

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 2, 2021

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1438 by Bettencourt (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.), **As Passed 2nd House**

The bill's provisions requiring a disaster to have caused at least one person to be granted a temporary disaster exemption for property located in the taxing unit and excluding epidemics and pandemics as qualifying disasters for taxing units to utilize the higher voter-approval tax rate calculation after a disaster 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 would add a new section to Chapter 26 of the Tax Code, regarding property tax assessment, to allow a taxing unit other than a school district or a special taxing unit to calculate the voter-approval tax rate in the manner provided for a special taxing unit if it is located in an area declared a disaster by the Governor or President of the United States during the current tax year and at least one person is granted a temporary disaster exemption under Tax Code 11.35 for property located in the taxing unit. A taxing unit may continue this calculation until the earlier of the first tax year in which the total taxable value exceeds that of Jan. 1 of the year in which the disaster occurred or the third year after the disaster occurred.

The bill would require a taxing unit that adopts a disaster tax rate make an adjustment to the voter-approval tax rate the first year following the last year the taxing unit calculates a tax rate in the manner of a special taxing unit. The taxing unit must reduce its voter-approval tax rate by the emergency revenue rate, as defined.

The bill would provide that a tax rate election under Section 26.07 of the Tax code is not required the year following a disaster if increased expenditure of 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 excluding a drought, epidemic, or pandemic, that has impacted the taxing unit.

For school districts, an election under Section 26.08 of the Tax Code is not required if increased expenditure is necessary to respond to a disaster including a tornado, hurricane, flood, wildfire, or other calamity, but excluding a drought, epidemic, or pandemic that has impacted the school district and the Governor has requested federal disaster assistance for the area where the school district is located.

If a taxing unit adopts a tax rate due to increased expenditures following a disaster, the amount by which the tax rate exceeds the voter-approval tax rate cannot be considered when calculating the voter-approval tax rate for the following year. The bill would require that a taxing unit specify the disaster declaration that provides the basis for authorizing the taxing unit to calculate its tax rate under this disaster provision.

The bill would repeal existing law relating to the calculation of a tax rate in a disaster area and make conforming amendments in the Tax, Education, Special District Local Laws, and Water Codes.

Current law allows taxing units, other than school districts, to calculate the voter-approval tax rate in the manner provided for a special taxing unit if increased expenditures are caused by a disaster, excluding drought. Special taxing units are allowed an 8 percent increase to the no-new-revenue M&O tax rate in the voter-approval tax rate calculation while other taxing units are capped at 3.5 percent. Requiring that at least one

person be granted a temporary disaster exemption for property located in the taxing unit requires the disaster to have caused physical damage to property. Excluding epidemics and pandemics as qualifying disasters reduces the number of disasters from current law. These new requirements for taxing units to utilize the higher voter-approval tax rate calculation after a disaster could create a cost to local taxing units (other than special taxing units as defined in statute). Current law allows school districts to adopt a tax rate without an election following a disaster. Excluding an epidemic or pandemic from a qualifying disaster could create a cost to school districts and the state through the school funding formula. Cost would depend on the incidence and severity of future disasters and to the extent that taxing units need increased revenue due to epidemics, pandemics, or other disasters that do not cause physical damage. The frequency, timing, and severity of future disasters, and the number of taxing units that would be impacted cannot be predicted. Consequently, the cost of the bill cannot be estimated.

The bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2021.

Local Government Impact

The bill's provisions requiring a disaster to have caused at least one person be granted a temporary disaster exemption for property located in the taxing unit and excluding epidemics and pandemics as qualifying disasters for taxing units to utilize the higher voter-approval tax rate calculation after a disaster may result in reduced tax revenues for taxing units. The provisions of the bill that eliminate a pandemic or epidemic as qualifying disasters could reduce tax revenue available to taxing units that calculated their voter-approval rate in the manner provided for a special taxing unit in response to the coronavirus pandemic. The frequency, timing, and severity of future disasters, and the number of taxing units that would be impacted cannot be predicted. Consequently, the cost of the bill cannot be estimated.

Source Agencies: 304 Comptroller of Public Accounts

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