

By: Isett

H.B. No. 3534

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain limitations on the ad valorem tax rates of
3 certain taxing units.

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

5 SECTION 1. Section 26.04(c), Tax Code, is amended to read as
6 follows:

7 (c) An officer or employee designated by the governing body
8 shall calculate the effective tax rate and the rollback tax rate for
9 the unit, where:

10 (1) "Effective tax rate" means a rate expressed in
11 dollars per \$100 of taxable value calculated according to the
12 following formula:

13
$$\text{EFFECTIVE TAX RATE} = (\text{LAST YEAR'S LEVY} - \text{LOST PROPERTY LEVY}) /$$

14
$$(\text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})$$

15 ; and

16 (2) "Rollback tax rate" means a rate expressed in
17 dollars per \$100 of taxable value calculated according to the
18 following formula:

19
$$\text{ROLLBACK TAX RATE} = (\text{EFFECTIVE MAINTENANCE AND OPERATIONS RATE} \times$$

20
$$\underline{1.05} [\text{~~1.08~~}] + \text{CURRENT DEBT RATE}$$

21 SECTION 2. Sections 26.041(a), (b), and (c), Tax Code, are
22 amended to read as follows:

23 (a) In the first year in which an additional sales and use
24 tax is required to be collected, the effective tax rate and rollback

1 tax rate for the unit are calculated according to the following
2 formulas:

3 EFFECTIVE TAX RATE = $\frac{[(\text{LAST YEAR'S LEVY} - \text{LOST PROPERTY LEVY}) / (\text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})]}{1} - \text{SALES TAX GAIN RATE}$

4 and

5
6 ROLLBACK TAX RATE = (EFFECTIVE MAINTENANCE AND OPERATIONS RATE x
7 1.05 [~~1.08~~]) + CURRENT DEBT RATE - SALES TAX GAIN RATE

8 where "sales tax gain rate" means a number expressed in dollars per
9 \$100 of taxable value, calculated by dividing the revenue that will
10 be generated by the additional sales and use tax in the following
11 year as calculated under Subsection (d) [~~of this section~~] by the
12 current total value.

13 (b) Except as provided by Subsections (a) and (c) [~~of this~~
14 ~~section~~], in a year in which a taxing unit imposes an additional
15 sales and use tax the rollback tax rate for the unit is calculated
16 according to the following formula, regardless of whether the unit
17 levied a property tax in the preceding year:

18 ROLLBACK TAX RATE = $\frac{[(\text{LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE} \times \text{1.05} [\text{1.08}]) / ((\text{TOTAL} [\text{TOTAL}] \text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})]}{1} + (\text{CURRENT DEBT RATE} - \text{SALES TAX REVENUE RATE})$

19 where "last year's maintenance and operations expense" means the
20 amount spent for maintenance and operations from property tax and
21 additional sales and use tax revenues in the preceding year, and
22 "sales tax revenue rate" means a number expressed in dollars per
23 \$100 of taxable value, calculated by dividing the revenue that will
24 be generated by the additional sales and use tax in the current year
25 as calculated under Subsection (d) [~~of this section~~] by the current
26
27

1 total value.

2 (c) In a year in which a taxing unit that has been imposing
 3 an additional sales and use tax ceases to impose an additional sales
 4 and use tax the effective tax rate and rollback tax rate for the
 5 unit are calculated according to the following formulas:

6 EFFECTIVE TAX RATE = [(LAST YEAR'S LEVY - LOST PROPERTY LEVY) /
 7 (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)] + SALES TAX LOSS RATE

8 and

9 ROLLBACK TAX RATE = [(LAST YEAR'S MAINTENANCE AND OPERATIONS
 10 EXPENSE X 1.05 [~~1.08~~]) / ((~~TOTAL~~) CURRENT TOTAL VALUE - NEW PROPERTY
 11 VALUE)] + CURRENT DEBT RATE

12 where "sales tax loss rate" means a number expressed in dollars per
 13 \$100 of taxable value, calculated by dividing the amount of sales
 14 and use tax revenue generated in the last four quarters for which
 15 the information is available by the current total value and "last
 16 year's maintenance and operations expense" means the amount spent
 17 for maintenance and operations from property tax and additional
 18 sales and use tax revenues in the preceding year.

