

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 6, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

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

IN RE: SB2 by Bettencourt (Relating to ad valorem taxation; authorizing fees.), As Passed 2nd House

The bill's provision that revises the calculation of allowable maintenance and operations tax rates for school districts may result in reduced tax revenues for school districts and impact costs to the state through the operation of the school funding formulas.

The bill's provision that prohibits 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 would result in reduced tax revenues for school districts and increased costs to the state through operation of the school funding formulas.

The bill's provision that would allow a landowner to protest before the appraisal review board the market or appraised value of land subject to an additional tax because of a change of use of qualified open space land in each previous year of the five-year period used to determine the additional tax would result in reduced tax revenues for school districts and increased costs to the state through operation of the school funding formulas.

Additionally, the Comptroller's office reports that administrative costs to implement provisions of the bill would total (\$698,000) per year starting in fiscal year 2020 and require 10 FTEs.

The bill is contingent on House Bill 3, 86th Legislature, Regular Session becoming law.

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 "de minimis amount" as the amount for the current tax year published by the Comptroller. The bill requires the Comptroller to determine the de minimis amount for the current tax year and publish that amount in the Texas Register by August 1 or as soon as practicable. The de minimis amount for the 2020 tax year would be \$500,000. For each succeeding tax year, the de minimis amount would be equal to the de minimis amount for the preceding tax year as adjusted by the Comptroller to reflect the inflation rate.

The bill would define "consumer price index" as the consumer price index for all urban consumers

(all items, Dallas-Fort Worth-Arlington, Texas, core-based statistical area), as published by the Bureau of Labor Statistics, United States Department of Labor.

The bill would re-name the effective tax rate as the "no-new-revenue tax rate" and the effective maintenance and operations (M&O) tax rate as the "no-new-revenue maintenance and operations (M&O) 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 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.

The bill would define "de minimis rate" as the rate equal to the sum of a taxing unit's no-new-revenue M&O rate; the rate that, when applied to a taxing unit's current total value, would impose an amount of tax equal to the de minimis amount; and a taxing unit's current debt rate.

The bill would define "actual tax rate" as the taxing unit's maintenance and operations tax rate used to levy taxes for maintenance and operations in the applicable preceding tax year.

The bill would establish the unused increment rate as the greater of zero or the difference between the aggregate rate by which a taxing unit's rollback tax rate exceeded the taxing unit's actual tax rate in the preceding five tax years beginning in tax year 2020.

The bill would define "special taxing unit" as a taxing unit, other than a school district, for which the M&O tax rate proposed for the current tax year is 2.5 cents or less per \$100 of taxable value; a junior college district; or a hospital district.

The bill would define "developed district," applicable to water districts, as a district that has financed, completed, and issued bonds to pay for all land, works, improvements, facilities, plants, equipment, and appliances necessary to serve at least 95 percent of the projected build-out of the district.

The bill establishes differing rollback tax rate calculations for different taxing units. For a special taxing unit or a developed district as defined, the percentage by which the no-new-revenue M&O tax rate would be increased in the rollback tax rate calculation would remain at 8 percent while for other taxing units (except school districts) the percentage would be 3.5 percent. The other taxing units would also be able to include their unused increment rate in calculating the rollback tax rate.

The bill would amend the rollback tax rate calculation for school districts to the no-new-revenue M&O rate plus 2 percent growth plus the debt tax rate. Unlike other taxing units, the school district no-new-revenue M&O tax rate is the M&O tax rate that would provide a certain amount of state funding plus the local taxes from the preceding year. The state funding, however, would be an amount from the previous year that would have been received under the current year's funding formulas.

The bill would allow taxing units to increase the no-new-revenue M&O rate by the growth in local option residence homestead exemption costs if a taxing unit's local option residence homestead exemption costs exceed the amount of those costs for the preceding tax year.

Taxing units, other than special taxing units, that adopt a tax rate above the rollback tax rate or the de minimis rate (whichever is higher) would have to hold an election to approve the adopted rate.

Special taxing units that adopt a tax rate above the rollback tax rate would be required to hold an election to approve the adopted rate.

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 that allows certain individuals who attend a hearing 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. The individuals who may submit a survey are the 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. 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 and with each appraisal review board order. Appraisal review boards also must provide verbal notice of the survey at or before the first hearing on a motion or protest. Persons choosing to submit the survey 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 uniform resource locator (URL). The Comptroller would be required to issue an annual report summarizing the survey results, and to make the survey results 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 prescribe the format by which an appraisal district or taxing unit must submit values and tax rates to the Comptroller for the biennial report. The bill would require the Comptroller to review counties, cities, and school district information in detail and to collect and review special district information.

Other Provisions

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.

The bill would add to the items that may be protested under Tax Code Section 41.41, to allow a landowner to protest before the appraisal review board the market or appraised value of land subject to an additional tax because of a change of use of qualified open space land in each previous year of the five-year period used to determine the additional tax.

