-new-revenue maintenance and operations tax rate." The designated officer or employee of a taxing unit would be required to use the tax rate calculation forms prescribed by the Comptroller in calculating the no-new-revenue tax rate and the rollback tax rate. The designated officer or employee of taxing units other than school districts or certain water districts would not be permitted to submit these rates to the governing body of the taxing unit and the unit would not be permitted to adopt a tax rate until the designated officer or employee certifies on the tax rate calculation forms that the tax rate calculations are accurate and the values are the same as the values shown in the unit's certified appraisal roll.

Provisions Affecting Property Tax System Administration

The bill would amend Chapter 5 of the Tax Code, regarding state administration, to require the Comptroller to prescribe tax rate calculation forms to be used by the designated officer or employee of each taxing unit other than a school district to calculate and submit the no-new-revenue tax rate and the rollback tax rate for the unit; and to require each school district to calculate and submit the no-new-revenue tax rate, and the rollback tax rate, and to submit the rate to maintain the same amount of state and local revenue per weighted student that the district received in the preceding school year.

The bill would repeal Subsections 5.103(e) and (f) of the Tax Code, regarding an appraisal review board survey, and replace them with more specific provisions requiring the Comptroller to prepare a survey form that allows a property owner or the owner's designated agent who files an appraisal roll correction motion or a protest, or a representative of the appraisal district in which the motion or protest is filed, to submit comments and suggestions regarding any matter addressed in the Comptroller's model appraisal review board hearing procedures or any other matter related to the fairness or efficiency of the appraisal review board. An appraisal district would be required to provide the information about the survey to each property owner or designated agent at or before each hearing. Persons choosing to submit the survey form would be required to submit it to the Comptroller. The Comptroller would be required to allow submission of the survey form in person, by mail, by electronic mail, or through a web page on the Comptroller's Internet website. The bill would make other provisions and requirements regarding the completion and deadline for the survey form. The Comptroller would be required to issue an annual report summarizing the survey results, and to make the survey form and instructions available as soon as practicable after the bill's effective date, and would be permitted to adopt rules regarding the appraisal review board surveys.

The bill would require the Comptroller to review and verify the values and tax rates for all types of taxing units and prepare a biennial report so that the information provided to Comptroller is presented in a consistent manner.

Provisions Affecting Appraised Value of a Protested Property

The bill would prohibit an appraisal review board from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records submitted to the board by the chief appraiser unless the action being protested is the cancellation, modification, or denial of an exemption or the determination that the property does not qualify for certain agricultural or timber special appraisal.

Fiscal Analysis

The bill's provision that would prohibit an appraisal review board from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records could create a cost to the state through the school funding formulas. Currently, an appraisal review board may increase, decrease or make no change to a property's appraised value. Because information regarding properties for which the value is increased by an appraisal review board is unknown, the cost cannot be estimated.

Comptroller's Administrative Costs

The Comptroller's office reports that administrative costs to implement provisions of the bill would total $1,241,000 per year starting in fiscal year 2020. The administrative cost estimate reflects the funds necessary to hire 12 accounts examiner IIIs and 6 program specialist IVs to support the appraisal review board survey and the truth-in-taxation provisions and to review and verify property tax data from approximately 2000 special districts as well as provide verification of property tax data from 3004 cities, counties, and school districts.

Currently, the Property Tax Assistance Division (PTAD) reviews school district property tax information in detail for school funding purposes under the Property Value Study. PTAD also reviews to a lesser extent city and county property tax data. This information is used for the biennial report. While the Comptroller compiles special district information, this data is not reviewed or required to be reported in the biennial report. If the current review of school districts, counties, and cities were increased to the level necessary for verification and special districts reviewed to the level of verification, the Comptroller will need 12 Account Examiner IIIs and 3 Program Specialist IVs.

The bill requires the Comptroller to allow property owners, agents, or appraisal district employees who attend appraisal review board hearings to submit a survey by hardcopy or email. Currently, the Comptroller's Office only accepts surveys that are electronically submitted in such a way that the data may be automatically compiled. In 2018, 13,466 individuals who attended appraisal review board hearings electronically submitted surveys. While not every survey will be submitted by hardcopy under this bill, the number of handwritten surveys will significantly increase. Hand entry and processing of surveys will require 2 FTEs.

The bill also requires the Comptroller's Office to prescribe tax rate calculations forms for use by all taxing units. One additional program specialist is needed to manage the forms and provide customer service and technical support to thousands of taxing units who will be using the forms.

Local Government Impact

The bill would not change the calculation of a rollback rate for entities defined as a "special taxing unit" or for school districts. Special taxing units would include cities, counties, and other taxing units with tax rates of $0.025 or less, as well as several types of special districts.

The bill's provision lowering the increment in the calculation of the rollback rate for cities and counties with tax rates above $0.025 and for certain other taxing units from 8 percent to 2.5 percent could create a loss for these taxing units. This loss would be only partially offset by the addition of the unused increment rate and the revenue enrichment rate.

Historical tax rate data show that most cities and counties (about 75 percent) have adopted a tax rate less than the rollback rate. The number and affected levies of counties, cities, and other specified taxing units that would adopt the rollback rate proposed by the bill, a higher rate that is approved by the voters, or a lesser rate is unknown. Consequently, any loss from the bill's rollback rate provisions, and the timing thereof, cannot be estimated.

In estimating the costs in the example table below it was assumed that the bill's definition of "unused increment rate" which specifies that the rate is equal to the "positive difference" between certain specified rates does not mean "absolute value" but means that the rate may not be less than zero. The unused increment rate would be zero in the first year (fiscal 2021) and would phase in thereafter. The revenue enrichment rate would differ for each taxing unit in inverse proportion to taxable value (taxing units with higher taxable values would have lower revenue enrichment rates). The addition of the revenue enrichment rate in the rollback rate calculation would provide a significant increment to the rollback rate for taxing units with low taxable values and very little increment in taxing units with very high taxable values.

The fiscal loss to cities, counties, and other taxing units affected by changes made to the rollback calculation by the bill cannot be estimated because the future actions of governing bodies of taxing units in setting tax rates and the future actions of voters in tax rate elections are unknown.

The table below is an example of what the cost of the bill could be if the future tax rate-setting actions of governing bodies are similar to past trends and if voters do not ratify rates above the rollback rates provided by the bill.

Fiscal Year	Possible Revenue Gain/ (Loss) from Counties	Possible Revenue Gain/ (Loss) from Cities	Possible Revenue Gain/ (Loss) from CSHB 2 Special Taxing Units
2020	$ 0	$ 0	$ 0
2021	$ (249,702,000)	$ (280,391,000)	$ (63,568,000)
2022	$ (378,631,000)	$ (412,715,000)	$ (96,688,000)
2023	$ (505,040,000)	$ (542,515,000)	$ (129,160,000)
2024	$ (633,433,000)	$ (674,662,000)	$ (162,134,000)

The bill's provision that would prohibit an appraisal review board from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records could create a cost to local taxing units. Currently, an appraisal review board may increase, decrease or make no change to a property's appraised value. Because information regarding properties for which the value is increased by an appraisal review board is unknown, the cost cannot be estimated.

Source Agencies: 304 Comptroller of Public Accounts, 701 Texas Education Agency

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