

BILL ANALYSIS

Senate Research Center

S.B. 2239
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current effective tax rate and rollback tax rate calculations are lengthy and complex. The calculations are so lengthy and complex that developing even a basic knowledge requires a substantial investment of time. As a result, most taxpayers and many taxing authorities do not actually understand the calculations or their function.

Moreover, some adjustments in the effective tax rate calculation do not strictly comply with the Article 8, Section 21 of the Texas Constitution, making it impossible to determine whether the notice and hearing requirements of the Constitution are satisfied.

S.B. 2239 simplifies the effective tax rate and rollback tax rate calculations that will increase transparency and promote informed participation and decision-making by taxpayers and taxing authorities alike.

As proposed, S.B. 2239 amends current law relating to ad valorem taxation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas comptroller of public accounts in SECTION 8 (Section 26.04, Tax Code) and SECTION 15 (Section 26.05, Tax Code) of this bill.

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is rescinded in SECTION 20 (Section 26.045, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5.07, Tax Code, by adding Subsection (f), as follows:

(f) Requires the Texas comptroller of public accounts (comptroller) to prescribe the form of the worksheets to be used by the designated officer or employee of each taxing unit in calculating the no-new-taxes rate and rollback tax rate for the unit as required by Chapter 26 (Assessment). Requires that the form be in an electronic format and be capable of certain actions.

SECTION 2. Amends Section 5.091, Tax Code, as follows:

Sec. 5.091. STATEWIDE LIST OF TAX RATES. (a) Requires the comptroller to, each year, prepare a list that includes the total rate imposed by each taxing unit in this state for the year in which the list is prepared, rather than each taxing unit in this state other than a school district if the tax rate is reported to the comptroller, for the year preceding the year in which the list is prepared. Requires the comptroller to list the tax rates alphabetically according to certain factors.

(b) Requires the comptroller to, not later than January 1 of the following year, rather than not later than December 31 of each year, publish on the comptroller's Internet website the list required by Subsection (a).

SECTION 3. Amends Chapter 5, Tax Code, by adding Section 5.092, as follows:

Sec. 5.092. STATEWIDE DATABASE OF OTHER PROPERTY-TAX-RELATED INFORMATION. (a) Requires the comptroller to create and maintain a property tax database that contains certain information, is continuously updated with certain information, is accessible to the public, and is searchable by property address.

(b) Requires that the database include, with respect to each property listed on an appraisal roll, certain information.

(c) Requires that the database include a link to the information posted under Section 26.17 on the Internet website of each taxing unit in which the property is located.

(d) Requires the officer or employee designated by the governing body of each taxing unit to calculate the no-new-taxes rate and the rollback tax rate for the unit to electronically submit to the comptroller certain information and worksheets.

(e) Requires the comptroller to deliver, by e-mail to the designated officer or employee confirmation of receipt of the worksheets submitted under Subsection (d)(2). Requires the comptroller to incorporate the worksheets into the database and make them available to the public not later than the third day after the date the comptroller receives them.

SECTION 4. Amends Sections 25.19(b) and (i), Tax Code, as follows:

(b) Deletes existing text requiring the chief appraiser to separate real from persona property and include in the notice for each if the appraised value is greater than it was in the preceding year, the amount of tax that would be imposed on the property on the basis of the tax rate for the preceding year. Redesignates Subdivisions (6) through (9) as Subdivisions (5) through (8).

(i) Makes a nonsubstantive change.

SECTION 5. Amends Section 26.012(7), Tax Code, to redefine "debt."

SECTION 6. Amends Chapter 26, Tax Code, by adding Section 26.031, as follows:

Sec. 26.031. EFFECTIVE AND ROLLBACK TAX RATES OF TAXING UNIT OTHER THAN A SCHOOL DISTRICT. (a) Requires an officer or employee designated by the governing body of a taxing unit other than a school district to calculate the no-new-taxes rate and the rollback tax rate for the unit using the electronic, fillable form or forms promulgated by the comptroller under Section 5.07 (Property Tax Forms and Records Systems).

(b) Provides that the no-new-taxes rate of a taxing unit other than a school district is determined by a certain formula.

(c) Provides that the rollback tax rate of a taxing unit other than a school district is determined by a certain formula.

