

BILL ANALYSIS

Senate Research Center
81R14603 JD-F

S.B. 2301
By: Williams
Finance
5/8/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texans pay more in property taxes than in any other tax, with levies totaling \$35.6 billion in 2006. City and county taxes account for roughly \$5.3 billion, or 15 percent each, while special districts amount to \$4 billion or 11 percent of the total. From 1982 to 2006 county and city taxes increased by 358 percent and 292 percent respectively. Additionally, since 2005 the average annual tax growth in cities and counties has accelerated to roughly 11 to 12 percent, well above the 3/6 percent inflation increases in the municipal cost index and the 2.2 percent average annual Texas population growth.

Current Texas law requires each taxing unit to calculate and publish a rollback tax rate. The rollback rate provides that the taxing unit approximately the same amount of revenue it spent the previous year for day-to-day operations plus an extra eight percent cushion, and sufficient funds to pay its debts in the coming year. The rollback rate is commonly referred to as a revenue cap. Lowering the cap from eight to five percent will provide property taxpayers some relief from their overall tax burden by limiting the rate local taxing jurisdictions may set to raise revenue.

As proposed, S.B. 2301 amends current law relating to the calculation of the ad valorem rollback tax rates of certain taxing units.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 26.04, Tax Code, by amending Subsection (c), and adding Subsections (c-1) and (c-2), as follows:

(c) Redefines "rollback tax rate."

(c-1) Authorizes the designated officer or employee, notwithstanding any other provision of this section, to substitute "1.08" for "1.05" in the calculation of the rollback tax rate if any part of the taxing unit is located in an area declared a disaster area by the governor or the president of the United States during the current tax year; or the governing body finds that a higher tax rate is necessary to protect the health, safety, or property of persons residing in the taxing unit.

(c-2) Provides that a finding under Subsection (c-1)(2) (relating to the governing body finding that a higher tax rate is necessary to protect the health, safety, or property of persons residing in the taxing unit) is not valid unless the finding is in the form of a resolution adopted by the governing body of the taxing unit, includes a description of the harm to residents of the taxing unit that would occur if the taxing unit were subject to a five percent rollback tax rate, and is approved by a record vote taken at a public meeting of the governing body.

SECTION 2. Amends Section 26.041, Tax Code, by amending Subsections (a), (b), and (c) and adding Subsections (c-1) and (c-2), as follows:

(a) Makes a conforming change.

(b) Provides that, except as provided by Subsections (a) and (c), rather than Subsections (a) and (c) of this section, in a year in which a taxing unit imposes an additional sales and use tax the rollback tax rate for the unit is calculated according to the rollback tax rate formula regardless of whether the unit levied a property tax in the preceding year. Makes conforming changes.

(c) Provides that in a year in which a taxing unit that has been imposing an additional sales and use tax ceases to impose an additional sales and use tax the effective tax rate and rollback tax rate for the unit are calculated according to the Effective Tax Rate formulas. Makes conforming changes.

(c-1) Authorizes the designated officer or employee, notwithstanding any other provision of this section, to substitute "1.08" for "1.05" in the calculation of the rollback tax rate if any part of the taxing unit is located in an area declared a disaster area by the governor or the president of the United States during the current tax year or the governing body finds that a higher tax rate is necessary to protect the health, safety, or property of persons residing in the taxing unit.

(c-2) Provides that a finding under Subsection (c-1)(2) (relating to the governing body finding that a higher tax rate is necessary to protect the health, safety, or property of persons residing in the taxing unit) is not valid unless the finding is in compliance with Section 26.04(c-2).

SECTION 3. Reenacts Section 49.236, Water Code, as added by Chapters 248 (H.B. 1541) and 335 (S.B. 392), Acts of the 78th Legislature, Regular Session, 2003, and amends it as follows:

Sec. 49.236. NOTICE OF TAX HEARING. (a) Requires the governing body of a district (board), before the board adopts an ad valorem tax rate for the district for debt service, operation and maintenance purposes, or contract purposes, to give notice of each meeting of the board at which the adoption of a tax rate will be considered. Sets forth the required language for the notice, including that "If taxes on the average residence homestead increase by more than five percent, rather than eight percent, the qualified voters of the district by petition may require that an election be held to determine whether to reduce the operation and maintenance tax rate to the rollback tax rate under Section 49.236(d) (relating to the governing body of a district adopting a combined debt service, operation and maintenance, and contract tax rate), Water Code."

(b) Makes a nonsubstantive and conforming change.

(e) Authorizes the board, notwithstanding any other provision of this section, to substitute "eight percent" for "five percent" in Subsection (a) and "1.08" for "1.05" in Subsection (d) if any part of the district is located in an area declared a disaster area by the governor or the president of the United States during the current tax year or the board finds that a higher tax rate is necessary to protect the health, safety, or property of persons residing in the district.

(f) Provides that a finding under Subsection (e)(2) (relating to the board finding that a higher tax rate is necessary to protect the health, safety, or property of persons residing in the district) is not valid unless the finding is in compliance with Section 26.04(c-2), Tax Code.

SECTION 4. (a) Makes application of this Act prospective to the ad valorem tax rate of the taxing unit beginning with the 2009 tax year, except as provided by Subsection (b) of this section.

(b) Provides that if the governing body of a taxing unit adopted an ad valorem tax rate for the taxing unit for the 2009 tax year before the effective date of this Act, the change in law made by this Act applies to the ad valorem tax rate of that taxing unit beginning with the 2010 tax year, and the law in effect when the tax rate was adopted applies to the 2009 tax year with respect to that taxing unit.

SECTION 5. Effective date: upon passage or 91 days after the last day of the legislative session.