The bill would establish a commission on periodic tax preference review, composed of five members of the House of Representatives, appointed by the Speaker of the House of Representatives; five members of the Senate, appointed by the Lieutenant Governor; and the Comptroller.

The bill would adjust certain deadlines, and make clarifying or conforming repeals and amendments in the Tax Code and various other codes.

Contingent on House Bill 3, 86th Legislature, Regular Session becoming law, the bill would take effect on January 1, 2020, except as otherwise specified.

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 local taxing units and to the state through the school funding formulas. Currently, an appraisal review board may increase, decrease or make no change to 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.

The bill's provision that revises the calculation of allowable M&O rates for school districts may result in reduced tax revenues for school districts and impact costs to the state through the operation of the school funding formulas.

The bill's provision that would allow taxing units to increase the no-new-revenue M&O rate by the growth in local option residence homestead exemption costs if a taxing unit's local option residence homestead exemption costs exceed the amount of those costs for the preceding tax year would create a gain that would partially offset the estimated cost of the new rollback rate provisions to the extent that local option residence homestead costs grow, but the amount of the offset cannot be estimated.

The bill's prescribed method for calculating the school district no-new-revenue tax rate (a key component in the voter-approved tax rate) requires school finance formula information that is unavailable. Consequently, the cost to school districts and to the state for this provision cannot be estimated.

The bill's provision that would allow a landowner to protest before the appraisal review board the market or appraised value of land subject to an additional tax because of a change of use of qualified open space land in each previous year of the five-year period used to determine the additional tax would create a cost to local taxing units and to the state through the school funding formulas. The additional tax (ag rollback tax) is based on the sum of the differences between the market value and special appraised value in each of the five years preceding the change of use of the land. Because landowners who are qualified for the special appraisal of open space land are taxed on the lower open space appraised value they often do not bother to protest the higher market value. As a consequence, the market value in each year of the five-year period used to determine the ag rollback tax could be subject to reduction in a protest. Successful protests would reduce the ag rollback tax revenue to local taxing units and would create a cost to the state through the funding formulas. The extent to which these protests would be successful and the amount of resulting value change is unknown. Consequently, the cost to local taxing units and the state cannot be estimated. There would be no state cost for reduced interest payments on the affected properties because interest is not included in the school funding formulas. For the purpose of an illustrative table it was assumed that the difference between the market value and special open space value on properties that change use in the future would be reduced by 20 percent.

Comptroller's Administrative Costs

The Comptroller's office reports that administrative costs to implement provisions of the bill would total \$698,000 per year starting in 2020.

The administrative cost estimate reflects the funds necessary to hire six accounts examiner IIIs, two program specialist IIIs, and two program specialist IVs to support the appraisal review board survey and the truth-in-taxation provisions and to review 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 counties and cities were increased to an in detail review and the review would now include special districts, the Comptroller will need six account examiner IIIs and one program specialist IV.

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 attend 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 two program specialist IIIs.

The bill also requires the Comptroller's Office to prescribe tax rate calculations forms for use by all taxing units. One additional program specialist IV 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'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 and 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.

The bill's provision that revises the calculation of allowable M&O rates for school districts may result in reduced tax revenues for school districts and impact costs to the state through the operation of the school funding formulas.

The bill's provision that "consumer price index" means the consumer price index for all urban consumers (all items, Dallas-Fort Worth-Arlington, Texas, core-based statistical area), as published by the Bureau of Labor Statistics, United States Department of Labor, or its successor in function could marginally decrease the inflation rate used in the previous version of the bill to adjust the de minimis amount (\$500,000) in each tax year after 2020. This provision could slightly increase costs for certain cities, counties, and other non-school district taxing units, but the increase would not be significant.

The bill's provision that would include taxable value that has been appealed in district court and is actively under review as of July 25 in the calculation of last year's levy for the purpose of a rollback rate calculation would tend to increase rollback rates to the extent that such district court appeals occur. Increased rollback rates would decrease the cost of the bill to affected taxing units but the amount cannot be estimated.

The bill's provision that would define "actual tax rate" as the maintenance and operations tax rate used to levy taxes for maintenance and operations would create a mismatch between the actual tax rate, which would not include the debt rate, and the rollback rate, which would include the debt rate as these terms are used in the unused increment rate calculation, thereby increasing the unused increment rate and decreasing the costs to certain cities, counties, and other non-school district taxing units in future years. The amount of this cost decrease cannot be estimated because the future actions of taxing units in levying taxes related to debt cannot be predicted.

The bill's provision that would increase from one year to two years the number of years for which a non-special district taxing unit affected by a disaster is permitted to calculate the rollback tax rate in the manner provided for a special taxing unit as defined by the bill would generally decrease the cost of the bill to the affected taxing units. The property value involved in future disasters cannot be predicted; consequently the fiscal impact cannot be determined.

