

BILL ANALYSIS

Senate Research Center

H.B. 3
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Finance
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Texans pay more in property taxes than for any other state or local tax. In tax year 2003, 3,702 local taxing units levied almost \$29 billion in property taxes, of which school districts accounted for more than 60 percent, according to the comptroller of public accounts. From 1985 to 2003, the school district property tax levy increased by approximately 260 percent. Currently, Texas ranks 45th among the states in terms of homeownership levels.

H.B. 3 raises state revenue to fund a significant property tax reduction for Texas taxpayers.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 2B.10, SECTION 2C.01 (Section 171.1001, Tax Code), SECTION 2D.01 (Section 171.945, Tax Code), SECTION 7.01 (Section 542.405, Transportation Code), and SECTION 10.03 (Section 47.054, Business and Commerce Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. SCHOOL PROPERTY TAX RELIEF

PART A. SCHOOL PROPERTY TAX RELIEF

- Reduces the maximum tax rate in a school district from \$1.50 per \$100 valuation of property to \$1.12 per \$100 and allows for \$0.15 on the \$100 for enrichment. Validates an election held before January 1, 2005, which set a maintenance rate of at least \$1.23 on the \$100 valuation of taxable property in the district to authorize such rate for the 2005 tax year. Provides that an election held before January 1, 2006, authorizing a maintenance tax rate of \$1.12 on the \$100 valuation is sufficient to authorize such rate for the 2006 tax year.
- Sets forth transition requirements for the 2005 tax year.

PART B. BUY-DOWN OF SCHOOL DISTRICT TAXES

- Adds Subchapter O to Chapter 403, Government Code, to set forth provisions and procedures for the distribution of increases in available state revenue for school district tax reductions. Adds Subchapter P to establish the school property relief fund and directs the comptroller of public accounts (comptroller) to determine deductions and procedures to manage the fund.
- Provides additional state aid for property tax relief for individual school districts to be determined by the commissioner of education and recalculates the rollback tax rate.
- Sets forth deadlines and approval requirements for the distribution of funds.

PART C. PROPERTY TAX ADMINISTRATION

- Establishes the taxing unit for a mobile portable drilling rig. Provides for closed proceedings in certain property tax disputes. Authorizes an arbitrator to require the

appraisal district to provide meeting space for the arbitration at no cost to the arbitrator or the property owner.

- Requires the comptroller to adopt rules defining "related party" using certain principles.

PART D. PROPERTY TAX RELIEF FOR CULTURALLY SIGNIFICANT SITES

- Establishes taxing provisions and exemptions for culturally significant sites.
- Requires the comptroller to adopt rules necessary to implement Subchapter X, Chapter 171, Tax Code.
- Makes application of this part prospective.

PART E. AD VALOREM TAXATION OF CERTAIN RAIL FACILITY PROPERTY OWNED BY CERTAIN RURAL RAIL TRANSPORTATION DISTRICTS

- Prohibits a leaseholder or other possessory interest in exempt property from being listed if the property is a part of a rail facility owned by a specific type of rural rail transportation district.
- Makes application of this part prospective to January 1, 2006.

ARTICLE 2. FRANCHISE TAX

PART A. CORPORATE OWNERSHIP IN PARTNERSHIPS

- Defines "partner" and "partnership."
- Sets forth provisions for which a corporation is considered a foreign corporation conducting business in this state.
- Sets forth the method for determining the level of interest owned by a corporation and computing the net taxable earned surplus.
- Effective date, this part: November 1, 2005.

PART B. APPLICATION TO PARTNERSHIPS

- Establishes a provision that Part B takes effect only if a court enters a final judgment that the tax imposed under Chapter 171, Tax Code, violates the United States Constitution.
- Sets forth entities which are required to pay a franchise tax.
- Expands the current definition of "corporation."
- Provides the method for determining reportable federal taxable income for a partnership.
- Sets forth procedures and provisions for the forfeiture of the right of partnership to transact business in this state.
- Requires the comptroller to adopt rules relating to establishing the applicable reporting periods for partnerships becoming subject to the franchise tax under this part.

PART C. ADD-BACK OF CERTAIN PAYMENTS

- Provides additional definitions for relevant terms.
- Sets forth applicable payments and fees corporations are required to add back to reportable federal taxable income and those which are not required to be added.

- Sets forth provisions and procedures authorizing the comptroller to adjust income and expenses for certain entities.

PART D. FRANCHISE TAX CREDIT FOR HEALTH BENEFIT PLAN FOR EMPLOYEES AND DEPENDENTS

- Sets forth provisions for establishing qualification procedures and limitations for tax credits for health benefit plans for employees and their dependents.
- Effective date, this part: January 1, 2006.

PART E. TRANSITIONAL PROVISIONS

- Sets forth transitional provisions regarding the effective date for corporations to become subject to the franchise tax.

ARTICLE 3. SALES AND USE TAXES

PART A. STATE SALES AND USE TAXES

- Increases the sales tax from 6.25 percent to 7.25 percent.
- Provides for water sold in a sealed container to be taxed.
- Effective date, this part: September 1, 2005, or November 1, 2005, except as otherwise provided by this section.

PART B. MOTOR VEHICLE SALES AND USE TAX

- Increases the motor vehicle tax imposed on every retail sale of every motor vehicle from 6.25 percent to 7.35percent.
- Increases the rented motor vehicle tax for vehicles rented for longer than 30 days from 6.25 percent to 7.35 percent.
- Effective date, this part: September 1, 2005, or on the first day of the first month on or after the 91st day after adjournment, except as provided by this section.

PART C. BOAT AND BOAT MOTOR SALES AND USE TAX

- Increases the boat and boat motor sales tax imposed on every retail sale of a taxable boat or motor sold in this state from 6.25 percent to 7.35 percent.
- Effective date, this part: upon passage or November 1, 2005.

ARTICLE 4. CIGARETTE AND TOBACCO PRODUCTS TAXES

- Increases the cigarette tax from \$20.50 to \$70.50 per thousand cigarettes weighing a certain amount and the cigar tax by certain sums and by following certain procedures for such tax.
- Increases the tax on tobacco products other than cigars from 35.213 percent of the manufacturer's retail price to 40 percent.
- Effective date, this article: September 1, 2005, or November 1, 2005.

ARTICLE 5. COLLECTION OF DELINQUENT OBLIGATIONS TO STATE

- Sets forth procedures for collection of delinquent obligations to the state.

- Effective date, this article: upon passage or 91st day after adjournment.

ARTICLE 6. MIXED BEVERAGE TAX

- Provides for a requirement for a certain records maintenance by a permittee for certain alcoholic items.
- Effective date, this article: September 1, 2005, or November 1 2005.

ARTICLE 7. DEPOSIT OF CERTAIN TRAFFIC PENALTIES IN GENERAL REVENUE FUND

- Sets forth certain deposit procedures for certain traffic penalties into the general fund.
- Requires the comptroller to adopt rules and forms to implement and enforce Section 542.405, Transportation Code.

ARTICLE 8. UNCLAIMED PROPERTY

- Sets forth certain unclaimed property procedures.

ARTICLE 9. TEXAS ECONOMIC DEVELOPMENT ACT

- Extends Subchapter B (Limitation on Appraised Value of Certain Property Used to Create Jobs), C (Limitation on Appraised Value of Property Used in Certain Rural School Districts), and D (School Tax Credits) to December 31, 2011.
- Makes conforming changes.

ARTICLE 10. SEXUALLY ORIENTED BUSINESS ADMISSIONS FEE

- Provides for a fee to be imposed on a sexually oriented business that provides live nude entertainment or performances in an amount equal to \$4 for each entry by each customer admitted to the business. Sets forth procedures for remittance of the fee.
- Requires the comptroller to adopt any necessary rules for the administration, payment, collection, and enforcement of the fee imposed by this chapter.
- Effective date, this article: January 1, 2006.

ARTICLE 11. EFFECTIVE DATE

(a) Effective date: upon passage or the 91st day after adjournment, except as provided by Subsection (b).

(b) Provides that if a section, part, or article of the Act provides a different effective date than provided by Subsection (a) of this section, that section, part, or article takes effect according to its terms.