

## **BILL ANALYSIS**

C.S.S.B. 2  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the complexity of the property tax system and the difficulty in accessing information on how property taxes are levied and how to participate in the property tax system process. For these reasons, among others, it has been suggested there is a need to reform the property tax appraisal and rate-setting processes. C.S.S.B. 2 seeks to address these concerns by enacting the Texas Taxpayer Transparency Act of 2019, which includes provisions relating to required voter approval of a proposed property tax rate that exceeds the rollback rate, property tax appraisal process reforms, and improving access to information on the effects of proposed property tax rates and the process to voice concerns.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTIONS 5, 11, and 28 of this bill.

### **ANALYSIS**

C.S.S.B. 2 amends the Tax Code to make the current rollback tax rate calculation using the 1.08 multiplier applicable only to a special taxing unit and, for a limited period following a declared disaster, to taxing units that are not special taxing units. The bill defines "special taxing unit," for purposes of assessments under the Property Tax Code, as:

- a taxing unit, other than a school district, for which the maintenance and operations (M&O) tax rate proposed for the current tax year is 2.5 cents or less per \$100 of taxable value;
- a junior college district; or
- a hospital district.

C.S.S.B. 2 revises the formula used to calculate the rollback tax rate for a taxing unit other than a special taxing unit by reducing from 1.08 to 1.035 the multiplier applied to the unit's M&O tax rate and including in the sum added to that product the unit's unused increment rate. The bill defines "unused increment rate" as the greater of zero or the rate expressed in dollars per \$100 of taxable value calculated according to a prescribed formula that adds the difference between the rollback tax rate and actual tax rate for the current tax year and each of the four preceding tax years, where "rollback tax rate" means the unit's rollback tax rate in the applicable preceding tax year less the unused increment rate for that preceding tax year and "actual tax rate" means the unit's actual tax rate used to levy taxes in the applicable preceding tax year. The bill adds a temporary provision set to expire December 31, 2024, establishing that, for each tax year before

the 2020 tax year, the difference between a taxing unit's rollback tax rate and actual tax rate is considered to be zero.

C.S.S.B. 2 renames the effective tax rate with regard to property taxation as the no-new-revenue tax rate and renames the effective M&O rate as the no-new-revenue M&O rate. The bill replaces provisions providing for an election, on petition, to repeal an increase in the adopted tax rate of a taxing unit other than a school district that exceeds the unit's rollback tax rate with provisions providing for an automatic election, at which the registered voters of the unit must determine whether to approve the rate, to be held in such a unit that is a special taxing unit if a tax rate is adopted that exceeds the unit's rollback tax rate or, in such a taxing unit that is not a special taxing unit, that exceeds the greater of the unit's rollback tax rate or de minimis rate. The bill defines "de minimis rate" as the rate equal to the sum of the following:

- the unit's no-new-revenue M&O rate;
- the rate that, when applied to the unit's current total value, will impose an amount of taxes equal to the de minimis amount; and
- the unit's current debt rate.

C.S.S.B. 2 establishes that, when increased expenditure of money by a taxing unit is necessary to respond to a disaster, excluding a drought, that has impacted the unit and the governor has declared any part of the area in which the unit is located as a disaster area, an election is not required to approve the tax rate adopted for the year following the year in which the disaster occurs. The bill revises provisions providing for an election to ratify school taxes to set the rollback tax rate of a school district at the rate equal to the sum of the district's current debt rate and the rate per \$100 of taxable value that is equal to the product of the district's no-new-revenue M&O tax rate and 1.02.

C.S.S.B. 2 requires the comptroller of public accounts, by August 1 or as soon thereafter as practicable, to determine the de minimis amount for the current tax year and publish that amount in the Texas Register. The bill sets the de minimis amount for the 2020 tax year at \$500,000 and provides for an annual adjustment of that amount to reflect the inflation rate. The bill specifies that an officer or employee designated by a taxing unit's governing body to calculate the unit's no-new-revenue tax rate and rollback tax rate is required to do so only after the assessor for the unit submits the appraisal roll for the unit to the unit's governing body and the comptroller publishes the current tax year's de minimis amount. The bill provides for an adjustment in the calculation of a taxing unit's no-new-revenue M&O rate if the unit's local option residence homestead exemption costs exceed the amount of those costs for the preceding tax year and provides for the required notice of that adjustment.

C.S.S.B. 2 requires the comptroller to prescribe tax rate calculation forms to be used by a taxing unit for the calculation and submission of the unit's applicable tax rates, requires the forms to be in an electronic format, and sets out certain other format and design requirements for those forms. For purposes of prescribing those forms, the comptroller is required to use the forms published on the comptroller's website as of January 1, 2019, modified as necessary to comply with those format and design requirements. The bill requires the comptroller to update the forms as necessary to reflect formatting and other nonsubstantive changes and provides for additional updates and revisions to those forms, subject to approval of a committee established by the comptroller, to reflect substantive changes and to reflect changes made on receipt of a written request. A meeting of the committee is not subject to the requirements of state open meetings law.

C.S.S.B. 2 requires an appraisal district to appraise property in accordance with any appraisal manuals required by law to be prepared and issued by the comptroller. The bill sets out certain appraisal methods and techniques considered to be generally accepted appraisal methods and techniques for purposes of the Property Tax Code.

C.S.S.B. 2 requires each county to maintain a website and revises certain applicable posting provisions to reflect that requirement. The bill requires a county assessor-collector, for each taxing unit all or part of the territory of which is located in the county, to post on the county's website the following:

- the tax rate calculation forms used to calculate the taxing unit's no-new-revenue and rollback tax rates for the most recent five tax years beginning with the 2020 tax year, as certified by the designated officer or employee;
- the applicable forms for the current tax year not later than August 1; and
- the name and official contact information for each member of the unit's governing body.