The bill's provision that would allow a landowner to protest before the appraisal review board the market or appraised value of land subject to an additional tax because of a change of use of qualified open space land in each previous year of the five-year period used to determine the additional tax would create a cost to local taxing units and to the state through the school funding formulas. The additional tax (ag rollback tax) is based on the sum of the differences between the market value and special appraised value in each of the five years preceding the change of use of the land. Because landowners who are qualified for the special appraisal of open space land are taxed on the lower open space appraised value they often do market value. As a consequence, the market value in each year of the five-year period used to determine the ag rollback tax could be subject to reduction in a protest. Successful protests would reduce the ag rollback tax revenue to local taxing units and would create a cost to the state through the funding formulas. The extent to which these protests would be successful and the amount of resulting value change is unknown. Consequently, the cost to local taxing units and the state cannot be estimated. There would be no state cost for reduced interest payments on the affected properties because interest is not included in the school funding formulas. For the purpose of an illustrative table it was assumed that the difference between the market value and special open space value on properties that change use in the future would be reduced by 20 percent.

The bill's provision that would allow taxing units to increase the no-new-revenue M&O rate by the growth in local option residence homestead exemption costs if a taxing unit's local option residence homestead exemption costs exceed the amount of those costs for the preceding tax year would create a gain that would partially offset the estimated cost of the new rollback rate provisions to the extent that local option residence homestead costs grow, but the amount of the offset cannot be estimated.

The bill's prescribed method for calculating the school district no-new-revenue tax rate (a key component in the voter-approved tax rate) requires school finance formula information that is unavailable. Consequently, the cost to school districts and to the state for this provision cannot be estimated.

The bill's provision that reduces the revenue growth increment used for determination of the rollback tax rate from 8 percent to 3.5 percent for non-school district taxing units other than

special taxing units, as defined, and implementation of a de minimis tax rate that would take the place of the rollback rate if the de minimis rate is greater would result in reduced tax revenues for certain cities, counties and special taxing units.

Tax rate and levy information from appraisal districts was used to estimate reduced tax revenues for cities, counties, and special taxing units. On the assumption that no proposed tax rates above the reduced rollback or de minimis tax rates (as applicable) would be approved by voters, reductions in revenue were estimated by comparing forecast property tax revenues extrapolated in line with the outlook for growth in appraised values to forecast revenues as constrained by the reduced rollback tax rates provided by the bill.

The following table is for illustrative purposes only. It shows the possible fiscal impact of the bill's provision that would allow a landowner to protest before the appraisal review board the market or appraised value of land subject to an additional tax because of a change of use of qualified open space land in each previous year of the five-year period used to determine the additional tax. The estimate assumes that successful protests would narrow the difference between the land's market value and special open space value by 20 percent. The actual cost cannot be estimated.

Fiscal Year	Possible Savings/(Cost) from Foundation School Fund 193	Possible Revenue Gain/(Loss) from School Districts	Possible Revenue Gain/(Loss) Counties	Possible Revenue Gain/(Loss) from Cities	Possible Revenue Gain/(Loss) from Special District
2020	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
2021	(1,972,673)	(79,065,600)	(22,222,600)	(4,757,600)	(16,701,600)
2022	(1,282,559)	(83,341,600)	(23,091,400)	(4,928,800)	(17,540,000)
2023	(1,007,743)	(87,784,800)	(23,994,200)	(5,106,200)	(18,420,200)
2024	(768,334)	(92,443,800)	(24,932,200)	(5,290,000)	(19,344,800)

For the table below, tax rate and levy information for appraisal districts was used to estimate reduced tax revenues for cities, counties, and special taxing units. On the assumption that no proposed tax rates above the reduced rollback or de minimis tax rates (as applicable) would be approved by voters, reductions in revenue were estimated by comparing forecast property tax revenues extrapolated in line with the outlook for growth in appraised values to forecast revenues as constrained by the reduced rollback tax rates provided by the bill.

Note that the table below is for illustrative purposes only and is for non-school district taxing units other than special taxing units as defined by the bill. The heading "Possible Revenue Gain/(Loss) from Special Districts" refers to special taxing units other than the "special taxing units" as defined in the bill. It is also based on the assumption that no taxing unit would adopt a tax rate that is above the rollback or de minimis tax rate (as applicable). The actual costs cannot be estimated because the results of any future elections to approve a proposed tax rate are unknown.

Compared to previous versions of the bill, illustrative revenue impacts were affected significantly by the effects of the de minimis rate calculation on the rate that triggers taxable values, the de minimis rate is much higher than the current-law rollback rate, offsetting part of the estimated costs that would otherwise occur.

Fiscal Year	Possible Revenue Gain/ (Loss) from Counties	Possible Revenue Gain/ (Loss) from Cities	Possible Revenue Gain/ (Loss) from Special Districts
2020	\$ 0	\$ 0	\$ 0
2021	\$ (105,575,000)	\$ (125,678,000)	\$ (72,379,000)
2022	\$ (182,476,000)	\$ (205,712,000)	\$ (134,382,000)
2023	\$ (250,267,000)	\$ (275,580,000)	\$ (189,593,000)
2024	\$ (325,347,000)	\$ (352,742,000)	\$ (252,159,000)

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

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