

SUBJECT: Lower rollback tax rates and super-rollback tax rates

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 5 ayes — J. Keffer, Grusendorf, Paxton, Ritter, Woolley

3 nays — Villarreal, Edwards, Luna

1 absent — Smithee

WITNESSES: (*On original version:*)

For — Tom Morgan, Texas Association of Realtors; Peggy Venable, Americans for Prosperity; Lisa Hendee; Pat Jackson; Maria Martinez; Charles Ruppert

Against — Brandon Aghamalian, City of Fort Worth; Jim Allison, County Judges and Commissioners Association of Texas; Euline Brock, City of Denton; Donald Lee, Texas Conference of Urban Counties; Jay Millikin, Comal County Commissioners Court; Bennett Sandlin, Texas Municipal League, Susan Spataro, Travis County Commissioners Court

On — Tom Gaylor, Texas Municipal Police Association; Byron Schломach, Texas Public Policy Foundation

BACKGROUND: Under Tax Code, ch. 26, most taxing units calculate an effective tax rate and a rollback tax rate. The effective tax rate is the rate that if levied on the value of property for the current year would raise the same amount of revenue using the value of property for the previous year. If property values increase from one year to the next, the effective tax rate will be lower than the actual rate.

The rollback tax rate is the maintenance and operations (M&O) rate that would raise the same amount of revenue using the current year's property tax base as the previous year's base, plus 8 percent, plus any additional rate required for debt service. The rollback rate permits a maximum 8-percent increase above the effective M&O rate, except for school districts, which may increase the effective rate only by 6 cents per \$100 of property value.

The “truth-in-taxation” provisions in Chapter 26 require most taxing units to calculate the effective tax rate and the rollback tax rate after the chief appraiser certifies the appraisal roll, at which point the governing body must publish both the effective and rollback tax rates. If a taxing unit fails to calculate or publish the required rates and notices properly, a property owner may file for a district court injunction prohibiting the unit from adopting a new tax rate, in which case the tax rate would revert to the effective rate.

When the proposed tax rate exceeds the rollback rate or 103 percent of the effective tax rate, whichever is lower, the governing body must issue another public notice and hold a public hearing on the proposed rate. The notice must provide the date, time, and place of the public hearing on the proposed tax rate. After the hearing, the tax rate may be adopted if a rollback election is not required. If the proposed rate does not exceed the rollback rate or 103 percent of the effective rate, then no special meeting or newspaper notice is required.

When a taxing unit proposes to adopt a tax rate that exceeds the rollback rate, the levy is subject to a rollback election upon petition and public vote. The law requires that at least 10 percent of registered voters sign the petition. Voters must submit the petition within 90 days of tax rate adoption. If an election requires a taxing unit to reduce its adopted tax rate to the rollback rate, the tax collectors will mail out new bills with an extended delinquency date. The collectors also will refund the difference between the taxes paid under the original rate and the taxes owed under the rollback tax rate. If voters do not approve the increase, the rollback rate applies.

DIGEST:

CSHB 1006 would lower the M&O rollback rate for taxing units from 8 percent to 3 percent above the effective tax rate. It also would create a “super-rollback rate,” the M&O rate that would raise the same amount of revenue using the current year’s property tax base as the previous year’s base, plus 5 percent, plus any additional rate required for debt service.

The bill would require all taxing units, to publish any increase above the effective tax rate. In addition to notifying the public, taxing units that levy property taxes in excess of \$5 million would be required to call a public hearing on any proposed increase beyond the effective rate. If a taxing unit failed to hold a required tax increase hearing, the tax rate would revert to the effective tax rate. After the hearing, the taxing unit would be required

to issue another public notice on the time and date of the taxing unit's subsequent vote on the tax rate. If the taxing unit did not adopt a tax rate greater than the effective tax rate by the 14th day after the public hearing, it would have to issue another notice announcing when and where it would vote on the tax rate increase.

If a taxing unit adopted a rate above the rollback tax rate, a petition calling for a rollback election would require the signatures of at least 10 percent of registered voters who voted in the last gubernatorial election. If a taxing unit adopted a rate above the super-rollback tax rate, a petition calling for a rollback election would require the signatures of at least 5 percent of registered voters who voted in the last gubernatorial election. In either case, if voters did not approve the increase, the rollback tax rate would apply.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect August 29, 2005.