(d) Provides that the no-new-taxes rate for a county is the sum of the no-new-taxes rates calculated for each type of tax the county levies and the rollback tax rate for a county is the sum of the rollback tax rates calculated for each type of tax the county levies.

(e) Provides that, if as a result of consolidation of taxing units a taxing unit includes territory that was in two or more taxing units in the preceding year, the amount of taxes imposed in each in the preceding year is combined for purposes of calculating the no-new-taxes rate and rollback tax rate under this section.

(f) Defines "actual collection rate," "adjustment for additional sales tax," "adjustment for criminal justice mandate," "adjustment for indigent health care," "average collection rate," "current year total taxable value," "current year taxable value of homesteads subject to tax limitation," "current year taxable value of new improvements," "current year taxable value of property annexed," "current year debt rate," "current year total taxable value for rollback calculation," "no-new-taxes maintenance & operations rate," "prior year total taxable value," "prior year taxable value in excess of new special appraisal," "prior year taxable value of homesteads subject to tax limitation," "prior year taxable value of newly-exempt real property," "prior year taxable value of property de-annexed," "tax levy, adjusted for lost value," and "taxable value, adjusted for new value," notwithstanding Section 26.012 (Definitions).

SECTION 7. Amends the heading to section 26.04, Tax Code, to read as follows:

Sec. 26.04. SUBMISSION OF ROLL TO GOVERNING BODY; EFFECTIVE AND ROLLBACK TAX RATES OF A SCHOOL DISTRICT.

SECTION 8. Amends Section 26.04, Tax Code, by amending Subsections (c), (f) and (g) and by adding Subsections (d-1), (d-2), (d-3), (d-4), and (e-2), as follows:

(c) Requires an officer or employee designated by the governing body of a school district, rather than an officer or employee designated by the governing body, to calculate the effective tax rate and the rollback tax rate for the unit.

(d-1) Requires the designated officer or employee to use the worksheet forms prescribed by the comptroller under Section 5.07(f) in calculating the no-new-taxes rate and the rollback tax rate.

(d-2) Requires the designated officer or employee to submit the worksheets to certain individuals.

(d-3) Prohibits the designated officer or employee from submitting the no-new-taxes rate and the rollback tax rate to the governing body of the taxing unit and prohibits the governing body of the unit from adopting a tax rate until certain documents are submitted.

(d-4) Requires the comptroller to adopt rules governing the form of the certifications required by Subsection (d-3) and the manner in which they are required to be submitted.

(e-2) Requires the assessor of each county to, by August 7 or as soon thereafter as practicable, deliver by regular mail or e-mail to each owner of property in the county, and post in a conspicuous place on the home page of the Internet website of the assessor, a notice that the estimated amount of taxes to be imposed on the owner's property by each taxing unit in which the property is located may be found in the property tax database maintained by the comptroller under Section 5.092. Requires that the notice include certain information.

(f) Provides that, if as a result of consolidation of school districts a school district includes territory that was in two or more school districts in the preceding year, the amount of taxes imposed in each in the preceding year is combined for purposes of calculating the no-new-taxes rate and rollback tax rate under this section.

(g) Provides that a person who owns taxable property is entitled to a certain injunction if the assessor or designated officer or employee of the unit, as applicable, has not complied with the computation or publication requirements of this section or Section 5.092(d), rather than of this section and the failure to comply was not in good faith.

SECTION 9. Amends the heading to Section 26.041, Tax Code, to read as follows:

Sec. 26.041. CALCULATION OF ADDITIONAL SALES AND USE TAX REVENUE.

SECTION 10. Amends Sections 26.041(d), (f), (g), (h), (i), and (j), Tax Code, as follows:

(a) Redesignates existing Subsection (d) as Subsection (a). Provides that the amount of additional sales and use tax revenue for the current tax year for purposes of the calculation under Section 26.031(c) is the sales and use tax revenue for the last preceding four quarters for which the information is available, rather than requires the designated officer or employee to, in order to determine the amount of additional sales and use tax revenue for purposes of this section, use the sales and use tax revenue for the last preceding four quarters for which the information is available as the basis for projecting the additional sales and use tax revenue for the current tax year.

(b) Redesignates existing Subsection (f) as Subsection (b). Makes a nonsubstantive change.