The bill adds a temporary provision set to expire January 1, 2026, establishing that, for purposes of the posting of tax rates, a reference to the no-new-revenue tax rate or the no-new-revenue M&O rate includes the equivalent effective tax rate or effective M&O rate for a preceding year.

C.S.S.B. 2, for purposes of the provision, as amended by the bill, requiring a taxing unit to include on the home page of the unit's website certain statements regarding a tax rate that will raise more taxes for maintenance and operations than the preceding year's tax rate, specifies that a taxing unit that does not own, operate, or control a website is not required to comply with that amended provision until the first tax year in which the unit is required by law to maintain or have access to a website.

C.S.S.B. 2, in provisions applicable to information submitted to the comptroller that relates to a tax year beginning on or after January 1, 2020:

- requires the comptroller's biennial report of the total appraised value and taxable values of taxable property by category and the tax rates of each county, municipality, and school district in effect for the preceding two years to also include information regarding special districts; and
- requires the comptroller to:
  - prescribe the format by which an appraisal district or taxing unit must submit information to the comptroller as part of the preparation of the report;
  - collect and review in detail the information submitted that relates to each county, municipality, and school district; and
  - collect and receive the information submitted that relates to each special district.

C.S.S.B. 2, with respect to the comptroller-prepared statewide list of tax rates:

- changes the list from a list that includes the total tax rate imposed by each taxing unit, 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 to a list that includes the total tax rate imposed by each taxing unit, as reported to the comptroller by each appraisal district, for the year in which the list is prepared;
- requires the comptroller to prescribe the manner in which and the deadline by which appraisal districts are required to submit the tax rates to be listed to the comptroller;
- changes the order in which the tax rates must be listed from descending order by tax rate to alphabetical order according to county and taxing unit name;
- changes the deadline for publication of the list on the comptroller's website from December 31 of each year to January 1 of the following year; and
- requires the comptroller to comply with these amended provisions:
  - not later than January 1, 2022, with regard to tax rate information related to a taxing unit located wholly or partly in a county with a population of 120,000 or more; and

- not later than January 1, 2023, with regard to tax rate information related to the remaining units.

C.S.S.B. 2, effective September 1, 2020, requires the appraisal review board (ARB) for an appraisal district established in a county with a population of one million or more to establish special panels to conduct protest hearings relating to property that has an appraised value of \$50 million or more as determined by the district and that is included in one of the following classifications: commercial real and personal property, real and personal property of utilities, industrial and manufacturing real and personal property, and multifamily residential real property. The bill sets out provisions relating to the following:

- the composition of such a special panel;
- the conditions of eligibility for a member of the ARB to be appointed to a panel;
- the conditions under which the chairman of the ARB may appoint a member who does not meet the conditions of eligibility; and
- an authorization for a panel, in addition to conducting protest hearings relating to property described by the bill and designated for the panel, to conduct protest hearings relating to other property as assigned by the chairman and consented to by the property owner.

C.S.S.B. 2, effective September 1, 2020:

- requires the 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 to increase the size of the district's ARB to the number of members the board considers appropriate to manage the duties of the ARB, including the duties of each special ARB panel established by the bill;
- requires the local administrative district judge, in selecting individuals who are to serve as ARB members in such a district for terms beginning on or after January 1, 2021, to select an adequate number of qualified individuals to permit the chairman of the ARB to fill the positions on each such special panel;
- prohibits an auxiliary ARB member from hearing taxpayer protests before a special panel unless the member is eligible to be appointed to the special panel; and
- includes one or more auxiliary board members sitting on such a panel to conduct a protest hearing as a condition triggering a reduction in the number of regular board members required to constitute the panel by the number of auxiliary board members sitting.

C.S.S.B. 2, effective January 1, 2021, requires the chief appraiser for an appraisal district in a county with a population of one million or more to state in a notice of appraised value of applicable property, as described by the bill, that the property owner has the right to have a protest relating to the property heard by a special ARB panel.

C.S.S.B. 2, effective January 1, 2021, adds a temporary provision, set to expire January 1, 2022, making the inclusion in a notice of appraised value of the amount of tax that would be imposed on the property on the basis of the tax rate for the preceding year, if the appraised value is greater than it was in the preceding year, applicable only to a notice required to be delivered by the chief appraiser of an appraisal district established in a county with a population of less than 120,000. The bill, effective January 1, 2022, removes the requirement that the notice include that amount.

C.S.S.B. 2, effective January 1, 2021:

- requires a taxing unit's designated officer or employee to use the tax rate calculation forms prescribed by the comptroller under the bill's provisions in calculating the no-new-revenue tax rate and the rollback tax rate;

- requires the designated officer or employee, as soon as practicable after calculating the unit's respective tax rates, to submit the forms used in calculating the rates to the county assessor-collector for each county in which all or part of the taxing unit's territory is located;
- prohibits the designated officer or employee from submitting the respective tax rates to the taxing unit's governing body and prohibits the unit from adopting a tax rate until the designated officer or employee certifies on the calculation forms that the designated officer or employee has accurately calculated the tax rates and has used values that are the same as the values shown in the unit's certified appraisal roll in performing the calculations; and
- exempts a public school district from the preceding certification requirement.