19 SECTION 3. Chapter 26, Tax Code, is amended by adding
 20 Section 26.046 to read as follows:

21 Sec. 26.046. ROLLBACK RELIEF FOR UNFUNDED STATE MANDATE.

22 (a) In this section, "state mandate" means a statutory provision
 23 that is enacted by the legislature, or a rule or order implementing
 24 a state statute that is prescribed or issued by a state officer or
 25 state agency in the executive branch of state government, and that
 26 requires a taxing unit to establish, expand, or change an activity
 27 in a way that requires an expenditure of revenue that would not have

1 been required in the absence of the statutory provision, rule, or
2 order.

3 (b) For purposes of this section, a state mandate is
4 considered to be unfunded during any period for which the state has
5 not provided, by legislative appropriation or otherwise, for the
6 affected taxing unit to receive state or federal funds in an amount
7 estimated to be sufficient to meet the cost of complying with or
8 implementing the mandate. If the legislature provides for funds by
9 authorizing or requiring an affected taxing unit to collect a
10 regulatory or user fee that the state will impose or that a taxing
11 unit is authorized to impose on persons who engage in an activity
12 that is the subject of or is directly connected to the subject of
13 the state mandate, the anticipated revenue from the fee is
14 considered for purposes of this section to be funds provided by the
15 state to pay for the costs of the state mandate.

16 (c) This section does not apply to:

17 (1) a state mandate the existence of which is
18 necessary for compliance with a requirement of the Texas
19 Constitution, a court order, or federal law, including a state
20 mandate that is necessary for continued participation in a federal
21 program;

22 (2) a state statute that creates a criminal offense or
23 changes the elements of a criminal offense; or

24 (3) a decision or order by a state officer or state
25 agency that requires a taxing unit to comply with, or that sanctions
26 the taxing unit for failure to comply with, a law, rule, or order
27 that is not an unfunded state mandate to which this section applies.

1 (d) The effective tax rate and the rollback tax rate for a
2 taxing unit calculated under any other provision of this chapter
3 are increased by the rate that, if applied to current total value,
4 would impose an amount of taxes equal to the amount the taxing unit
5 is required to spend to comply with or implement an unfunded state
6 mandate in the budget year for which the taxes will be imposed. If
7 the taxing unit is a county or a municipality, in the formula for
8 calculating the rollback tax rate under any other provision of this
9 chapter, the governing body of the taxing unit may, at its option,
10 substitute the sum of 1 plus the consumer price index percentage
11 change, if any, not to exceed eight percent, for 1.05. For a county
12 or municipality that elects to make the substitution in the
13 calculation of its rollback tax rate as authorized by this
14 subsection, notwithstanding Section 26.07(b)(2), a petition
15 authorized by Section 26.07(a) is valid only if it is signed by a
16 number of registered voters of the county or municipality equal to
17 at least 10 percent of the number of registered voters of the taxing
18 unit according to the most recent official list of registered
19 voters. Not later than July 1 of each year the state auditor shall
20 determine the consumer price index percentage change and publish
21 that change in the Texas Register. In this subsection:

22 (1) "Consumer price index" means the consumer price
23 index, as published by the Bureau of Labor Statistics of the United
24 States Department of Labor, that measures the average changes in
25 prices of goods and services purchased by urban wage earners and
26 clerical workers' families and single workers living alone (CPI-W:
27 Seasonally Adjusted U.S. City Average--All Items).

1 (2) "Consumer price index percentage change" means the
2 percentage increase or decrease in the consumer price index for the
3 most recent state fiscal year for which the information is
4 available, from the consumer price index for the state fiscal year
5 preceding that state fiscal year, as calculated by the state
6 auditor.

7 (e) In each subsequent year that the taxing unit adopts a
8 tax rate, if the amount the taxing unit is required to spend to
9 comply with or implement the unfunded state mandate is greater than
10 the amount required to be spent for the mandate in the preceding
11 year, the effective tax rate and the rollback tax rate for the
12 taxing unit are increased by the rate that, if applied to current
13 total value, would impose an amount of taxes equal to the increase
14 in the amount required to be spent to comply with or implement the
15 mandate in that year.

