

PROPERTY TAX BILLS IN THE 2011 TEXAS LEGISLATURE FIRST SPECIAL SESSION

June 30, 2011

The special session ended yesterday. Property-tax laws were not among the major concerns during the session, but legislators did make a few changes that should be of interest to appraisal districts and tax offices. All of those changes were included in a single voluminous bill, Senate bill 1. All of the summaries below concern parts of that bill. The Governor is almost certain to sign SB 1, but he has not signed it yet.

Exemptions

Amends/Enacts: §§11.253

Effective: January 1, 2012 (The provision requiring taxing units that have opted out of the exemption to opt out again takes effect October 1, 2012. The opt-out period runs from October 2 through December 31).

The goods-in-transit exemption will require a greater degree of independence between the owner of the goods and the owner of the warehouse where they are stored. The warehouse must be a public warehouse not in any way owned or controlled by the owner of the goods. The goods must be stored under a contract of bailment solely for their owner's account and not for the account of the warehouse operator. The goods must be in the warehouse for *storage* and not for other purposes such as manufacturing or processing. A taxing unit that previously opted out of the goods-in-transit exemption will have to do so again unless it has pledged the taxes to the payment of a debt.

Appraisals

Amends/Enacts: §23.51 Tax Code

Effective: September 28, 2011 (applies beginning 2012)

Open-space agricultural appraisal will be available for land used for raising or keeping bees for pollination or for the production of human food or other tangible products having a commercial value. The land must be between five and twenty acres in size.

Appraisal Districts and ARBs

Amends/Enacts: §§5.05, 5.06 and 5.09 Tax Code

Effective: September 28, 2011

The comptroller will no longer distribute hard copies of most property-tax publications and materials; she will make them available electronically. Instead of an annual report on the operations of appraisal districts, she will prepare a biennial report on values by category and

tax rates in counties, cities and school districts. That report will be published electronically on her website.

Assessment

Amend/Enacts: §26.05 Ta Code; §44.004 Education Code

Effective: September 28, 2011 (applies to 2011 tax-rate adoption regardless of when that occurs)

One provision of the bill concerns the "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service," that a school district must publish as part of its Notice of Public Hearing to Discuss Budget and Proposed Tax Rate. If the debt component of that rate decreases after a school district has published its notice, the district will not have to publish a revised notice or reschedule the board's hearing. The board can simply adopt its debt rate based on the revised calculation.

Collection

Amends/Enacts: §31.031 Tax Code

Effective: January 1, 2012

Under current law, senior citizens and disabled homeowners have the right to pay the taxes on their homesteads in four installments. This bill extends that right to a deceased disabled veteran's surviving spouse who qualifies for a disabled veteran's exemption. The surviving spouse can pay her homestead taxes in installments even if she chooses to apply the disabled veteran's exemption to another property. She loses that right if she remarries.

School Finance and Value Studies

Amends/Enacts: §26.08 Tax Code; §§41.0041, 42.2516, 42.2523, 42.2524 Education Code

Effective: September 28, 2011 (applies to 2011-2012 school year)

Several changes concern school districts' entitlement to additional state aid for tax reduction (ASATR) under §42.2516 of the Education Code. The commissioner can set the compression percentage only if the legislature fails to do so by appropriation. Districts' ASATR entitlements will not be changed for the 2011-2012 year, but will be reduced to 92.35 percent of current levels for the 2012-2013 year. The legislature will determine the levels of the entitlements for future years. A school district that adopts an M&O tax rate less than its compressed rate will have its entitlement reduced proportionally. The bill expresses the legislature's intent to continue reducing ASATR entitlements in future years and to increase the basic allotment in those years. By September of 2017, ASATR will be gone.

Current law applies a special rule to a school district that became (or becomes) too wealthy sometime after the 2005-2006 school year. Instead of paying out of pocket for attendance credits, the district can set the cost of those credits off against its ASATR entitlement from the state. If cost of the attendance credits exceeds the amount of the district's ASATR money in a particular year, the district still does not have to pay out of pocket. The extra cost

of the attendance credits will be withheld from the district's ASATR money in the next year. This bill will repeal that law effective September 1, 2017.

Amends/Enacts: §151.802 Tax Code
Effective: January 1, 2012

The comptroller will transfer certain unused franchise-tax credits to the state's Property Tax Relief Fund.

Amends/Enacts: §§41.002, 42.302 Education Code
Effective: September 28, 2011 (applies to 2011-2012 school year)

The bill also imposes an additional limit on a school district's permissible wealth. A district that imposed an M&O tax for the 2010 tax year at the maximum rate permitted by law may not have a wealth per student that exceeded \$339,500. Such a district will have a guaranteed Tier-2 level of \$33.95 per student per penny of tax effort. These provisions expire on September 1, 2012.

Amends/Enacts: §42.008 Education Code
Effective: September 28, 2011 (applies to 2011-2012 school year)

The bill repeals the current \$350 per-student limit on year-to-year increases in a school district's M&O revenue.

Amends/Enacts: §§42.101, 42.251 Education Code
Effective: September 28, 2011 (applies to 2011-2012 school year)

The bill creates a "regular program" allotment equal to the basic allotment multiplied by a district's compressed tax rate divided by the state maximum compressed tax rate. The allotment will then be multiplied by an adjustment factor equal to 92.39% for the 2011-2012 school year and 98% for the 2012-2015 school years unless a greater amount is established by appropriation. If a district that does not receive additional state aid for tax reduction (ASATR) under §42.2516 of the Education Code and the district demonstrates a hardship, the Commissioner of Education may raise the district's adjustment factor for 2011-2012 and lower it for 2012-2013 so that the district receives the same total allotment over the course of those two years. Beginning September 1, 2015, the regular program allotment will go away, and a school district will once again be entitled to its full basic allotment. Some other allotments and adjustments are also affected.

Amends/Enacts: §42.253 Education Code
Effective: September 28, 2011 (applies to 2011-2012 school year)

If, in the second year of a biennium, the amount appropriated for the Foundation School Program is less than the amount that the program owes to school districts and the Legislature does not fix the problem, the commissioner will adjust every school district's entitlements (and the amounts owed by wealthy school districts) so that every district suffers the same percentage reduction in its total revenues. Districts will be entitled to recoup the loss in the following year.

**Amends/Enacts: §42.259 Education Code; §466.355 Government Code
Effective: September 28, 2011**

The bill will postpone some payments to school districts from the Foundation School Program. The payments will be delayed by roughly two weeks, from late August 2013 to early September 2013. But, that will push them into a later fiscal year.

**Amends/Enacts: §311.013 Tax Code; §42.2514 Education Code
Effective: September 28, 2011 (applies to 2011-2012 school year)**

Several changes concern school districts participating in tax-increment financing (TIF) programs. Some districts had their Tier-Two entitlements reduced in years 2004-2009 because of their TIF contributions. The commissioner will reduce the amounts of those reductions by one-half. In some instances, districts are required to contribute to TIF funds as though they were still using their 2005 tax rates instead of their current lower rates. The state will continue to compensate those districts for the additional amounts of their contributions, but those reimbursements will be separate from the districts' ASATR entitlements. A district will not have to pay the TIF fund until it receives the money from the state.

**Amends/Enacts: N/A
Effective: September 28, 2011**

A joint legislative interim committee will conduct a comprehensive study of the state's public school finance system.

Miscellaneous

**Amends/Enacts: Chapter 111, Subchapter F Tax Code
Effective: October 1, 2011**

Under current law, a taxpayer may be entitled to a refund of some sales taxes and franchise taxes if its property receives a property-tax abatement from a city or county but no tax break from a school district. This bill repeals that law.