(c) Redesignates existing Subsection (g) as Subsection (c). Requires the amount of additional sales and use tax revenue calculated under this section, in the first year in which an additional sales and use tax is increased, to include the revenue projected to be generated as a result of the increase in the additional sales and use tax rate. Deletes existing text providing that the effective tax rate for the unit is the effective tax rate before the increase minus a number the numerator of which is the revenue generated as a result of the increase in the additional sales and use tax, as determined under this subsection, and the denominator of which is the current total value minus the new property values.

(d) Redesignates existing Subsection (h) as Subsection (d). Prohibits the amount of additional sales and use tax revenue calculated under this section from including the revenue projected to be lost as a result of the decrease in the additional sales and use tax rate, rather than provides that the effective tax rate for the unit is the effective tax rate before the decrease plus a number the numerator of which is the revenue lost as a result of the decrease in the additional sales and use tax, as determined under this subsection, and the denominator of which is the current total value minus the new property value, in the first year in which an additional sales and use tax is decreased.

(f) and (g) Redesignates existing Subsection (i) as Subsection (f) and redesignates Subsection (j) as Subsection (g). Makes no further changes to these subsections.

SECTION 11. Amends the heading to Section 26.044, Tax Code, to read as follows:

Sec. 26.044. ROLLBACK TAX RATE TO PAY FOR STATE CRIMINAL JUSTICE MANDATE.

SECTION 12. Amends Sections 26.044(a) through (c), Tax Code, as follows:

(a) Provides that the adjustment for criminal justice mandate under Section 26.031(c) is the state criminal justice mandate, divided by the current year total taxable value for rollback calculation, rather than effective maintenance and operation rate for the county is increased by the rate calculated according to a certain formula, in the second and subsequent years that a county adopts a tax rate, the first time that a county adopts a tax rate after September 1, 1991, in which the state criminal justice mandate applies to the county.

(b) Provides that the adjustment for criminal justice mandate under Section 26.031(c) is the current year's state criminal justice mandate, minus the prior year's state criminal justice mandate, divided by the current year total taxable value for rollback calculation, rather than effective maintenance and operation rate for the county is increased by the rate calculated according to a certain formula, in the second and subsequent years that a county adopts a tax rate, if the amount spent by the county for the state criminal justice mandate increased over the previous year.

(c) Requires the county to include a notice of the increase in the rollback tax rate as a result of the adjustment for criminal justice mandate, rather than a notice of the increase in the effective maintenance and operation rate provided by this section, including a certain description and amount.

SECTION 13. Amends the heading to Section 26.0441, Tax Code, to read as follows:

Sec. 26.0441. ROLLBACK RATE ADJUSTMENT FOR INDIGENT HEALTH CARE.

SECTION 14. Amends Sections 26.0441(a) to (c), Tax Code, as follows:

(a) Provides that the adjustment for indigent health care under Section 26.031(c) is enhanced indigent health care expenditures, divided by the current year total taxable value for rollback calculation, rather than the effective maintenance and operations rate for the taxing unit is increased by the rate computed according to a certain formula, in a certain year and in which certain standards apply to the taxing unit.

(b) Provides that the adjustment for indigent health care under Section 26.031(c) is the current year's enhanced indigent health care expenditures minus the prior year's enhanced indigent health care expenditures, divided by the current year total taxable value for rollback calculation, rather than effective maintenance and operations rate for the taxing unit is increased by the rate computed according to a certain formula, in each subsequent tax year if a certain condition is met.

(c) Requires the taxing unit to include a notice of the increase in its rollback tax rate as a result of the adjustment for indigent health care, rather than a notice of the increase in its effective maintenance and operations rate provided by this section, including a certain description and amount.

SECTION 15. Amends Section 26.05, Tax Code, by adding Subsections (a-1), (d-1), (d-2), and (e-1), as follows:

(a-1) Requires that the amount needed to fund maintenance and operation expenditures, if the amount of additional sales and use tax revenue for a taxing unit calculated under Section 26.041 (Tax Rate of Unit Imposing Additional Sales and Use Tax) exceeds the amount published under Section 26.04(e)(3)(C) (relating to the total of certain amounts), then for purposes of determining the rate under Subsection (a)(2) (relating to the rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year), be reduced by the amount by which additional sales and use tax revenue calculated under Section 26.041 exceeds the amount published under Section 26.04(e)(3)(C).