C.S.S.B. 2 changes the requirement that a taxing unit collector's certification of the collection rate for the current year be an estimate of that rate to specify that the certification instead be an anticipated collection rate that is calculated under the applicable statutory provisions and the applicable bill provisions. The bill revises the requirement that a designated officer or employee submit to the governing body the tax rates by August 7 or as soon thereafter as practicable and deliver by mail to each property owner in the unit or publish in a newspaper certain financial information by revising the type of information to be published in a newspaper to specify that the tax rates instead be published and by:

- removing the option of mail delivery;
- specifying that such publication is in a newspaper having general circulation in the county in which the taxing unit is located or primary located;
- requiring the rates to be posted in a prominent location on the unit's website; and
- requiring the officer or employee to prepare and submit to the unit's governing body a schedule of the unit's debt obligations, in addition to submitting the rates to the governing body.

C.S.S.B. 2 requires the chief appraiser of each appraisal district to create and maintain a property tax database and, in addition to setting out functional requirements and providing for certain database information and database content with respect to each property listed on the respective appraisal roll:

- requires the database to be accessible to the public and searchable by property address and owner;
- requires the database to allow a property owner to electronically complete and submit to a taxing unit in which the owner's property is located a form on which the owner may provide the owner's opinion as to whether the unit's proposed tax rate should be adopted; and
- requires the chief appraiser to make certain information contained in the database and tax rate calculation forms available to the public not later than the third business day after the date the information and forms are incorporated into the database.

C.S.S.B. 2 requires a taxing unit to maintain a website or to have access to a generally accessible website that may be used for the purpose of posting certain tax rate and budget information. The bill requires a taxing unit to post or cause to be posted on the website the tax rate and budget information, as set out in the bill, in a format prescribed by the comptroller. The bill, with respect to these requirements:

- requires an appraisal district established in a county with a population of 120,000 or more and each taxing unit located wholly or partly in such an appraisal district to comply beginning with the 2021 tax year; and

- requires an appraisal district established in a county with a population of less than 120,000 and each taxing unit located wholly in such an appraisal district to comply beginning with the 2022 tax year.

C.S.S.B. 2, effective January 1, 2021, requires each appraisal district's chief appraiser, by August 7 or as soon after that date as practicable, to deliver by regular mail or email to each owner of property located in the district 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. The bill sets out the required contents of the notice and certain format requirements for a statement heading in the notice. The bill requires the comptroller, with the advice of the property tax administration advisory board appointed under the bill's provisions, to adopt rules prescribing the form of the notice and authorizes the comptroller to adopt rules regarding the format and delivery of the notice. The bill requires a taxing unit's governing body to include as an appendix to the taxing unit's budget for a fiscal year the tax rate calculation forms used by the unit's designated officer or employee to calculate the unit's no-new-revenue and rollback tax rates for the tax year in which the fiscal year begins. The bill, with respect to that delivery requirement:

- requires an appraisal district established in a county with a population of 120,000 or more and each taxing unit located wholly or partly in such an appraisal district to comply beginning with the 2021 tax year; and
- requires an appraisal district established in a county with a population of less than 120,000 and each taxing unit located wholly in such an appraisal district to comply beginning with the 2022 tax year.

C.S.S.B. 2, effective January 1, 2021:

- revises the conditions triggering the entitlement of an owner of taxable property to an injunction prohibiting the applicable taxing unit from adopting a tax rate, with respect to an assessor's or designated officer's or employee's failure to comply with certain existing computation or publication requirements, by:
  - including as such a condition a chief appraiser's or a taxing unit's failure to comply with those existing computation or publication requirements and with certain website posting requirements and database and website requirements as provided by the bill; and
  - including as such a condition an assessor's, designated employee's, or designated officer's failure to comply with those website posting requirements and database and website requirements as provided by the bill; and
- establishes as a defense in an action for such an injunction that the failure to comply was in good faith.

C.S.S.B. 2 establishes that the anticipated collection rate of a taxing unit whose calculated anticipated collection rate is lower than the unit's lowest actual collection rate for any of the preceding three years is equal to the unit's lowest actual collection rate for any of the preceding three years and establishes that a unit's anticipated collection rate is the applicably modified rate regardless of whether that rate exceeds 100 percent.

C.S.S.B. 2 requires a tax rate that exceeds the rollback tax rate to be adopted not later than the 71st day before the next November uniform election date. The bill decreases from two public hearings to one public hearing the number of hearings the governing body of a taxing unit other than a school district must hold on a proposed tax rate that exceeds the lower of the rollback tax rate or the no-new-revenue tax rate before the proposed rate may be adopted. The bill authorizes the governing body to vote on the proposed tax rate at the public hearing. If the governing body does not do so, the governing body is required to announce at the hearing the date, time, and place of the meeting at which it will vote on the proposed tax rate, which may not be held later than the seventh day after the hearing.

C.S.S.B. 2, effective January 1, 2021:

- prohibits the governing body of a taxing unit other than a school district from holding a public hearing on a proposed tax rate or a public meeting to adopt a tax rate until the fifth business day after the date the chief appraiser of each appraisal district in which the unit participates has:
  - delivered the applicable notice to each owner of property located in the district regarding the availability of certain district tax information in the property tax database provided by the bill; and
  - complied with the bill's requirement to make certain information in the database and the tax rate calculation forms publicly available in the prescribed manner; and
- prohibits the governing body from adopting a tax rate until each chief appraiser has provided that information.

The bill, with respect to these prohibitions:

- requires an appraisal district established in a county with a population of 120,000 or more and each taxing unit located wholly or partly in such an appraisal district to comply beginning with the 2021 tax year; and
- requires an appraisal district established in a county with a population of less than 120,000 and each taxing unit located wholly in such an appraisal district to comply beginning with the 2022 tax year.

C.S.S.B. 2, effective January 1, 2021:

- revises the conditions triggering the entitlement of the owner of taxable property to an injunction restraining the applicable taxing unit's collection of taxes and includes as such a condition a taxing unit's failure to comply with appraisal roll submission requirements and with the requirements for calculating the no-new-revenue and rollback tax rates;
- establishes as a defense in an action for such an injunction that the failure to comply was in good faith;
- changes the filing deadline for such an action by establishing the 15th day after the date the taxing unit adopts a tax rate as the deadline and removing the requirement that the action be filed before the date a taxing unit delivers substantially all of its tax bills; and
- sets out provisions relating to the payment of taxes while such an action is pending.

C.S.S.B. 2 prohibits the governing body of a taxing unit that imposes an additional sales and use tax from adopting the component of the unit's tax rate relating to sales and use tax revenue until the unit's chief financial officer or auditor submits to the governing body 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 in the unit's debt obligations schedule. The bill requires the comptroller to prescribe the form of the certification and the manner in which it must be submitted.

C.S.S.B. 2 requires a taxing unit with a low tax levy to which provisions regarding a simplified tax rate notice apply that elects to provide public notice of its proposed tax rate by publication in an applicable newspaper to also provide public notice of its proposed tax rate by posting notice of that rate, including the statutorily prescribed information, prominently on the home page of the unit's website.

C.S.S.B. 2 sets out the requisite forms for the following:

- notice of a public hearing on a tax rate increase applicable to a proposed rate that exceeds the applicable taxing unit's no-new-revenue and rollback tax rates;

- notice of a public hearing on a tax rate increase applicable to a proposed rate that exceeds the unit's no-new-revenue tax rate but does not exceed the rollback tax rate;
- notice of a public hearing on a tax rate increase applicable to a proposed rate that does not exceed the unit's no-new-revenue tax rate but exceeds the rollback tax rate; and
- notice of a meeting of the governing body of a taxing unit other than a school district that proposes to adopt a tax rate that does not exceed the lower of the unit's no-new-revenue tax rate or rollback tax rate at which the governing body will vote on the proposed tax rate, which is to be provided in the same manner as the notice of a public hearing on a tax increase, as provided by the bill.

C.S.S.B. 2 sets out alternate provisions regarding the contents of a tax rate notice of a taxing unit other than a special taxing unit whose de minimis rate exceeds the rollback tax rate. The bill provides for certain additional statements and accompanying tables with certain tax comparisons to be included at the end of the applicable notices set out by the bill, including related format and content requirements. The bill repeals Local Government Code provisions providing for additional means of providing notice regarding a proposed property tax rate for counties and municipalities.

C.S.S.B. 2 requires a taxing unit that elects to provide notice of a public hearing on its proposed tax increase by publication in a newspaper to also post the notice prominently on the home page of the unit's website. The bill requires the supplemental notice of a hearing on a tax rate increase posted on a taxing unit's website to be posted prominently on the home page of that website. The bill establishes that a taxing unit that does not own, operate, or control a website is not required to comply with this requirement until the first tax year in which the unit is required by law to maintain or have access to a website.

C.S.S.B. 2 establishes that certain prohibitions on ex parte communications between an appraisal district's chief appraiser and a member of the district's board of directors do not prohibit a board member from transmitting to the chief appraiser without comment a complaint by a property owner or taxing unit about the appraisal of a specific property, provided that the transmission is in writing.

C.S.S.B. 2 revises the provision authorizing a chief appraiser to extend the filing deadline by 15 days for the requisite rendition statements and property reports of a property owner regulated by the Public Utility Commission of Texas, the Railroad Commission of Texas, the federal Surface Transportation Board, or the Federal Energy Regulatory Commission by requiring a chief appraiser to provide an extension for those filings in the same statutorily prescribed manner used by the chief appraiser in extending filing deadlines for all other rendition statements or property reports.

C.S.S.B. 2 removes the provision that entitles a taxing unit to challenge before the applicable ARB the level of appraisals of any category of property in the appraisal district or in any territory in the district, except for a single taxpayer's property.

C.S.S.B. 2, effective September 1, 2020, requires the notice of protest form prescribed by the comptroller to permit a property owner to request that the protest be heard by a special panel established by the bill if:

- the protest will be determined by an ARB to which provisions relating to such special panels apply; and
- the property is included in a classification described by the bill.

C.S.S.B. 2, effective September 1, 2020, and applicable to a protest filed on or after January 1, 2021, exempts a special ARB panel established in certain appraisal districts under the bill's provisions from the applicability of provisions authorizing an ARB to sit in panels of not fewer



than three members to conduct protest hearings and from the applicability of provisions generally applicable to the procedures for the random assignment of protests to an ARB that sits in panels to conduct protest hearings. The bill sets out provisions governing the assignment and reassignment of protests to such a special panel and provisions relating to the rehearing and determination of those protests.

C.S.S.B. 2 requires the comptroller to appoint the property tax administration advisory board to advise the comptroller with respect to the division or divisions within the comptroller's office with primary responsibility for state administration of property taxation and state oversight of appraisal districts. The bill, with respect to the advisory board:

- provides for the composition of the advisory board;
- establishes that board members serve at the pleasure of the comptroller;
- authorizes the board to make recommendations to the comptroller regarding improving the effectiveness and efficiency of the property tax system, best practices, and complaint resolution procedures;
- requires any advice to the comptroller relating to an applicable matter that is provided by an advisory board member to be provided at a meeting called by the comptroller; and
- exempts the advisory board from Government Code provisions relating to state agency advisory committees.

