

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(e) [~~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

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(e)
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,

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

2 SECTION 5. Section 11.43(s), Tax Code, is amended to read as
3 follows:

4 (s) A person who qualifies for an exemption under Section
5 11.35(b) must apply for the exemption not later than the 105th day
6 after the date the governor declares the area in which the person's
7 qualified property is located to be a disaster area. [~~A person who
8 qualifies for an exemption under Section 11.35(c) must apply for
9 the exemption not later than the 45th day after the date the
10 governing body of the taxing unit adopts the exemption.~~] The chief
11 appraiser may extend the deadline [~~deadlines~~] prescribed by this
12 subsection for good cause shown.

13 SECTION 6. Chapter 26, Tax Code, is amended by adding
14 Section 26.042 to read as follows:

15 Sec. 26.042. CALCULATION AND ADOPTION OF CERTAIN TAX RATES
16 IN DISASTER AREA. (a) Notwithstanding Sections 26.04 and 26.041,
17 the governing body of a taxing unit other than a school district or
18 a special taxing unit may direct the designated officer or employee
19 to calculate the voter-approval tax rate of the taxing unit in the
20 manner provided for a special taxing unit if any part of the taxing
21 unit is located in an area declared a disaster area during the
22 current tax year by the governor or by the president of the United
23 States and at least one person is granted an exemption under Section
24 11.35 for property located in the taxing unit. The designated
25 officer or employee shall continue calculating the voter-approval
26 tax rate in the manner provided by this subsection until the earlier
27 of:

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

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

9 (b) In the first tax year following the last tax year for
10 which the designated officer or employee calculates a taxing unit's
11 voter-approval tax rate in the manner provided by Subsection (a),
12 the taxing unit's voter-approval tax rate is reduced by the taxing
13 unit's emergency revenue rate. For purposes of this subsection, a
14 taxing unit's emergency revenue rate means a rate expressed in
15 dollars per \$100 of taxable value calculated according to the
16 following formula:

17 EMERGENCY REVENUE RATE = [(LAST YEAR'S ADOPTED TAX RATE -
18 ADJUSTED VOTER-APPROVAL TAX RATE) x LAST YEAR'S TOTAL VALUE] /
19 (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)

20 (c) For purposes of Subsection (b), "adjusted
21 voter-approval tax rate" means the voter-approval tax rate a taxing
22 unit would have calculated in the last year for which Subsection (a)
23 applied to the taxing unit if in each tax year Subsection (a)
24 applied to the taxing unit the taxing unit adopted a tax rate equal
25 to the greater of:

26 (1) the tax rate actually adopted by the taxing unit
27 for that tax year, if that tax rate was approved by the voters at an

1 election held under Section 26.07; or

2 (2) the taxing unit's voter-approval tax rate for that
3 tax year, calculated in the manner provided for a taxing unit other
4 than a special taxing unit.

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

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

24 (f) If a taxing unit adopts a tax rate under Subsection (d)
25 or (e), the amount by which that rate exceeds the taxing unit's
26 voter-approval tax rate for that tax year may not be considered when
27 calculating the taxing unit's voter-approval tax rate for the tax

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

2 (g) A taxing unit that in a tax year elects to calculate the
3 taxing unit's voter-approval tax rate under Subsection (a) or adopt
4 a tax rate that exceeds the taxing unit's voter-approval tax rate
5 for that tax year without holding an election under Subsection (d)
6 or (e) must specify the disaster declaration that provides the
7 basis for authorizing the taxing unit to calculate or adopt a tax
8 rate under the applicable subsection. A taxing unit that in a tax
9 year specifies a disaster declaration as providing the basis for
10 authorizing the taxing unit to calculate or adopt a tax rate under
11 Subsection (a), (d), or (e) may not in a subsequent tax year specify
12 the same disaster declaration as providing the basis for
13 authorizing the taxing unit to calculate or adopt a tax rate under
14 one of those subsections if in an intervening tax year the taxing
15 unit specifies a different disaster declaration as the basis for
16 authorizing the taxing unit to calculate or adopt a tax rate under
17 one of those subsections.

18 SECTION 7. Section 26.07(b), Tax Code, is amended to read as
19 follows:

20 (b) If the governing body of a special taxing unit or a
21 municipality with a population of 30,000 or more adopts a tax rate
22 that exceeds the taxing unit's voter-approval tax rate, or the
23 governing body of a taxing unit other than a special taxing unit or
24 a municipality with a population of less than 30,000 regardless of
25 whether it is a special taxing unit adopts a tax rate that exceeds
26 the greater of the taxing unit's voter-approval tax rate or de
27 minimis rate, the registered voters of the taxing unit at an

1 election held for that purpose must determine whether to approve
2 the adopted tax rate. [~~When increased expenditure of money by a
3 taxing unit is necessary to respond to a disaster, including a
4 tornado, hurricane, flood, wildfire, or other calamity, but not
5 including a drought, that has impacted the taxing unit and the
6 governor has declared any part of the area in which the taxing unit
7 is located as a disaster area, an election is not required under
8 this section to approve the tax rate adopted by the governing body
9 for the year following the year in which the disaster occurs.~~]

10 SECTION 8. Section 49.107(g), Water Code, is amended to
11 read as follows:

12 (g) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and
13 26.075, Tax Code, do not apply to a tax levied and collected under
14 this section or an ad valorem tax levied and collected for the
15 payment of the interest on and principal of bonds issued by a
16 district.

17 SECTION 9. Section 49.108(f), Water Code, is amended to
18 read as follows:

19 (f) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and
20 26.075, Tax Code, do not apply to a tax levied and collected for
21 payments made under a contract approved in accordance with this
22 section.

23 SECTION 10. The following provisions of the Tax Code are
24 repealed:

- 25 (1) Sections 11.35(c), (d), and (e);
- 26 (2) Section 26.04(c-1);
- 27 (3) Section 26.041(c-1); and

1 (4) Section 26.08(a-1).

2 SECTION 11. The changes in law made by this Act to Sections
3 11.35 and 11.43, Tax Code, apply only to ad valorem taxes imposed
4 for a tax year that begins on or after January 1, 2022.

5 SECTION 12. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1438 passed the Senate on April 19, 2021, by the following vote: Yeas 21, Nays 10; May 10, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 14, 2021, House granted request of the Senate; May 29, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 21, Nays 10.

Secretary of the Senate

I hereby certify that S.B. No. 1438 passed the House, with amendments, on April 29, 2021, by the following vote: Yeas 103, Nays 43, one present not voting; May 14, 2021, House granted request of the Senate for appointment of Conference Committee; May 30, 2021, House adopted Conference Committee Report by the following vote: Yeas 127, Nays 15, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor