

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017**

**August 1, 2017**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** SB1 by Bettencourt (Relating to ad valorem taxation.), As Engrossed

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1, As Engrossed: a negative impact of (\$1,030,000) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**All Funds, Five-Year Impact:**

| <b>Fiscal Year</b> | <b>Probable Savings/(Cost) from<br/>General Revenue Fund<br/>1</b> | <b>Change in Number of State Employees<br/>from FY 2017</b> |
|--------------------|--|---|
| 2018               | (\$515,000)  | 2.0   |
| 2019               | (\$515,000)  | 2.0   |
| 2020               | (\$515,000)  | 2.0   |
| 2021               | (\$515,000)  | 2.0   |
| 2022               | (\$515,000)  | 2.0   |

**Hypothetical Fiscal Impact of Lowering the Rollback Rate from 108 to 104 Percent of the Equivalent Maintenance and Operations Rate Plus the Current Debt Rate:**

The table below was provided by the Comptroller's office and is for illustrative purposes only. It addresses the bill's provision that would lower the rollback rate from 108 to 104 percent of the equivalent M&O rate plus the current debt rate. The fiscal effect of this provision cannot be estimated; however, the table below is a hypothetical example of potential costs of the bill to most counties, cities, and special districts:

1. no proposed tax rate in excess of the reduced rollback rate proposed by the bill would be sustained in a rollback election;
2. future taxing unit rate setting practices would be similar to the rate setting practices demonstrated in the available historical tax rate data; and
3. the tax rate data, which is not available for all taxing units, is representative of all taxing units and is accurate.

| <b>Fiscal Year</b> | <b>Probable Revenue Gain/(Loss) from Counties</b> | <b>Probable Revenue Gain/(Loss) from Cities</b> | <b>Probable Revenue Gain/(Loss) from Other Special Districts</b> |
|--------------------|---|---|--|
| 2018               | \$0   | \$0   | \$0  |
| 2019               | (\$129,937,000)                                   | (\$103,257,000)                                 | (\$125,403,000)  |
| 2020               | (\$136,434,000)                                   | (\$108,420,000)                                 | (\$131,674,000)  |
| 2021               | (\$143,256,000)                                   | (\$113,841,000)                                 | (\$138,257,000)  |
| 2022               | (\$150,418,000)                                   | (\$119,533,000)                                 | (\$145,170,000)  |

**Fiscal Analysis**

The bill would amend Chapter 1 of the Tax Code, regarding general property tax provisions, to add certain information that the chief appraiser will introduce at an appraisal review board hearing to the list of items that, if required or permitted to be delivered between a chief appraiser, an appraisal district, an appraisal review board, or any combination of those persons and a property owner or the owner's agent, may be delivered in an electronic format if so agreed by the chief appraiser and the property owner or the owner's agent, with certain exceptions.

The bill would amend Chapter 5 of the Tax Code, regarding state administration of the property tax, to require the Comptroller to appoint a property tax administration advisory board to advise the Comptroller regarding state administration of property tax, and state oversight of appraisal districts and local tax offices. The advisory board would be permitted to make recommendations, which must be provided at a meeting called by the Comptroller, regarding improving the effectiveness and efficiency of the property tax system, best practices, and complaint resolution procedures. The bill would specify the make-up of the board, the members of which would serve at the Comptroller's pleasure. The bill would repeal Sections 403.302(m-1) and (n) of the Government Code, related to the Comptroller's Property Value Study Advisory Committee and would make conforming changes related to the advisory board replacing certain duties of the advisory committee.

The bill would require that the mandatory course for members of an appraisal review board provide at least eight hours of classroom education, and that the mandatory appraisal review board continuing education course provide at least four hours of classroom education. The Comptroller would be permitted to charge a fee not to exceed \$50 for non-appraisal review board attendees of the appraisal review board course. The new education requirements would apply only to an appraisal review board member appointed to serve a term of office that begins on or after the

effective date.

The bill would repeal Subsection 41A.06(c) of the Tax Code, regarding arbitrator training, and replace it with more specific provisions requiring the Comptroller to:

1. approve curricula, and provide a free online manual and other materials for training and educating arbitrators;
2. establish and supervise a four hour training program, which may be provided online, on property tax law emphasizing the requirements for equal and uniform property appraisal for the training and education of arbitrators; and
3. prepare an arbitration manual.