C.S.S.B. 2 requires the training and education course for an ARB member to provide at least eight hours of classroom training and education and requires the continuing education course for an ARB member to provide at least four hours of classroom training and education. The bill authorizes the comptroller to assess a fee capped at \$50 for each person trained for training provided under either course to an individual other than an ARB member. These provisions apply only to an ARB member appointed to serve a term of office that begins on or after January 1, 2020.

C.S.S.B. 2 repeals the provision requiring an arbitrator to complete a training program on property tax law before conducting a hearing on an arbitration relating to the appeal of an ARB order determining a taxpayer protest. The bill requires the comptroller to do the following:

- approve curricula and provide an arbitration manual and other materials for use in training and educating persons who have agreed to serve as arbitrators for purposes of such an appeal;
- make all materials for use in training and educating arbitrators freely available online; and
- establish and supervise a training program on property tax law for the training and education of arbitrators.

C.S.S.B. 2 does the following with respect to arbitrators:

- sets out provisions relating to the training and educating of arbitrators, including a provision requiring the preparation of an arbitration manual for use in the training program;
- authorizes the comptroller to prescribe by rule the manner for verifying that a person taking the training program online has taken and completed the program;
- authorizes the comptroller to assess a fee, capped at \$50 for each person trained, to recover a portion of the costs incurred for the training program;
- authorizes the comptroller to assess a fee capped at \$50 for each person other than a person who has agreed to serve as an arbitrator to whom the training is provided;

- requires a person who immediately before January 1, 2020, serves as an arbitrator to complete the training program not later than the 120th day after the date the comptroller begins to provide the training;
- establishes that the bill does not prohibit a person serving as an arbitrator on January 1, 2020, from renewing the person's agreement with the comptroller to serve as an arbitrator if the person has the required qualifications, as revised by the bill;
- requires a person, to be eligible to renew their agreement to serve as an arbitrator, to complete a revised version of the training program not later than the 120th day after the date the program is available to be taken if the comptroller:
  - revises the program after the person is included in the registry; and
  - determines that the program is substantially revised;
- requires the comptroller to remove a person from the registry of qualified arbitrators if the person fails to complete a revised version of the training program by that deadline, if applicable;
- removes as an eligibility requirement for appointment as an arbitrator that an arbitrator reside in the county in which the applicable property subject to the appeal is located and sets out provisions that, with certain exceptions, authorize a property owner to request that, in appointing an initial arbitrator, the comptroller appoint an arbitrator who resides in such a county in which the applicable property is located or who resides outside that county; and
- revises the initial qualification for service as an arbitrator in a binding arbitration of an appeal of an ARB order.

C.S.S.B. 2 repeals certain ARB oversight provisions relating to a survey form with comptroller-prescribed contents and requires the comptroller to prepare instead an ARB survey that allows certain individuals to submit comments and suggestions to the comptroller regarding an ARB and requires the comptroller to prepare instructions for completing and submitting the survey. The bill sets out related specifications and requirements regarding the contents of the survey and the manner in which it is publicized, made available, and submitted, including requirements for the comptroller to implement and maintain a method that allows for the electronic completion and submission of the survey and to issue a certain annual report that summarizes the information included in the surveys submitted during the preceding tax year. The bill authorizes the comptroller to adopt rules necessary to implement these provisions and establishes that an appraisal district is not required to provide the survey or instructions until the survey and instructions are prepared and made available by the comptroller.

C.S.S.B. 2 requires an ARB to deliver by certified mail a copy of the survey and instructions for completing and submitting the survey to a property owner for whom the ARB has issued an order of determination in a taxpayer protest.

C.S.S.B. 2 makes ineligible for service on an ARB an individual related within the third degree by consanguinity or within the second degree by affinity to an ARB member. The bill revises the provision establishing certain grounds for ineligibility for ARB service for an appraisal district established for a county having a population of more than 100,000 by making those grounds applicable instead to a district established for a county with a population of 120,000 or more. The bill makes ineligible for service on an ARB with that revised population bracket an individual who served for all or part of three previous terms as a board member or auxiliary board member on the ARB.

C.S.S.B. 2 changes from the preceding five years to the preceding three years the period during which engaging in the business of appraising property for compensation for use in a property tax proceeding or representing property owners for compensation in such a proceeding in an appraisal district makes an individual ineligible to serve on the district's board of directors.

C.S.S.B. 2 transfers the duty to select an ARB chairman and secretary from the applicable appraisal district's board of directors to the local administrative district judge in the county in which the district is established. The bill establishes that the concurrence of a majority of the ARB members present at an ARB meeting is sufficient for a recommendation, determination, decision, or other ARB action and that the concurrence of a majority of the members of an ARB panel present at a panel meeting is sufficient for a recommendation. The bill prohibits the required concurrence of more than a majority of the members of the ARB or panel.

C.S.S.B. 2 requires the chief appraiser of an appraisal district, if by July 20 the district's ARB has not approved the district's appraisal records, to not later than July 25 prepare and certify to the assessor for each taxing unit participating in the district an estimate of the taxable value of property in that taxing unit. If the assessor receives such an estimate, the unit's designated officer or employee is required to calculate the unit's tax rates using the estimate.

