

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 8, 2021**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Finance

**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 Introduced**

**The bill's provisions requiring a disaster to have caused physical damage to property 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 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 year of the disaster and the disaster causes physical damage to property. A taxing unit may continue this calculation until the earlier of the first tax year in which the total taxable value exceeds that of January 1 of the year in which the disaster occurred or the third year after the disaster occurred.

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 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 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, and does not specify the disaster must cause physical damage to property. 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 a lower percentage. Requiring a disaster to have caused physical damage to property and excluding epidemics and pandemics as qualifying disasters 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) and the state through the school funding formula. Costs 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 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.

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 physical damage to property 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

**LBB Staff:** JMc, KK, SD, BRI