

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 24, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dennis Bonnen, Speaker of the House, House of Representatives

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

IN RE: SB2 by Bettencourt (Relating to ad valorem taxation; authorizing fees.), **Conference Committee Report**

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 exclude publications of the International Association of Assessing Officers from publications that would be considered generally accepted appraisal methods and techniques for the purposes of the Property Tax Code could create a cost to the state through the school funding formulas by depriving appraisal districts of an approved mass appraisal source in future litigation.

Additionally, the Comptroller's office reports that administrative costs to implement provisions of the bill would total (\$968,000) per year starting in fiscal year 2020 and require 13 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 re-name the effective tax rate as the "no-new-revenue tax rate," the effective maintenance and operations (M&O) tax rate as the "no-new-revenue maintenance and operations (M&O) tax rate," and the rollback tax rate as the "voter-approval 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 voter-approval tax rate.

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 \$500,000; and a taxing unit's current debt rate.

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 establish the unused increment rate as the greater of zero or the difference between the aggregate rate by which a taxing unit's voter-approval tax rate exceeded the taxing unit's actual tax rate in the preceding three tax years beginning in tax year 2020.

The bill establishes differing voter-approval tax rate calculations for taxing units. For a special taxing unit as defined, the percentage by which the no-new-revenue M&O tax rate would be increased in the voter-approval 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 voter-approval tax rate.

The bill would allow adjustments to the no-new-revenue M&O rate for certain indigent defense compensation expenditures and county hospital expenditures. The bill also would adjust the no-new revenue M&O rate by adding to the definition of last year's levy the taxes generated for the portion of taxable value of property subject to appeal under Chapter 42 of the Tax Code on July 25 that is not in dispute.

Special taxing units and municipalities with a population of 30,000 or more that adopt a tax rate above the voter-approval tax rate would be required to hold an election to approve the adopted rate. Taxing units (other than special taxing units) and municipalities with a population of less than 30,000 (regardless of whether the municipality is a special taxing unit) that adopt a tax rate above the voter-approval tax rate or the de minimis rate (whichever is higher) would have to hold an election to approve the adopted rate. If voters do not approve the adopted rate, then the taxing unit's tax rate for the current year is the voter-approval rate.

The bill provides certain petition requirements for taxing units (other than special taxing units, school districts, or cities with a population of 30,000 or more) that adopt a rate higher than the voter-approval rate but less than the de minimis rate to petition for an election when the de minimis rate exceeds the voter-approval rate. If registered voters submit a valid petition, the election would determine whether to lower the rate to the voter-approval rate.

Water districts under Chapter 49 of the Water Code would not be subject to automatic elections if the water district is not a developed district or does not have an operation and maintenance tax rate adopted for the current tax year of 2.5 cents or less per \$100 of taxable value; instead these districts would be subject to petition triggered tax rate elections.

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 voter-approval tax rate for the unit; and to require each school district to calculate and submit the no-new-revenue tax rate and the voter-approval 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 school year beginning in the preceding tax 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 that allows certain individuals who attend a hearing to submit comments and suggestions regarding an appraisal review board or any other matter related to the fairness or efficiency of the

appraisal review board. 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 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 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.

The bill would amend Chapter 23 of the Tax Code, regarding appraisal methods and procedures, to provide that appraisal methods and techniques included in the most recent versions of the following would be considered generally accepted appraisal methods and techniques for the purposes of the Property Tax Code:

- the Appraisal of Real Estate published by the Appraisal Institute;
- the Dictionary of Real Estate Appraisal published by the Appraisal Institute;
- the Uniform Standards of Professional Appraisal Practice published by The Appraisal Foundation; and
- a publication that includes information related to mass appraisal.

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, except as requested and agreed to by the property owner. This does not apply when the action being protested is the cancellation, or denial of an exemption or the determination that the property does not qualify for certain agricultural or timber special appraisal.

The bill would adjust certain deadlines and notices, 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 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 exclusion of publications of the International Association of Assessing Officers from publications that would be considered generally accepted appraisal methods and techniques for the purposes of the Property Tax Code could create a cost to taxing units and to the state through the school funding formula by depriving appraisal districts of an approved mass appraisal source in future litigation. The cost cannot be determined.

Comptroller's Administrative Costs

The Comptroller's office reports that administrative costs to implement provisions of the bill would total \$968,000 per year starting in 2020.

The administrative cost estimate reflects the funds necessary to hire six accounts examiner IIIs, two program specialist IIIs, four program specialist IVs, and one attorney 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 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 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.

The bill's provision that cites the sources of generally accepted appraisal methods and techniques in Tax Code Section 23.01 opens up sources of appraisal methods and techniques for mass appraisal to anyone, whether the group or person is a recognized authority. PTAD anticipates this will cause increased Property Value Study litigation, requiring an attorney IV to address the additional workload. The change will also require PTAD to develop, review, and revise property tax manuals, educational course materials, and general public information, requiring one program specialist IV to develop and regularly update a manual on mass appraisal as different sources of appraisal methods and techniques for mass appraisal change.

PTAD approves 15 property tax education courses and exams required for certification with the Texas Department of Licensing and Regulation and maintains 34 publications and 42 videos that will have to be reviewed and maintained under shifting appraisal standards, prompting the need for one program specialist IV to review educational materials and information materials available to the general public.

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.

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The bill's provision that reduces the revenue growth increment used for determination of the voter-approval 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 voter-approval rate if the de minimis rate is greater would result in reduced tax revenues for certain cities, counties, and special districts.

The bill's provision that would except cities with populations of 30,000 or more from the de minimis rate as one of the triggers for a tax rate election would result in reduced tax revenues for these cities.

The bill's provisions that would allow adjustments to the no-new-revenue M&O rate for certain indigent defense compensation expenditures and county hospital expenditures would create a gain that would partially offset the estimated loss of tax revenues from the new voter-approval rate provisions, but the amount of the offset cannot be estimated.

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 voter-approval 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 voter-approval rates provided by the bill.

The table is for illustrative purposes only. The table is for non-school district taxing units other than special taxing units as defined by the bill. The heading "Special Districts" refers to special districts not the "special taxing units" as defined in the bill. There would be no cost to special taxing units as defined by the bill. The table is also based on the assumption that no taxing unit would adopt a tax rate that is above the voter-approval 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.

Note: Illustrative revenue impacts were affected significantly by the effect of the de minimis rate calculation on the rate that triggers an election. For taxing units with low 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)	\$ (137,104,000)	\$ (72,379,000)
2022	\$ (182,476,000)	\$ (239,931,000)	\$ (134,382,000)
2023	\$ (250,267,000)	\$ (335,904,000)	\$ (189,593,000)
2024	\$ (325,347,000)	\$ (403,085,000)	\$ (252,159,000)

Source Agencies: 304 Comptroller of Public Accounts, 701 Texas Education Agency
LBB Staff: WP, KK, SJS, LCO, SD