The bill would permit the Comptroller to contract with service providers (other than an appraisal district, the chief appraiser or another employee of an appraisal district, a member of the board of directors of an appraisal district, a member of an appraisal review board, or a taxing unit) for the arbitrator training, would permit the Comptroller to assess a maximum fee of \$50 for each person trained and would make other provisions regarding the training of arbitrators. A person requesting a revision to the arbitration manual in writing would be required to pay the cost of mediation if the Comptroller determines that mediation is required. The Comptroller by rule may prescribe the manner to verify that a person taking the training online has taken and completed the program. The Comptroller would be required to implement the arbitrator training provisions as soon as practicable after the bill's effective date.

An appraisal district would be required to appraise property in accordance with any appraisal manuals prepared and issued by the Comptroller under Section 5.05 of the Tax Code.

The Comptroller would be required to prescribe tax rate calculation forms to be used by the designated officer or employee of each:

- taxing unit other than a school district to calculate and submit the equivalent tax rate, and the rollback tax rate for the unit; and
- school district to calculate and submit the equivalent tax rate, the rollback tax rate, and the rate to maintain the same amount of state and local revenue per weighted student that the district received in the school year beginning in the preceding tax year.

The forms would be required to be in a fillable electronic format and capable of being certified as accurately calculating the applicable tax rates using certified appraisal roll values. The Comptroller would be required to prescribe the forms as soon as practicable after January 1, 2018. The bill would make other specifications regarding the forms. The Comptroller would be required to use the forms published on the Comptroller's Internet website as of January 1, 2017, modified as necessary to comply with the new requirements. The bill would provide for the forms to be updated as necessary to reflect changes in values and to make non-substantive changes at the Comptroller's discretion. The Comptroller would be permitted to revise the forms to reflect certain statutory changes, non-substantive changes, or on receipt of a request in writing if approved by the agreement of a majority of the members of a committee selected by the Comptroller. The bill would specify the makeup of the committee. The bill would provide for mediation regarding a revision if required.

The Comptroller would be required to include school district tax rates in the list of tax rates imposed by each taxing unit in this state as reported by each appraisal district, and to use the tax rates for the year in which the list is prepared (rather than for the preceding year). The Comptroller would be required to prescribe the manner in which appraisal districts submit the list and the deadline for the list, to list the tax rates according to specified criteria, and to publish the list on the Comptroller's Internet website not later than January 1 of the following year. The

Comptroller would be required to comply with this provision not later than January 1, 2019.

The Comptroller would be required to review and issue findings regarding appraisal district compliance with standards, procedures, and methodology prescribed by Comptroller appraisal manuals in addition to existing review requirements. The bill would make conforming changes regarding appraisal manuals.

The bill would repeal Subsections 5.103(e) and (f) of the Tax Code, regarding an appraisal review board survey, and replace them with more specific provisions requiring the Comptroller to prepare a survey form that allows a property owner or the owner's designated agent who files an appraisal roll correction motion or a protest, or a representative of the appraisal district in which the motion or protest is filed, to submit comments and suggestions regarding any matter addressed in the Comptroller's model appraisal review board hearing procedures or any other matter related to the fairness or efficiency of the appraisal review board. An appraisal district would be required to provide the survey to each property owner or designated agent at or before each hearing. Persons choosing to submit the survey form would be required to submit it to the Comptroller. The Comptroller would be required to allow submission of the survey form in person, by mail, by electronic mail, or through a web page on the Comptroller's Internet website. The bill would make other provisions and requirements regarding the completion and deadline for the survey form. The Comptroller would be required to issue an annual report summarizing the survey results, and to make the survey form and instructions available as soon as practicable after the bill's effective date, and would be permitted to adopt rules regarding the appraisal review board surveys.

The bill would amend Chapter 6 of the Tax Code, regarding local property tax administration, to provide that an individual is ineligible to serve on an appraisal district board of directors if the individual has engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district at any time during the preceding three (rather than five) years.

Each chief appraiser would be required to establish in the appraisal district an office of tax notices administered by a tax notice officer appointed by the chief appraiser. In all communications this office would be required to identify itself as the (county name) County Office of Tax Notices rather than as the appraisal district. The office would be responsible for delivering specified notices and for creating and maintaining the real-time tax database as provided by the bill under Chapter 26 of the Tax Code.

The board of directors of an appraisal district would be permitted to transmit property owner or taxing unit complaints about the appraisal of a specific property to the chief appraiser if the transmission is in writing and without comment.

The bill would establish special three-member appraisal review board panels for properties appraised at \$50 million or more that are in one of the specified property categories in a county with a population of one million or more. The bill would prescribe the eligibility requirements, and other matters related to the special appraisal review board panels. An auxiliary board member would not be permitted to hear taxpayer protests before a special panel unless the member is eligible to be appointed to the special panel.

The bill would provide that an appraisal district board of directors for an appraisal district established in a county with a population of one million or more by resolution of a majority of the board's members is required to increase the size of the district's appraisal review board to the number of members the board of directors considers appropriate to manage the duties of the

appraisal review board, including the established duties of special panels. In selecting individuals who are to serve as members of the appraisal review board, the local administrative district judge would be required to select an adequate number of qualified individuals to permit the chairman of the appraisal review board to fill the positions on each special panel. These provisions would apply to appraisal review board appointments for terms beginning on or after January 1, 2019.

An individual who is related to a member of an appraisal review board within the third degree by consanguinity or within the second degree by affinity would be included in the list of individuals ineligible to serve on an appraisal review board. The bill would adjust other appraisal review board eligibility requirements.

The local administrative district judge (rather than the appraisal district board) would be required to select a chairman and a secretary from among the members of the appraisal review board. The concurrence of a majority of the members of the appraisal review board or a panel of the board present at a meeting of the board or panel would be sufficient for a recommendation, determination, decision, or other action by the board or panel, and a requirement that more than a majority of the members of the board concur would be prohibited.

The bill would amend Chapter 23 of the Tax Code, regarding appraisal methods and procedures, to require that the market value of property be determined by the application of appraisal methods and techniques prescribed by appraisal manuals prepared and issued by the Comptroller, in addition to generally accepted appraisal methods and techniques as prescribed in current law.

The bill would amend Chapter 25 of the Tax Code, regarding local property tax appraisal, to provide that, effective January 1, 2019, in an appraisal district with a population of one million or more, in addition to other required information, the chief appraiser shall state in a notice of appraised value that an owner of certain specified property has the right to a protest to be heard by a special panel of the appraisal review board. Effective January 1, 2020, the bill would strike the requirement that 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 be included in a notice of appraised value. From January 1, 2019 until January 1, 2020 this requirement applies only to a notice of appraised value required to be delivered by the chief appraiser of an appraisal district established in a county with a population of less than 120,000. Instead, a notice that an estimate of taxes may be found in the real-time tax database will be sent to each property owner in the county by the tax rate officer of each appraisal district.

The bill would amend Chapter 26 of the Tax Code, regarding property taxation and assessment, to re-name the effective tax rate as the "equivalent tax rate" and the effective maintenance and operations tax rate as the "equivalent maintenance and operations tax rate". The designated officer or employee of a taxing unit would be required to use the tax rate calculation forms prescribed by the Comptroller in calculating the equivalent tax rate and the rollback tax rate. The designated officer or employee of taxing units other than school districts or certain water districts would not be permitted to submit these rates to the governing body of the taxing unit and the unit would not be permitted to adopt a tax rate until the designated officer or employee certifies on the tax rate calculation forms that the tax rate calculations are accurate and the values are the same as the values shown in the unit's certified appraisal roll.

The bill would define a "small taxing unit" as a taxing unit, other than a school district, for which the sum of property tax proposed to be collected for the tax year and sales and use tax projected to be received from the Comptroller during the fiscal period is \$20 million or less. For a small taxing unit the percentage by which the equivalent maintenance and operations tax rate is increased in the rollback tax rate calculation would remain at 8 percent while for other taxing units the

percentage would be reduced to 4 percent. The separate rollback rate calculation for school districts was not amended by the bill and these calculations do not apply to water districts. A taxing unit other than a small taxing unit would be permitted to direct the designated officer or employee to calculate the rollback tax rate of the unit in the manner provided for a small taxing unit if any part of the unit is located in an area declared a disaster area during the current tax year by the Governor or by the President of the United States. The bill would provide a deadline after which a taxing unit affected by a disaster would revert to the previous calculation method.

The bill provides that on the uniform election date prescribed by the Election Code in May of 2018, each taxing unit that would have been a small taxing unit in the 2017 tax year if this bill had been in effect for that tax year would be required to call an election for the purpose of allowing the voters in the taxing unit to determine whether the law governing a taxing unit other than a small taxing unit shall apply to the taxing unit. If a majority of the votes cast favor the proposition, the taxing unit is considered to be a taxing unit other than a small taxing unit. The bill would make other provisions for the election.

The bill would repeal Section 26.07 of the Tax Code which provides taxpayers a process to petition for a rollback election for taxing units other than school districts. Instead, taxing units would be subject to a rollback election under Section 26.08 of the Tax Code and water districts would be subject to a rollback election under Section 49.236 of the Water Code.

As soon as practicable after the designated officer or employee calculates the equivalent tax rate and the rollback tax rate of the taxing unit, the designated officer or employee would be required to submit the worksheets used in calculating the rates to the county assessor-collector for each county in which all or part of the territory of the unit is located.

Taxpayer notices containing specified tax bill information would be required by specified deadlines. The bill would revise requirements for certain public tax rate hearings and for related notices.

A person who owns taxable property would be entitled to an injunction prohibiting the taxing unit in which the property is taxable from adopting a tax rate if the assessor or designated officer or employee of the unit, the tax notice officer of the applicable appraisal district, or the taxing unit, as applicable has not complied with certain computation, publication, posting or other requirements (rather than has not complied and the failure to comply was not in good faith). It would be a defense in an action for an injunction if the failure to comply was in good faith.

If the anticipated collection rate of a taxing unit is lower than the lowest actual collection rate of the taxing unit for any of the preceding three years, the anticipated collection rate of the taxing unit would be equal to the lowest actual collection rate of the taxing unit for any of the preceding three years. The bill would define "anticipated collections rate".

Each appraisal district would be required to maintain a searchable, continuously updated, and publicly accessible real-time tax database containing specified information provided by taxing units according to Comptroller rules. The information would include property values, property taxes, various kinds of tax rate, hearing dates, and other related information. The database would be required to be capable of generating a real-time tax rate notice for each property. The bill would specify the contents of the notice including various tax rates and property values for each taxing unit. A taxing unit would not be permitted to hold a public hearing on a proposed tax rate until the 14th day after the date the officer or employee designated by the taxing unit has entered certain specified information into the database and submitted the specified calculation forms to the appraisal district. A taxing unit other than a school district would not be permitted to adopt a

tax rate until:

- the tax notice officer of each appraisal district has delivered a specified notice regarding estimated taxes;
- the designated officer or employee of the taxing unit has entered in the real-time tax database the required information for the current tax year and incorporated the completed tax rate calculation forms into the real-time tax database; and
- the taxing unit has posted the required information on the Internet website used by the taxing unit for that purpose.

Each taxing unit would be required to maintain or have access to a generally accessible Internet website including specified taxing unit, contact, budget, tax rate, tax revenue, audit information, and notices in a format prescribed by the Comptroller.

The bill would amend Chapter 41 of the Tax Code, regarding local review, to strike the provision permitting a taxing unit to challenge before the appraisal review board the level of appraisals of any category of property in the district or in any territory in the district. A notice of protest would be required to permit a property owner to request that the protest be heard by a special panel if the protest will be determined by an appraisal review board that has special panels and the property is in a category for which a special panel is provided. The bill would make other provisions for special panels. The bill would require the written notice of an appraisal review board hearing to include the subject matter of the hearing.

The bill would prohibit a chief appraiser from charging a property owner or the owner's agent for copies of certain pamphlets, data, and procedures related to an appraisal review board hearing regardless of the manner in which the copies are prepared or delivered. A chief appraiser would be required to deliver certain information that the chief appraiser will introduce at an appraisal review board hearing by regular first class mail, in a certain electronic format, or by reference to a website. The bill would provide that a property owner or owner's agent may choose to receive the information by regular first class mail and that the chief appraiser must comply.

An appraisal review board would be prohibited from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records submitted to the board by the chief appraiser. An appraisal review board would be permitted to schedule consecutive hearings on all protests filed by a property owner or the owner's agent. The bill would specify the contents of the notice of the consecutive hearings, and require that the order of the hearings listed in the notice not be changed without the agreement of the property owner (or agent), the chief appraiser, and the appraisal review board. The bill would make other provisions regarding the procedures, scheduling and notice of consecutive hearings and special panels. The bill would clarify certain matters, modify evidence exchange, adjust certain deadlines, and make conforming changes regarding appraisal review board hearings and determinations. The first hearing on a weekday would not be permitted to begin after 7:00 p.m. and a Sunday hearing would be prohibited. The changes in law to Chapter 41 protest procedures would apply only to a protest for which the notice of protest was filed by a property owner or the owner's agent on or after the effective date of this bill.

The bill would amend Chapter 41A of the Tax Code, regarding property tax appeals through binding arbitration, to specify that to initially qualify to serve as an arbitrator a person would be required, in addition to existing qualification requirements, to complete the appraisal review board and property tax law training for arbitrators provided by the bill. An arbitrator would no longer be required to reside in the county in which the property that is the subject of the appeal is located. The Comptroller, however, would be required to appoint an arbitrator from within the county if requested by the property owner and if one is available.

