

BILL ANALYSIS

S.B. 1438
By: Bettencourt
Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the authority of taxing units to use certain provisions of the Property Tax Code when calculating and adopting a tax rate for an area that includes the taxing unit after a disaster is declared. It has been suggested that use of these disaster provisions should be limited to disasters that cause physical property damage within a taxing unit. Additionally, it has been suggested that the timing of the provisions and how the use of the provisions impacts future tax years should be modified to provide additional taxpayer protections. S.B. 1438 seeks to clarify the applicability of Property Tax Code disaster provisions and to improve taxpayer protections by limiting the use of these disaster provisions and to ensure that property taxes are not permanently increased as a result.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1438 amends the Tax Code to consolidate provisions governing the calculation and adoption of certain property tax rates in a declared disaster area and revise those provisions to do the following:

- condition the authority of the governing body of a taxing unit, other than a special taxing unit any part of which is located in an area declared a disaster area during the current tax year, to direct the designated officer or employee to calculate the taxing unit's voter-approval tax rate in the manner provided for a special taxing unit on at least one person being granted the temporary property tax exemption for qualified property damaged by a disaster for property located in the taxing unit;
- change the last tax year in which the designated officer or employee is to continue calculating the taxing unit's voter-approval tax rate in that manner from the second tax year in which the total taxable value of property taxable by the taxing unit exceeds the value of such property on January 1 of the tax year in which the disaster occurred to the first such tax year, contingent on that tax year occurring earlier than the third tax year after the tax year in which the disaster occurred;
- exclude an epidemic or pandemic from the disasters that trigger the exemption from the requirement for the governing body of a taxing unit to hold an election to approve the taxing unit's adopted tax rate for the year following the year in which a disaster occurs under certain circumstances; and

- provide that if the governing body of a taxing unit other than a school district uses the exemption from the requirement for the governing body of a taxing unit to hold an election to approve the taxing unit's adopted tax rate for the year following the year in which a disaster occurs, the amount by which that rate exceeds the taxing unit's voter-approval tax rate may not be considered when calculating the taxing unit's voter-approval tax rate for the tax year following the year in which the taxing unit adopts the rate.

S.B. 1438 provides the following:

- a taxing unit that in a tax year elects to calculate its voter-approval tax rate in the manner provided for a special taxing unit or adopt a tax rate that exceeds its voter-approval tax rate for that tax year without holding an election must specify the disaster declaration that provides the basis for authorizing the taxing unit to calculate or adopt a tax rate in that manner; and
- a taxing unit that specifies a disaster declaration as providing the basis for that authority may not in a subsequent tax year specify the same disaster declaration as providing the basis for authorizing the taxing unit to calculate or adopt a tax rate in such a manner if in an intervening tax year the taxing unit specifies a different disaster declaration as the basis for authorizing the taxing unit to calculate or adopt a tax rate in such a manner.

S.B. 1438 amends the Water Code to exempt the following taxes levied and collected by a general law water district from the consolidated Tax Code provisions governing the calculation and adoption of certain tax rates in a disaster area:

- an operation and maintenance (M&O) tax;
- a property tax for the payment of the interest on and principal of bonds issued by the district; and
- a tax for payments made under an applicable district contract.

S.B. 1438 amends the Special District Local Laws Code to exempt also from those provisions the M&O and property taxes imposed by the Lake View Management and Development District and any tax imposed by the Reeves County Groundwater Conservation District.

S.B. 1438 amends the Education Code to make conforming changes.

S.B. 1438 repeals the following provisions of the Tax Code:

- Section 26.04(c-1);
- Section 26.041(c-1); and
- Section 26.08(a-1).

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.