By: Bettencourt

S.B. No. 1438

A BILL TO BE ENTITLED

1   AN ACT

2 relating to the effect of a disaster on the calculation of certain

3 tax rates and the procedure for adoption of a tax rate by a taxing

4 unit.

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

6   SECTION 1. Section 45.0032(d), Education Code, is amended

7 to read as follows:

8   (d) For a district to which Section 26.042(c) [26.08(a-1)],

9 Tax Code, applies, the amount by which the district's maintenance

10 tax rate exceeds the district's voter-approval tax rate, excluding

11 the district's current debt rate under Section 26.08(n)(3)

12 [26.08(n)(1)(C)], Tax Code, for the preceding year is not

13 considered in determining a district's tier one maintenance and

14 operations tax rate under Subsection (a) or the district's

15 enrichment tax rate under Subsection (b) for the current tax year.

16   SECTION 2. Section 48.202(f), Education Code, is amended to

17 read as follows:

18   (f) For a school year in which the dollar amount guaranteed

19 level of state and local funds per weighted student per cent of tax

20 effort ("GL") under Subsection (a-1)(2) exceeds the dollar amount

21 guaranteed level of state and local funds per weighted student per

22 cent of tax effort ("GL") under Subsection (a-1)(2) for the

23 preceding school year, a school district shall reduce the

24 district's tax rate under Section 45.0032(b)(2) for the tax year

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1 that corresponds to that school year to a rate that results in the
2 amount of state and local funds per weighted student per cent of tax
3 effort available to the district at the dollar amount guaranteed
4 level for the preceding school year. A school district is not
5 entitled to the amount equal to the increase of revenue described by
6 this subsection for the school year for which the district must
7 reduce the district's tax rate. Unless Section 26.042(c)
8 [26.08(a-1)], Tax Code, applies to the district, for a tax year in
9 which a district must reduce the district's tax rate under this
10 subsection, the district may not increase the district's
11 maintenance and operations tax rate to a rate that exceeds the
12 maximum maintenance and operations tax rate permitted under Section
13 45.003(d) or (f), as applicable, minus the reduction of tax effort
14 required under this subsection. This subsection does not apply if
15 the amount of state funds appropriated for a school year
16 specifically excludes the amount necessary to provide the dollar
17 amount guaranteed level of state and local funds per weighted
18 student per cent of tax effort under Subsection (a-1)(2).
19   SECTION 3. Section 3828.157, Special District Local Laws
20 Code, is amended to read as follows:
21   Sec. 3828.157. INAPPLICABILITY OF CERTAIN TAX CODE
22 PROVISIONS. Sections 26.04, 26.042, 26.05, 26.07, and 26.075, Tax
23 Code, do not apply to a tax imposed under Section 3828.153 or
24 3828.156.
25   SECTION 4. Section 8876.152(a), Special District Local Laws
26 Code, is amended to read as follows:
27   (a) Sections 26.04, 26.042, 26.05, 26.06, 26.061, 26.07,

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1 and 26.075, Tax Code, do not apply to a tax imposed by the district.

2 SECTION 5. Chapter 26, Tax Code, is amended by adding

3 Section 26.042 to read as follows:

4 Sec. 26.042. CALCULATION AND ADOPTION OF CERTAIN TAX RATES

5 IN DISASTER AREA. (a) Notwithstanding Sections 26.04 and 26.041,

6 the governing body of a taxing unit other than a special taxing unit

7 may direct the designated officer or employee to calculate the

8 voter-approval tax rate of the taxing unit in the manner provided

9 for a special taxing unit if any part of the taxing unit is located

10 in an area declared a disaster area during the current tax year by

11 the governor or by the president of the United States and at least

12 one person is granted an exemption under Section 11.35 for property

13 located in the taxing unit. The designated officer or employee

14 shall continue calculating the voter-approval tax rate in the

15 manner provided by this subsection until the earlier of:

16 (1) the first tax year in which the total taxable value

17 of property taxable by the taxing unit as shown on the appraisal

18 roll for the taxing unit submitted by the assessor for the taxing

19 unit to the governing body exceeds the total taxable value of

20 property taxable by the taxing unit on January 1 of the tax year in

21 which the disaster occurred; or

22 (2) the third tax year after the tax year in which the

23 disaster occurred.