The changes in law to Chapter 41A arbitrator qualification requirements would not affect the entitlement of a person serving as an arbitrator immediately before the effective date of the bill to continue to serve as an arbitrator and to conduct hearings on arbitrations until the person is required to renew the person's agreement with the Comptroller to serve as an arbitrator. The changes in law apply only to a person who initially qualifies to serve as an arbitrator or who renews the person's agreement with the Comptroller to serve as an arbitrator on or after the bill's effective date. The bill would not prohibit a person who is serving as an arbitrator on the effective date from renewing the person's agreement with the Comptroller to serve as an arbitrator if the person has the qualifications required for an arbitrator under the Tax Code as amended by the bill. The bill would make other provisions regarding arbitrators.

The bill would adjust certain deadlines, and make clarifying or conforming repeals and amendments in the Tax Code and various other codes.

With certain specified exceptions, the bill would take effect on January 1, 2018 and apply beginning with the 2018 tax year.

### **Methodology**

The bill's provision that would prohibit an appraisal review board from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records could create a cost to local taxing units and to the state through the school funding formulas. Currently, an appraisal review board may increase, decrease or make no change to a property's appraised value. Because information on the number of properties for which the value is increased by an appraisal review board is unknown, the cost cannot be estimated.

The bill's provision that would lower the rollback rate from 108 to 104 percent of the equivalent maintenance and operations (M&O) rate plus the current debt rate could create a cost to taxing units other than small taxing units, school districts, and water districts by making it more difficult to increase M&O tax rates by more than 104 percent of the equivalent M&O rate. If these taxing units propose a tax rate higher than the rollback rate, the automatic rollback election might result in reducing the proposed rate to 104 percent of the equivalent M&O rate plus the current debt rate. Future proposed tax rates and the outcome of any elections cannot be predicted and the increase in cost attributable to the proposed provision to units of local government cannot be estimated. There would be no cost to school districts or to the state through the school funding formula.

The Comptroller's office reports that administrative costs would total \$515,000 per year. The administrative cost estimate reflects the funds that would be necessary to hire two program specialists IIIs to support the appraisal review board survey provisions and \$362,000 to employ seasonal workers. The bill requires an appraisal district to provide a hardcopy of the survey to every property owner or their agent who files a protest or a motion to correct the appraisal roll. Currently, the Comptroller's Office only accepts electronically submitted surveys. In 2016, 7,785 property owners electronically submitted surveys and additional surveys were submitted by agents and members of the public. While not every survey will be submitted by hardcopy under this bill, the number of hand written surveys will significantly increase. Hand entry of a survey (provided in person, mailed, or accepted by email) takes approximately 25 minutes to process which amounts to 406 days or 2 FTEs.

The Comptroller's office anticipates that the Property Tax Assistance Division (PTAD) would become the resource for individual taxpayers and more than 4,200 taxing authorities when there



are questions or issues about the calculation of a tax rate. Each year, from June 15 through September 15, the Comptroller's Office would need to contract with one property tax attorney and three Truth in Taxation subject matter experts to handle the increased number of legal and worksheet related questions during this peak period while tax rates are calculated. The agency would also need to employ seasonal workers to input binding arbitration information during peak periods. PTAD experienced a 400 percent increase in binding arbitration requests from 2015 to 2016, prompting the need for seasonal staff. The Comptroller's office anticipates requests to continue to grow, in part due to the increased eligibility limit for binding arbitration.

### **Local Government Impact**

The table above titled "Hypothetical Fiscal Impact of Lowering the Rollback Rate from 108 to 104 Percent of the Equivalent Maintenance and Operations Rate Plus the Current Debt Rate" was provided by the Comptroller's office and is for illustrative purposes only. It addresses the bill's provision that would lower the rollback rate from 108 to 104 percent of the equivalent M&O rate plus the current debt rate. The fiscal effect of this provision cannot be estimated; however, the table above is a hypothetical example of potential costs of the bill to most counties, cities, and special districts assuming:

1. no proposed tax rate in excess of the reduced rollback rate proposed by the bill would be sustained in a rollback election;
2. future taxing unit rate setting practices would be similar to the rate setting practices demonstrated in the available historical tax rate data; and
3. the tax rate data, which is not available for all taxing units, is representative of all taxing units and is accurate.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** UP, KK, SD, SJS