16 (f) A taxing unit shall include a notice of an increase in
17 the effective tax rate and the rollback tax rate made as provided by
18 this section, including a description of and the estimated amount
19 of the unfunded state mandate, in the information published under
20 Sections 26.04 and 26.06 of this code, Section 44.004, Education
21 Code, or Section 49.236, Water Code.

22 (g) On or before the September 1 following a regular session
23 of the legislature and on or before the 90th day after the last day
24 of a special session of the legislature, the comptroller shall
25 publish a list of legislative mandates for which the legislature
26 has not provided reimbursement as provided by Subsection (b) and
27 that were enacted by the legislature during that legislative

1 session. By that same date the comptroller shall:

2 (1) remove from the list of legislative mandates from
3 a previous legislative session a legislative mandate:

4 (A) for which the legislature has provided
5 reimbursement as provided by Subsection (b); or

6 (B) that is no longer in effect; and

7 (2) add to the list a legislative mandate from a
8 previous legislative session for which reimbursement was provided
9 as provided by Subsection (b) in the previous session but for which
10 reimbursement was not provided in the most recent regular session
11 or in any subsequent special session.

12 (h) The comptroller shall deliver the list prepared under
13 Subsection (g) to the secretary of state for publication in the
14 Texas Register.

15 (i) A taxing unit that believes it is subject to an unfunded
16 state mandate that is not listed by the comptroller under
17 Subsection (g) must apply in writing to the comptroller for a
18 determination as to whether the taxing unit is subject to an
19 unfunded state mandate. The comptroller shall make the
20 determination as soon as practicable and send a copy of the
21 determination to the chief executive officer of the taxing unit. If
22 the comptroller determines that an unfunded mandate exists, the
23 comptroller shall add the unfunded mandate to the list published
24 under Subsection (g) as soon as practicable and deliver a notice of
25 the addition to the secretary of state for publication in the Texas
26 Register.

27 SECTION 4. Section 26.07(b), Tax Code, is amended to read as

1 follows:

2 (b) A petition is valid only if:

3 (1) it states that it is intended to require an
4 election in the taxing unit on the question of reducing the tax rate
5 for the current year;

6 (2) it is signed by a number of registered voters of
7 the taxing unit equal to at least ~~+~~

8 ~~[(A) seven percent of the number of registered~~
9 ~~voters of the taxing unit according to the most recent list of~~
10 ~~registered voters if the tax rate adopted for the current tax year~~
11 ~~would impose taxes for maintenance and operations in an amount of at~~
12 ~~least \$5 million; or~~

13 ~~[(B)]~~ 10 percent of the number of registered
14 voters of the taxing unit who voted in the most recent gubernatorial
15 election ~~[according to the most recent official list of registered~~
16 ~~voters if the tax rate adopted for the current tax year would impose~~
17 ~~taxes for maintenance and operations in an amount of less than \$5~~
18 ~~million]; and~~

19 (3) it is submitted to the governing body on or before
20 the 90th day after the date on which the governing body adopted the
21 tax rate for the current year.

22 SECTION 5. Section 49.236, Water Code, as added by Chapters
23 248 and 335, Acts of the 78th Legislature, Regular Session, 2003, is
24 reenacted and amended to read as follows:

25 Sec. 49.236. NOTICE OF TAX HEARING. (a) Before the board
26 adopts an ad valorem tax rate for the district for debt service,
27 operation and maintenance purposes, or contract purposes, the board

1 shall give notice of each meeting of the board at which the adoption
2 of a tax rate will be considered. The notice must:

3 (1) contain a statement in substantially the following
4 form:

5 "NOTICE OF PUBLIC HEARING ON TAX RATE

6 "The (name of the district) will hold a public hearing on a
7 proposed tax rate for the tax year (year of tax levy) on (date and
8 time) at (meeting place). Your individual taxes may increase or
9 decrease, depending on the change in the taxable value of your
10 property in relation to the change in taxable value of all other
11 property and the tax rate that is adopted.