C.S.S.B. 2 includes a description of the subject matter of a taxpayer protest hearing that is sufficient to identify the specific action being protested among the required contents of the notice delivered by an ARB to the property owner initiating the protest. The bill, for purposes of the information that must be delivered to a property owner or the owner's agent by a chief appraiser before a protest hearing:

- removes the specification that the required delivery to owners of the comptroller-prepared pamphlet explaining taxpayer remedies is applicable only to owners representing themselves;
- clarifies that an owner or an owner's agent is entitled to a copy of data, schedules, formulas, and other information that will be introduced at the hearing if the owner or the owner's agent requests that information;
- provides that data, schedules, formulas, and other information that will be introduced at the hearing may be delivered in an electronic format if the chief appraiser and the property owner or person designated by the owner agree;
- sets out provisions establishing the means of delivery of that requested information and relating to a notice to an owner or agent regarding such delivery, including a provision authorizing delivery of the requested information in an electronic format as provided by an agreement under Property Tax Code provisions generally applicable to electronic delivery of communications; and
- revises provisions regarding charges for copies of all applicable protest hearing materials by prohibiting the chief appraiser from charging for the provided copies, regardless of the manner in which the copies are prepared or delivered.

C.S.S.B. 2 revises the prohibition against using as evidence in a protest hearing the previously requested data, schedules, formulas, and other information that will be introduced at the hearing that was not made available to the party at least 14 days before the hearing by:

- clarifying that the prohibition applies to previously requested information that was not delivered to the protesting party by that deadline;
- prohibiting such requested information that was not delivered by the deadline from being used or offered in any form as evidence in the hearing, including as a document or through argument or testimony; and
- excepting from the prohibition the information offered to rebut evidence or argument presented at the hearing by the protesting party or that party's designated agent.

C.S.S.B. 2 revises the provision requiring the provision of evening and weekend protest hearings by:

- specifying that weekday evening hearings must be provided after 5 p.m.;

- prohibiting the first hearing held on a weekday evening from being scheduled to begin after 7 p.m.; and
- prohibiting a hearing from being scheduled on a Sunday.

C.S.S.B. 2 does the following with respect to a determination of a protest:

- prohibits an ARB from determining the appraised value of the property that is the subject of a protest to be an amount greater than the property's appraised value as shown in the appraisal records submitted to the ARB by the chief appraiser for review and determination of protests or as supplemental appraisal records;
- establishes that such a prohibition does not apply if the action being protested is the cancellation, modification, or denial of an exemption or the determination that the property does not qualify for certain special appraisal based on the property's use; and
- requires the ARB to make the required determination of a protest and deliver the required information regarding that determination not later than:
  - the 30th day after the date the hearing on the protest is concluded, if the board is established for an appraisal district located in a county with a population of less than four million; or
  - the 45th day after the date the hearing on the protest is concluded, if the board is established for an appraisal district located in a county with a population of four million or more.

C.S.S.B. 2 requires the following with regard to a protest hearing:

- the postponement of a hearing if the designated agent of a property owner requests additional time to prepare for the hearing and establishes to the ARB that the chief appraiser failed to comply with certain prehearing notice requirements;
- the setting of a time and date certain for a hearing on a protest filed by the owner's designated agent; and
- the postponement of a hearing on request of the designated agent if the hearing is not commenced within two hours of the time set for the hearing.

C.S.S.B. 2 authorizes an ARB to schedule the hearings on all protests filed by a property owner or the owner's designated agent to be held consecutively and sets out certain requirements and prohibitions relating to the notice of the consecutive hearings, the order of the hearings as listed in the notice, the rescheduling of a hearing, and the notice of a rescheduled hearing.

C.S.S.B. 2 requires the ARB, for purposes of the hearings requested by a property owner or the owner's designated agent on protests concerning up to 20 designated properties that are scheduled on the same day, to schedule such hearings to be held consecutively on that same day. The bill removes the prohibition against a property owner or the owner's designated agent filing more than one such request with the ARB in the same tax year and replaces it with an authorization for the owner or agent to do so.

C.S.S.B. 2 requires an ARB, at the end of a protest hearing, to provide the property owner or the owner's designated agent one or more documents indicating that the ARB members hearing the protest signed the required affidavit regarding prohibited communications with another person with respect to matters related to an owner's protest or to a property that is the subject of the protest.

C.S.S.B. 2 amends the Government Code, with respect to the comptroller's study to determine the total taxable value of all property in each school district:

- to require the comptroller to provide notice to the applicable appraisal district's board of directors of the comptroller's determination in the final certification of the study that a school district's local value as determined by the appraisal district is not valid;
- to require the appraisal district's board to hold a public meeting to discuss the receipt of such notice;
- to require the comptroller to conduct an additional review of the appraisal district under the comptroller's general authority to review appraisal districts and provide recommendations to the appraisal district regarding appraisal standards, procedures, and methodologies if the comptroller determines in the final certification of the study that the district's local value is not valid for three consecutive years; and
- to set out provisions related to that required additional review, including provisions regarding the compliance of appraisal districts with the recommendations provided and the consequences for a failure to comply.

The first tax year that may be considered for purposes of determining whether an additional review is required is the 2020 tax year.

C.S.S.B. 2 repeals Government Code provisions creating the Comptroller's Property Value Study Advisory Committee.

C.S.S.B. 2 amends the Water Code to revise the contents of the notice of a public hearing on a tax rate required to be given by the governing body of a water district. The bill exempts an M&O tax or a property tax levied and collected by a water district for the payment of the interest on and principal of bonds issued by the district and a tax levied and collected for payments made under a water district contract from the notice requirements established by the bill that relate to notice of a meeting to vote on a proposed tax rate that does not exceed the lower of the no-new-revenue or rollback tax rate.

C.S.S.B. 2 amends the Education Code, the Local Government Code, and the Special District Local Laws Code to make conforming changes.

