By:  Bettencourt S.B. No. 1438

(In the Senate - Filed March 10, 2021; March 18, 2021, read first time and referred to Committee on Finance; April 13, 2021, reported favorably by the following vote: Yeas 14, Nays 1; April 13, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Nelson               X

Lucio                X

Bettencourt          X

Buckingham           X

Campbell             X

Creighton            X

Hancock              X

Huffman              X

Kolkhorst            X

Nichols              X

Perry                X

Schwertner           X

Taylor               X

West                 X

Whitmire                 X

A BILL TO BE ENTITLED

AN ACT

relating to the effect of a disaster on the calculation of certain tax rates and the procedure for adoption of a tax rate by a taxing unit.

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

SECTION 1.  Section 45.0032(d), Education Code, is amended to read as follows:

(d)  For a district to which Section 26.042(c) [~~26.08(a-1)~~], Tax Code, applies, the amount by which the district's maintenance tax rate exceeds the district's voter-approval tax rate, excluding the district's current debt rate under Section 26.08(n)(3) [~~26.08(n)(1)(C)~~], Tax Code, for the preceding year is not considered in determining a district's tier one maintenance and operations tax rate under Subsection (a) or the district's enrichment tax rate under Subsection (b) for the current tax year.

SECTION 2.  Section 48.202(f), Education Code, is amended to read as follows:

(f)  For a school year in which the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") under Subsection (a-1)(2) exceeds the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") under Subsection (a-1)(2) for the preceding school year, a school district shall reduce the district's tax rate under Section 45.0032(b)(2) for the tax year that corresponds to that school year to a rate that results in the amount of state and local funds per weighted student per cent of tax effort available to the district at the dollar amount guaranteed level for the preceding school year. A school district is not entitled to the amount equal to the increase of revenue described by this subsection for the school year for which the district must reduce the district's tax rate. Unless Section 26.042(c) [~~26.08(a-1)~~], Tax Code, applies to the district, for a tax year in which a district must reduce the district's tax rate under this subsection, the district may not increase the district's maintenance and operations tax rate to a rate that exceeds the maximum maintenance and operations tax rate permitted under Section 45.003(d) or (f), as applicable, minus the reduction of tax effort required under this subsection. This subsection does not apply if the amount of state funds appropriated for a school year specifically excludes the amount necessary to provide the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort under Subsection (a-1)(2).

SECTION 3.  Section 3828.157, Special District Local Laws Code, is amended to read as follows:

Sec. 3828.157.  INAPPLICABILITY OF CERTAIN TAX CODE PROVISIONS. Sections 26.04, 26.042, 26.05, 26.07, and 26.075, Tax Code, do not apply to a tax imposed under Section 3828.153 or 3828.156.

SECTION 4.  Section 8876.152(a), Special District Local Laws Code, is amended to read as follows:

(a)  Sections 26.04, 26.042, 26.05, 26.06, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax imposed by the district.

SECTION 5.  Chapter 26, Tax Code, is amended by adding Section 26.042 to read as follows:

Sec. 26.042.  CALCULATION AND ADOPTION OF CERTAIN TAX RATES IN DISASTER AREA. (a) Notwithstanding Sections 26.04 and 26.041, the governing body of a taxing unit other than a special taxing unit may direct the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit if any part of the taxing unit is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States and the disaster caused physical damage to property located in the taxing unit. The designated officer or employee shall continue calculating the voter-approval tax rate in the manner provided by this subsection until the earlier of:

(1)  the first tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred; or

(2)  the third tax year after the tax year in which the disaster occurred.

(b)  When increased expenditure of money by a taxing unit other than a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, epidemic, or pandemic, that has impacted the taxing unit and the governor has declared any part of the area in which the taxing unit is located as a disaster area, an election is not required under Section 26.07 to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs.

(c)  When increased expenditure of money by a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, epidemic, or pandemic, that has impacted the school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election is not required under Section 26.08 to approve the tax rate adopted by the governing body of the school district for the year following the year in which the disaster occurs. A tax rate adopted under this subsection applies only in the year for which the rate is adopted.

(d)  If a taxing unit adopts a tax rate under Subsection (b) or (c), the amount by which that rate exceeds the taxing unit's voter-approval tax rate for that tax year may not be considered when calculating the taxing unit's voter-approval tax rate for the tax year following the year in which the taxing unit adopts the rate.

SECTION 6.  Section 26.07(b), Tax Code, is amended to read as follows:

(b)  If the governing body of a special taxing unit or a municipality with a population of 30,000 or more adopts a tax rate that exceeds the taxing unit's voter-approval tax rate, or the governing body of a taxing unit other than a special taxing unit or a municipality with a population of less than 30,000 regardless of whether it is a special taxing unit adopts a tax rate that exceeds the greater of the taxing unit's voter-approval tax rate or de minimis rate, the registered voters of the taxing unit at an election held for that purpose must determine whether to approve the adopted tax rate. [~~When increased expenditure of money by a taxing unit is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, that has impacted the taxing unit and the governor has declared any part of the area in which the taxing unit is located as a disaster area, an election is not required under this section to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs.~~]

SECTION 7.  Section 49.107(g), Water Code, is amended to read as follows:

(g)  Sections 26.04, 26.042, 26.05, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax levied and collected under this section or an ad valorem tax levied and collected for the payment of the interest on and principal of bonds issued by a district.

SECTION 8.  Section 49.108(f), Water Code, is amended to read as follows:

(f)  Sections 26.04, 26.042, 26.05, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax levied and collected for payments made under a contract approved in accordance with this section.

SECTION 9.  Sections 26.04(c-1), 26.041(c-1), and 26.08(a-1), Tax Code, are repealed.

SECTION 10.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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