**SUPPORTERS
SAY:**

CSHB 1006 would hold local governments more accountable for proposed tax increases by lowering the local M&O rollback tax rate, introducing a super-rollback rate, relaxing rollback election petition requirements, and strengthening public notification requirements.

By setting two incremental rollback rates, the bill would provide two thresholds for rollback elections with new petition provisions. A tiered rollback rate more fairly would balance taxpayers rights and revenue-raising ability of local taxing units. Current law does not provide enough time for taxpayers to collect the number of signatures required to demand a rollback election. Rather than burdening taxpayers with arduous petition requirements or saddling local governments with onerous costs related to automatic rollback elections, this bill would treat both parties fairly by establishing a middle ground between these extremes.

The bill also would strengthen the truth-in-taxation provisions by requiring a local taxing unit to notify the public of any proposed increase beyond the effective rate. Taxpayers would benefit from this more transparent approach because local officials would have to expose any proposed increase beyond the effective rate to a process that would ensure public participation. Local governments would have to justify any increase in revenue they may seek without simply relying on increases in

appraised value to automatically boost revenue.

CSHB 1006 effectively would ratchet down tax increases due to skyrocketing appraisal values. Homeowners no longer can sustain annual increases in their property tax bills due to appraisal creep. While the bill could raise city and county costs by increasing the frequency of rollback elections, it is more important to provide long-term taxpayer relief by keeping property taxes under control. The cost of such elections are far less than the exponential growth of property taxes in areas such as Houston, where homeowner tax bills increased by nearly 73 percent from 1997 to 2002.

A 3-percent rollback rate directly would tie the allowable tax increase to inflation, which averages between 2 percent and 3 percent nationally. The bill would ensure greater fiscal constraint on the part of local officials and still provide enough revenue-raising ability to account for rising costs of living and demand for services.

Cities and counties would not be fiscally constrained by CSHB 1006. Local taxing units already are familiar with rollback procedures and work to ensure financial efficiency, and if a rollback election were called, voters still could approve rate increases when local governments could justify higher spending. The bill would not prevent local governments from raising necessary revenue nor from issuing bonds when necessary, but they would be more accountable when making such decisions.

The city of Lubbock already follows this truth-in-taxation procedure. Rather than accept a windfall from increases in appraised values and allow what amounts to a hidden tax, the city automatically lowers its tax rate in order to generate the same amount of revenue as the year before. The city council has an open, separate vote on whether to adopt any tax rate beyond the effective rate if it believes that more revenue is justified.

New property is excluded from the effective rate calculation. When new growth occurs within a tax year, it is not factored into the effective rate until the following tax year. Smaller cities and counties, therefore, would have time to plan for accommodating new growth. Also, the ability of

local governments to impose impact fees and fund new growth through filing Capital Improvement Plans would not be affected.

CSHB 1006 would not decrease the 6 cent rollback rate and rollback election petition requirements for school districts. School districts would continue to levy property taxes as currently mandated by law.

OPPONENTS
SAY:

Basing rollback and super-rollback petition requirements on a percent of registered voters who voted in the last gubernatorial election would destabilize city and county governments. Voter participation fluctuates greatly between elections and across the state. In areas of low voter participation in the gubernatorial election, very few signatures would be needed for rollback petitions. The bill would allow a small minority of voters to override local policy decisions, which would force many local governments to implement tax rates that did not represent the will of the majority.

With minimal petition requirements, more rollback elections would take place, costing local governments time, effort, and money. Rollback elections are not very common at present. The Comptroller's Property Tax Division reports that only 20 taxing units in 2004 and early 2005 held rollback elections. Nevertheless, such elections are expensive — the estimated cost of a rollback election in Houston is \$1 million, a figure that would more than double for Harris County.

Lowering the rollback rate to 3 percent and imposing a super rollback rate at 5 percent would decrease property tax revenues at a level below the annual rate of municipal inflation. Municipal costs rise at an average rate of nearly 6 percent, which is double the overall rate of inflation. To compensate, cities and counties would be forced to increase sales taxes and impact fees and rely more on debt financing to avoid rollback elections.