C.S.S.B. 2, in provisions that take effect on passage or, if the bill does not receive the necessary vote, on the 91st day after the last day of the legislative session:

- requires each taxing unit's designated officer or employee, not later than the 30th day after the date the applicable provision takes effect, to submit to the county assessor-collector for each county in which all or part of the territory of the taxing unit is located the worksheets used by the designated officer or employee to calculate the unit's effective and rollback tax rates for the 2015-2019 tax years;
- requires the county assessor-collector for each county, not later than the 30th day after the date the applicable provision takes effect, to post the submitted worksheets on the county's website;
- requires the comptroller to provide, not later than the 30th day after the date the applicable provision takes effect, a written notice to each appraisal district regarding the following:
  - the deadline for complying with each new requirement, duty, or function imposed by the bill on an appraisal district or taxing unit; and
  - any change made by the bill to the deadline for complying with an existing requirement, duty, or function of an appraisal district or taxing unit; and
- requires the chief appraiser to forward that notice, as soon as practicable after receipt of the notice, to each assessor for a taxing unit located in the district.

C.S.S.B. 2 repeals the following provisions:

- Sections 403.302(m-1) and (n), Government Code
- Section 140.010, Local Government Code
- Section 1063.255, Special District Local Laws Code
- Sections 5.103(e) and (f), 6.412(e), 22.23(c), and 41A.06(c), Tax Code
- Section 49.236, Water Code, as added by Chapter 248 (H.B. 1541), Acts of the 78th Legislature, Regular Session, 2003
- Section 49.2361, Water Code

C.S.S.B. 2 takes effect only if H.B. 3, 86th Legislature, Regular Session, 2019, becomes law.

### **EFFECTIVE DATE**

Except as otherwise provided, January 1, 2020.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 2 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute changes the bill's short title from the Texas Property Tax Reform and Relief Act of 2019 to the Texas Taxpayer Transparency Act of 2019. The substitute includes a procedural provision making the effect of the bill's provisions contingent on H.B. 3, 86th Legislature, Regular Session, 2019, becoming law.

The substitute does not include a definition for "small taxing unit," which applies provisions of the bill to certain taxing units on the basis of the amount of taxes collected, but does include a definition for "special taxing unit," which applies provisions of the bill to certain taxing units on the basis of the type of taxing unit or the M&O tax rate the unit imposes.

The substitute, with respect to the rollback tax rate formula using the reduced 1.035 multiplier and the formula that continues using the current 1.08 multiplier:

- changes the taxing units for which the current 1.08 multiplier is continued in use from small taxing units, as defined by the engrossed version, to special taxing units, as defined by the substitute;
- does not include provisions providing for an election to apply the reduced multiplier to taxing units for which the current multiplier is continued;
- includes an unused increment rate in the formula using the reduced multiplier; and
- includes provisions providing for the calculation of the unused increment rate.

The substitute does not include a provision regarding a tax rate adjustment for indigent criminal defense expenditures. The substitute includes a provision regarding a tax rate adjustment for local option residence homestead exemption costs.

The substitute does not rename the rollback tax rate the voter-approved tax rate.

The substitute, with respect to elections to approve a tax rate in a taxing unit other than a school district:

- does not make the statutory provisions governing the automatic election to ratify school taxes applicable to all taxing units;
- includes provisions replacing the statutory requirement for a taxing unit other than a school district to hold an election to repeal an increase in the tax rate if voters petition for such an election with a requirement for an automatic election for the approval of an adopted tax rate of a special taxing unit that exceeds the unit's rollback tax rate or an adopted tax rate of a taxing unit other than a special taxing unit that exceeds the greater of the unit's rollback tax rate or de minimis rate;
- includes provisions providing for the calculation of a taxing unit's de minimis rate, which factors in the de minimis amount;
- includes provisions requiring the comptroller to annually determine and publish in the Texas Register the de minimis amount, setting that amount for the 2020 tax year at \$500,000, and providing for the annual adjustment of that amount to reflect the inflation rate; and
- includes a provision making the automatic election requirement inapplicable to increases in the tax rate for the year following a qualifying disaster, other than a drought, for which increased expenditures are necessary.

The substitute decreases from 1.025 to 1.02 the multiplier used in the formula prescribed by the engrossed version for calculating the rollback tax rate of a school district.

The substitute includes a provision requiring the notice of a meeting to vote on a proposed tax rate that does not exceed the lower of the no-new-revenue tax rate or the rollback tax rate to be provided in the manner as the notice of a public hearing on a proposed tax increase. The substitute includes alternate provisions for the tax rate notice of a taxing unit other than a special taxing unit.

The substitute includes a provision authorizing the governing body of a taxing unit to vote on a proposed tax rate at the public hearing that is held to discuss the proposed rate and requiring the governing body to announce at that hearing certain information about the meeting at which the vote will occur if the proposed rate is not voted on at that public hearing. The substitute revises the bill provision prohibiting the governing body of a taxing unit other than a school district from holding a public hearing on a proposed tax rate or a public meeting to adopt a rate until the fifth day after the chief appraiser has taken certain actions by including a specification that the hearing or meeting may not be held until the fifth business day after the chief appraiser takes those actions.

The substitute revises the bill provision prohibiting a meeting to vote on a tax increase from being held earlier than the third day or later than the seventh day after the date of the public hearing by not including the prohibition on the meeting being held earlier than the third day after the date of the hearing.

The substitute revises the purpose of the property tax administration advisory board and includes a provision excepting the board from Government Code provisions governing state agency advisory committees.

