

By: Tepper

H.B. No. 47

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a property owner to obtain an injunction restraining the collection of ad valorem taxes by a taxing unit if the taxing unit adopts a tax rate that exceeds the voter-approval tax rate and subsequently takes an action that constitutes a material deviation from the stated purpose of the tax increase.

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

SECTION 1. Section 26.012, Tax Code, is amended by adding Subdivision (16-a) to read as follows:

(16-a) "Materially deviate" means to make a significant change in carrying out the purpose stated to voters on a ballot proposition, stated in any order or resolution calling for an election required under this chapter, or stated in resolutions adopted to accompany or supplement a ballot proposition, including:

(A) a significant change in purpose;

(B) a significant change in the financing structure for the purpose;

(C) an increase of more than 33 percent in actual or projected costs of the purpose;

(D) a significant reduction in scope or scale of the purpose;

(E) a legal determination, including a finding under Chapter 1202 or 1205, Government Code, that the purpose

1 stated on the ballot proposition or any order or resolution calling
2 for an election required under this chapter was not in conformity
3 with law; or

4 (F) any other attempt to substantially impair the
5 rights and expectations of the voters as they existed at the time of
6 the election.

7 SECTION 2. Section 26.05, Tax Code, is amended by adding
8 Subsection (e-2) to read as follows:

9 (e-2) A person who owns taxable property is entitled to an
10 injunction restraining the collection of taxes by a taxing unit in
11 which the property is taxable if the taxing unit has materially
12 deviated from the purpose stated in the ballot for an election
13 required to be held under Section 26.07, in the order or resolution
14 ordering the election, or in an order or resolution accompanying
15 the ballot. An action to enjoin the collection of taxes must be
16 filed not later than the 15th day after the date the taxing unit
17 adopts a tax rate. A property owner who owns taxable property in
18 the taxing unit is not required to pay the taxes imposed by the
19 taxing unit on the owner's property while an action to enjoin the
20 collection of the taxes under this subsection is pending. If a
21 property owner pays the taxes and the property owner who filed the
22 action subsequently prevails in the action, the property owner who
23 paid the taxes is entitled to a refund of the taxes paid. A property
24 owner is not required to apply to the collector for the taxing unit
25 to receive the refund. A property owner who files an action under
26 this subsection and subsequently prevails is entitled to reasonable
27 attorney's fees and court costs.

1 SECTION 3. Section 26.05(e-2), Tax Code, as added by this
2 Act, applies to an action filed by a property owner to enjoin the
3 collection of ad valorem taxes for a material deviation from the
4 purpose stated in the ballot for an election required to be held
5 under Section 26.07 of that code, in the order or resolution
6 ordering the election, or in an order or resolution accompanying
7 the ballot, only if the material deviation occurs on or after the
8 effective date of this Act.

9 SECTION 4. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect on the 91st day after the last day of the
14 legislative session.