(d-1) Prohibits the governing body of a taxing unit from holding a public hearing on a proposed tax rate or a public meeting to adopt a tax rate until the 14th day after the date the officer or employee designated by the governing body of the unit to calculate the no-new-taxes rate and the rollback tax rate for the unit electronically submits to the comptroller the information described by Section 5.092(d).

(d-2) Prohibits the governing body of a taxing unit other than a school district from adopting a tax rate until certain requirements are met, notwithstanding Subsection (a) (relating to the governing body of each taxing unit notifying the assessor for the unit of the rate adopted).

(e-1) Prohibits the governing body of a taxing unit that imposes an additional sales and use tax from adopting a tax rate until the chief financial officer or the auditor for the unit submits to the governing body of the unit a written certification that the amount of additional sales and use tax revenue that will be used to pay debt service has been deducted from the total amount published under Section 26.04(e)(3)(C) as required by Subsection (a)(1) (relating to the rate that will impose a certain total amount) of this

section and that any additional sales and use tax revenue in excess of the total amount published under Section 26.04(e)(3)(C) has been deducted from the amount needed to fund maintenance and operation expenditures as required by Subsection (a-1) of this section. Requires the comptroller to adopt rules governing the form of the certification required by this subsection and the manner in which it is required to be submitted.

SECTION 16. Amends Section 26.065(b), Tax Code, to require the taxing unit to post notice of the public hearing on the Internet website owned, operated, or controlled by the unit, rather than requires the unit, if the taxing unit owns, operates, or controls an Internet website, to post notice of the public hearing on the website, continuously for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate.

SECTION 17. Amends Chapter 26, Tax Code, by adding Section 26.17, as follows:

Sec. 26.17. POSTING OF TAX RATE AND BUDGET INFORMATION ON TAXING UNIT'S WEBSITE. Requires each taxing unit to maintain an Internet website. Requires each taxing unit to, in addition to posting any other information required by this title, post certain information on the Internet website maintained by the taxing unit in a format prescribed by the comptroller.

SECTION 18. (a) Requires the comptroller to, not later than September 1, 2019, rather than January 1, 2018, appoint the members of an advisory group to provide to the comptroller advice and assistance regarding the creation and operation of the property tax database required by Section 5.092, Tax Code, as added by this Act, and related matters. Provides that the advisory group is composed of 13 certain members.

(b) Provides that the advisory group is abolished and this section expires December 31, 2021.

SECTION 19. Requires the comptroller to comply with Sections 5.07(f) and 5.092, Tax Code, as added by this Act, not later than June 1, 2020.

SECTION 20. Repealer: Section 26.03 (Treatment of Captured Appraised Value and Tax Increment), Tax Code;

Repealer: Section 26.04(d) (relating to a formula for the effective tax rate for a county), Tax Code;

Repealer: Sections 26.041(a) (relating to a certain formula to calculate the effective tax rate and rollback tax rate), (b) (relating to a formula to calculate the rollback rate in a year in which an additional sales and use tax was imposed), (c) (relating to a formula to calculate the effective tax rate and rollback tax rate in a year when an additional sales and use tax stop being imposed), and (e) (relating to adding a certain amount to the effective and rollback tax rates), Tax Code;

Repealer: Section 26.045 (Rollback Relief for Pollution Control Requirements), Tax Code.

SECTION 21. (a) Provides that, except as provided by Subsections (b), (c), and (d) of this section, this Act takes effect January 1, 2018.

(b) Provides that Sections 5.091 and 26.065(b), Tax Code, as amended by this Act, Section 26.17, Tax Code, as added by this Act, and Section 18 of this Act, take effect September 1, 2017.

(c) Provides that Sections 5.07(f) and 5.092, Tax Code, as added by this Act, take effect September 1, 2019.

(d) Provides that Sections 25.19(b) and (i) and 26.04(g), Tax Code, as amended by this Act, and Sections 26.04(d-1) and (e-2) and 26.05(d-1) and (d-2), Tax Code, as added by this Act, take effect January 1, 2020.