The substitute reduces from 16 hours to eight hours the minimum number of hours of classroom training and education the training course for ARB members must contain and reduces from eight to four the minimum number of hours of classroom training and education the continuing education course for ARB members must contain. The substitute does not include separate requirements for ARB members appointed to serve on a special panel.

The substitute changes from \$75 million or more to \$50 million or more the appraised value of property, as classified by the bill, for which a special panel conducts protest hearings.

The substitute does not include a provision relating to filing deadlines for an application for an exemption for freeport goods.

The substitute includes a provision requiring the database of property-tax-related information to allow a property owner to electronically complete and submit to a taxing unit a form on which the owner may provide the owner's opinion as to whether a proposed tax rate should be adopted.

The substitute does not include a procedural provision providing that the bill's revised qualifications for persons serving as arbitrators apply only to a person who initially qualifies to serve as such or who renews their agreement to serve as an arbitrator on or after January 1, 2020. The substitute includes a procedural provision that instead requires a person who immediately before January 1, 2020, served as an arbitrator to meet the revised requirements not later than the 120th day after the comptroller begins to provide the new required training.

The substitute includes the following:

- a provision authorizing the comptroller to assess a fee for each person other than a person who has agreed to serve as an arbitrator to whom the training established for arbitrators is provided, subject to a \$50 cap; and
- a provision authorizing the comptroller to assess a fee for an individual other than a member of an ARB to whom the training established for ARB members is provided, subject to a \$50 cap.

The substitute includes provisions revising the necessary conditions for a person to renew the person's agreement to serve as an arbitrator and requiring the comptroller to remove certain persons from the registry of arbitrators.

The substitute does not include a provision revising the deadline by which a property owner must file a request for binding arbitration and an arbitration deposit.

The substitute does not include a provision prohibiting an arbitrator or district court judge from determining the appraised value of a property subject to arbitration or district court review to be an amount greater than the property's appraised value as shown in the submitted appraisal records, with certain exception.

The substitute revises the appraisal manuals in accordance with which an appraisal district must appraise property and does not include a provision requiring appraisal manuals issued for the purpose of determining the market value of property to be based on generally accepted appraisal methods and techniques. The substitute revises and expands what constitutes generally accepted appraisal methods and techniques for purposes of the Property Tax Code.

The substitute includes a provision establishing that a meeting of the members of the committee selected by the comptroller for the purpose of approving certain property tax forms is not subject to state open meetings law.

The substitute revises the required contents of the written notice that must be delivered by the ARB to a property owner before a protest hearing.

The substitute includes a provision removing self-representation by a property owner initiating a protest as a necessary condition for the chief appraiser to deliver a copy of the pamphlet prepared by the comptroller explaining taxpayer remedies to the property owner.

The substitute, with respect to a taxpayer protest on the determination of the appraised value of the owner's property, does not include a provision requiring the ARB to state the appraised value



of the property in the written order determining the protest separately in the case of real property as the appraised value of the land and the appraised value of any improvement to the land.

The substitute revises the exceptions to the prohibition against an ARB determining the appraised value of the property that is the subject of a protest to be an amount greater than the property's appraised value as shown in the appraisal records submitted by the chief appraiser.

The substitute includes a provision requiring an ARB to deliver by certified mail a copy of the appraisal review board survey and associated instructions. The substitute revises certain notice provisions regarding the survey.

The substitute revises the deadline imposed for determining a taxpayer protest, making a written order, and delivering a copy of that order to the property owner and chief appraiser. The substitute revises the provision requiring the chief appraiser to prepare and certify an estimate of the taxable value of applicable property if the ARB has not approved appraisal records.

The substitute does not include provisions relating to a joint motion filed by the chief appraiser and a property owner notifying the applicable ARB that the parties have agreed to a disposition of the protest and requesting the ARB to issue an agreed order.

The substitute includes a provision excepting from the prohibition against using certain information in a protest hearing that will be introduced at the hearing that was not made available to the protesting party at least 14 days before the hearing the information offered to rebut evidence or argument presented at the hearing by the protesting party or that party's designated agent.

The substitute does not include a provision limiting the right of the comptroller to reject certain applications.

The substitute does not include provisions regarding judicial review of certain actions under the Property Tax Code. The substitute does not repeal a provision authorizing a court to give preference in certain judicial actions to an applicable appraisal district employee who testifies as to the value of the real property under appeal.

The substitute includes provisions regarding certain determinations made as part of the comptroller's study of school district property values.

The substitute changes the revised contents of the notice of a public hearing on a tax rate that must be given by the governing body of a water district. The substitute does not include a provision regarding the consideration of development in a district for purpose of delivering that notice.

The substitute revises the deadline for the comptroller to comply with the bill's provisions regarding the statewide list of tax rates.

The substitute does not include a specification that the manner by which the comptroller must provide written notice of certain information to each appraisal district regarding the deadlines imposed or changed by the bill with respect to a new or existing requirement, duty, or function is by mail. The substitute does not require the comptroller to provide that notice to the assessor for each taxing unit but includes a procedural provision requiring the chief appraiser of each appraisal district to forward the written notification to each assessor for a taxing unit located in the appraisal district as soon as practicable after receipt of the notice from the comptroller.

The substitute does not include a procedural provision prohibiting the governing body of a taxing unit from adopting a budget for a fiscal year or taking any other action that has the effect

of decreasing the total compensation to which a first responder employed by the unit was entitled in the preceding fiscal year of the taxing unit.

The substitute does not require the comptroller to verify certain information submitted that relates to a county, municipality, school district, and special district by an appraisal district or a taxing unit and includes provisions relating to the reporting and collection of that information.