12 "(Names of all board members and, if a vote was taken, an
13 indication of how each voted on the proposed tax rate and an
14 indication of any absences.)";

15 (2) contain the following information:

16 (A) the district's total adopted tax rate for the
17 preceding year and the proposed tax rate, expressed as an amount per
18 \$100;

19 (B) the difference, expressed as an amount per
20 \$100 and as a percent increase or decrease, as applicable, in the
21 proposed tax rate compared to the adopted tax rate for the preceding
22 year;

23 (C) the average appraised value of a residence
24 homestead in the district in the preceding year and in the current
25 year; the district's total homestead exemption, other than an
26 exemption available only to disabled persons or persons 65 years of
27 age or older, applicable to that appraised value in each of those

1 years; and the average taxable value of a residence homestead in the
2 district in each of those years, disregarding any homestead
3 exemption available only to disabled persons or persons 65 years of
4 age or older;

5 (D) the amount of tax that would have been
6 imposed by the district in the preceding year on a residence
7 homestead appraised at the average appraised value of a residence
8 homestead in that year, disregarding any homestead exemption
9 available only to disabled persons or persons 65 years of age or
10 older;

11 (E) the amount of tax that would be imposed by the
12 district in the current year on a residence homestead appraised at
13 the average appraised value of a residence homestead in that year,
14 disregarding any homestead exemption available only to disabled
15 persons or persons 65 years of age or older, if the proposed tax
16 rate is adopted; and

17 (F) the difference between the amounts of tax
18 calculated under Paragraphs (D) and (E), expressed in dollars and
19 cents and described as the annual percentage increase or decrease,
20 as applicable, in the tax to be imposed by the district on the
21 average residence homestead in the district in the current year if
22 the proposed tax rate is adopted; and

23 (3) contain a statement in substantially the following
24 form:

25 "NOTICE OF TAXPAYERS' RIGHT TO
26 ROLLBACK ELECTION

27 "If taxes on the average residence homestead increase by more

1 than five [~~eight~~] percent, the qualified voters of the district by
2 petition may require that an election be held to determine whether
3 to reduce the operation and maintenance tax rate to the rollback tax
4 rate under Section 49.236(d), Water Code."

5 (b) Notice of the hearing shall be:

6 (1) published at least once in a newspaper having
7 general circulation in the district at least seven days before the
8 date of the hearing; or

9 (2) mailed to each owner of taxable property in the
10 district, at the address for notice shown on the most recently
11 certified tax roll of the district, at least 10 days before the date
12 of the hearing.

13 (c) The notice provided under this section may not be
14 smaller than one-quarter page of a standard-size or tabloid-size
15 newspaper of general circulation, and the headline on the notice
16 must be in 18-point or larger type.

17 (d) If the governing body of a district adopts a combined
18 debt service, operation and maintenance, and contract tax rate that
19 would impose more than 1.05 [~~1.08~~] times the amount of tax imposed
20 by the district in the preceding year on a residence homestead
21 appraised at the average appraised value of a residence homestead
22 in the district in that year, disregarding any homestead exemption
23 available only to disabled persons or persons 65 years of age or
24 older, the qualified voters of the district by petition may require
25 that an election be held to determine whether [~~or not~~] to reduce the
26 tax rate adopted for the current year to the rollback tax rate in
27 accordance with the procedures provided by Section 26.07 [~~Sections~~

1 ~~26.07(b)-(g) and 26.081~~], Tax Code. For purposes of Section 26.07,
2 Tax Code, [~~Sections 26.07(b)-(g)~~] and this subsection, the rollback
3 tax rate is the current year's debt service and contract tax rates
4 plus the operation and maintenance tax rate that would impose 1.05
5 [~~1.08~~] times the amount of the operation and maintenance tax
6 imposed by the district in the preceding year on a residence
7 homestead appraised at the average appraised value of a residence
8 homestead in the district in that year, disregarding any homestead
9 exemption available only to disabled persons or persons 65 years of
10 age or older.

11 SECTION 6. (a) The change in law made by this Act applies
12 to the ad valorem tax rate of a taxing unit beginning with the 2007
13 tax year, except as provided by Subsection (b) of this section.

14 (b) If the governing body of a taxing unit adopted an ad
15 valorem tax rate for the taxing unit for the 2007 tax year before
16 the effective date of this Act, the change in law made by this Act
17 applies to the ad valorem tax rate of that taxing unit beginning
18 with the 2008 tax year, and the law in effect when the tax rate was
19 adopted applies to the 2007 tax year with respect to that taxing
20 unit.

21 SECTION 7. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect on the 91st day after the last day of the
26 legislative session.