CSHB 1006 would constrain local entities when faced with dramatic increases in need for services caused by such factors as rapid population growth, decreases in state and federal funds, natural disasters, and criminal court costs. The Legislature is not subject to any effective restraints on spending or revenue other than accountability to the voters, and local elected governing bodies should be trusted to be as responsible in setting taxing and spending priorities.

Cities and counties should control tax rates, not the state. Cities rely heavily on property tax revenue and are affected by even small growth in demand for services. The majority of Texas cities have populations of less

than 50,000 and modest revenue bases from which to draw. This bill especially would harm these smaller jurisdictions because they require greater fiscal flexibility in meeting sudden demands or emergencies. County revenues proportionally would decrease the most, as property taxes constitute up to 80 percent of their revenue. Small and rural counties could be forced to assume increased debt financing.

Cities and counties are entrusted by voters to provide growing populations with quality, essential services. At the same time, they must be responsive to unfunded state mandates, public safety, and emergencies. When the public demands expanded or improved services, local government cannot always avoid increased taxes. Current law provides a sensible compromise between the needs of local governments and taxpayers. The built-in buffer of a 3-percent increase beyond the effective rate allows local taxing entities to handle routine adjustments for higher property values while keeping local governments accountable to citizens for larger increases, with a 8-percent increase triggering a possible rollback election if only 10 percent of registered voters petition to hold one.

Most local taxing units need property taxes to sustain economic development programs. Lubbock is an exception. It has reduced property taxes in exchange for a higher sales tax rate that contributes to a public-private partnership that oversees all economic development. The city's strict adherence to its effective rate is not a reduction in the overall tax burden but a shift to higher sales tax. Some areas, where sales taxes already are set at the maximum rate or where any increase unfairly would overwhelm lower-income populations, would be unable to absorb such a trade-off. Further, even Lubbock's truth-in-taxation policy does not go so far as to trigger a public referendum on its tax rate.

The bill also would force most taxing units to jump through more procedural hoops to adopt their annual tax rate even when any revenue increase would be minimal. The 3-percent increase now required before the notification and hearing process recognizes that inflation annually reduces the value of the dollar. Using any small rate increase above the effective tax rate to trigger the additional procedures would mean that local governments would have to undergo more time and expense to set a

tax rate that effectively would raise less revenue than the previous year, regardless of any increased demand for basic services.

OTHER
OPPONENTS
SAY:

While CSHB 1006 would strengthen “truth in taxation,” and soften rollback petition requirements, it would not protect taxpayers from sharply increasing appraisal values. The current 10 percent cap on appraised value increases should be lowered. This method would be a more effective constraint on local taxing units benefiting from a revenue windfall from rising property values than merely requiring them to follow a few extra procedures before they adopt tax rates above the effective rate.

Proposed rates that exceed the rollback rate should trigger automatic elections rather than require voters to petition for a rollback election. Automatic elections would require taxing units to justify directly to the voters any significant revenue increase purely derived from higher property values.

NOTES:

The original version of the bill included an automatic rollback election triggered by a 3-percent or more increase in the effective tax rate. The committee substitute also includes the 3-percent rollback rate and added a super rollback rate of a 5-percent or more increase. The substitute would continue to require a petition for rollback elections but would base the required number of petition signatures on the percentage of registered voters who voted in the last gubernatorial election. It would set at 5 percent or more the number of signatures required for a super-rollback election.

On April 13, the House considered the original version of HB 1006 on second reading until the bill was recommitted on a point of order. Before the bill was recommitted, the House adopted an amendment by R. Cook, et al. that was essentially the same as CSHB 1006. The House adopted an amendment by Villarreal requiring that registered voters be used as the petition base rather than the vote in the last governor's election. It also adopted amendments to require rollback elections to be held on a uniform election date and to exclude the disabled and over age 65 homestead exemption in calculating the super rollback rate. After the bill was recommitted, the Ways and Means Committee favorably reported the bill as substituted on April 14.