24 (b) When increased expenditure of money by a taxing unit

25 other than a school district is necessary to respond to a disaster,

26 including a tornado, hurricane, flood, wildfire, or other calamity,

27 but not including a drought, epidemic, or pandemic, that has

1   impacted the taxing unit and the governor has declared any part of

2   the area in which the taxing unit is located as a disaster area, an

3   election is not required under Section 26.07 to approve the tax rate

4   adopted by the governing body for the year following the year in

5   which the disaster occurs.

6   (c) When increased expenditure of money by a school district

7   is necessary to respond to a disaster, including a tornado,

8   hurricane, flood, wildfire, or other calamity, but not including a

9   drought, epidemic, or pandemic, that has impacted the school

10 district and the governor has requested federal disaster assistance

11 for the area in which the school district is located, an election is

12 not required under Section 26.08 to approve the tax rate adopted by

13 the governing body of the school district for the year following the

14 year in which the disaster occurs. A tax rate adopted under this

15 subsection applies only in the year for which the rate is adopted.

16   (d) If a taxing unit adopts a tax rate under Subsection (b)

17 or (c), the amount by which that rate exceeds the taxing unit's

18 voter-approval tax rate for that tax year may not be considered when

19 calculating the taxing unit's voter-approval tax rate for the tax

20 year following the year in which the taxing unit adopts the rate.

21   (e) A taxing unit that in a tax year elects to calculate the

22 taxing unit's voter-approval tax rate under Subsection (a) or adopt

23 a tax rate that exceeds the taxing unit's voter-approval tax rate

24 for that tax year without holding an election under Subsection (b)

25 or (c) must specify the disaster declaration that provides the

26 basis for authorizing the taxing unit to calculate or adopt a tax

27 rate under the applicable subsection. A taxing unit that in a tax

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1   year specifies a disaster declaration as providing the basis for

2   authorizing the taxing unit to calculate or adopt a tax rate under

3   Subsection (a), (b), or (c) may not in a subsequent tax year specify

4   the   same   disaster   declaration   as   providing   the   basis   for

5   authorizing the taxing unit to calculate or adopt a tax rate under

6   one of those subsections if in an intervening tax year the taxing

7   unit specifies a different disaster declaration as the basis for

8   authorizing the taxing unit to calculate or adopt a tax rate under

9   one of those subsections.

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

11 follows:

12   (b)   If the governing body of a special taxing unit or a

13 municipality with a population of 30,000 or more adopts a tax rate

14 that exceeds the taxing unit's voter-approval tax rate, or the

15 governing body of a taxing unit other than a special taxing unit or

16 a municipality with a population of less than 30,000 regardless of

17 whether it is a special taxing unit adopts a tax rate that exceeds

18 the greater of the taxing unit's voter-approval tax rate or de

19 minimis rate, the registered voters of the taxing unit at an

20 election held for that purpose must determine whether to approve

21 the adopted tax rate.   [When increased expenditure of money by a

22 taxing unit is necessary to respond to a disaster, including a

23 tornado, hurricane, flood, wildfire, or other calamity, but not

24 including a drought, that has impacted the taxing unit and the

25 governor has declared any part of the area in which the taxing unit

26 is located as a disaster area, an election is not required under

27 this section to approve the tax rate adopted by the governing body

1 for the year following the year in which the disaster occurs.]

2   SECTION 7. Section 49.107(g), Water Code, is amended to

3 read as follows:

4   (g) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and

5 26.075, Tax Code, do not apply to a tax levied and collected under

6 this section or an ad valorem tax levied and collected for the

7 payment of the interest on and principal of bonds issued by a

8 district.

9   SECTION 8. Section 49.108(f), Water Code, is amended to

10 read as follows:

11   (f) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and

12 26.075, Tax Code, do not apply to a tax levied and collected for

13 payments made under a contract approved in accordance with this

14 section.

15   SECTION 9. Sections 26.04(c-1), 26.041(c-1), and

16 26.08(a-1), Tax Code, are repealed.

17   SECTION 10. This Act takes effect immediately if it

18 receives a vote of two-thirds of all the members elected to each

19 house, as provided by Section 39, Article III, Texas Constitution.

20 If this Act does not receive the vote necessary for immediate

21 effect, this Act takes effect September 1, 2021.