

- SUBJECT:** Changing the procedure for adoption of a property tax rate
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 11 ayes — Oliveira, Otto, Bohac, Hartnett, Hilderbran, C. Howard, P. King, Paxton, Peña, Taylor, Villarreal
- 0 nays
- WITNESSES:** For — (*Registered, but did not testify:* David Mintz, Texas Apartment Association; Michael Sullivan, Texans for Fiscal Responsibility; Peggy Venable, Americans for Prosperity)
- Against — (*Registered, but did not testify:* John Cabrales, City of Denton; Mark Mendez, Tarrant County)
- BACKGROUND:** Under Tax Code, sec. 26.05, a taxing unit may not impose property taxes until its governing body has adopted a tax rate for the year. The vote setting the tax rate must be separate from the vote adopting the budget. The vote setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt a tax rate that exceeds the effective tax rate must be made in the following form: “I move that property taxes be increased by the adoption of a tax rate of (specify tax rate).” If the tax rate, applied to the total taxable value, would impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the taxing unit must meet specific requirements designed to give notice to the community of an impending vote on a tax increase.
- Under Tax Code, sec. 26.04, effective tax rate is defined as the total of last year’s levy minus the lost property levy divided by the total of current market value minus new property value. Under sec. 26.012, last year’s levy means the total of the amount of taxes that would be generated by multiplying the total tax rate adopted by a taxing unit in the preceding year by the total value of property on the appraisal roll of the preceding year. Lost property levy means the amount of taxes levied in the preceding year on property value that was taxable in the preceding year but is not taxable in the current year because the property is exempt in the current year, the

property has qualified for special appraisal, or the property is located in territory that has ceased to be part of the unit since the preceding year.

DIGEST:

CSHB 2291 would amend Tax Code, sec. 26.05, to require that the current year's tax rate of a taxing unit other than a school district would be the unit's effective tax rate and that rate would be treated as the unit's adopted tax rate unless the governing body of the tax unit voted to increase or lower that effective tax rate.

If the governing body of the taxing unit elected to adopt a tax rate that would be higher or lower than the tax unit's effective tax rate, the governing body would have to comply with the procedure for adoption of a tax rate specified by law, including requirements for setting a tax rate that exceeded the unit's effective tax rate. The meeting at which a vote was taken would have to be an open meeting.

If the governing body of the taxing unit choose to adopt a tax rate that exceeded the lower of the unit's rollback rate or effective tax rate, the governing body would be required to hold two public hearings on the tax rate and would be required to comply with current statutes regarding notice, hearings, and votes on a tax increase.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 2291 is a transparency bill. CSHB 2291 would require a taxing unit, other than a school, to use the current year's tax rate as the effective tax rate, which would be treated as the unit's adopted tax. To change it, the governing body would have to vote to adopt a tax rate that would be higher or lower than the unit's effective tax rate.

Currently, local taxing entities vote on the actual tax rate. This means they can lower a tax rate while still receiving an increase in revenue over the prior year, because appraisal creep has increased the total taxable value of the tax base. On the other hand, the effective tax rate is a much more accurate representation of whether a taxing unit will be increasing or decreasing its revenue over last year. By dealing with the effective tax rate, CSHB 2291 would provide clarity and transparency, as voters would know what the actual change in their tax burden would be.

OPPONENTS
SAY:

This bill is an attempt to limit local revenue growth by adding additional steps to the already arduous requirements imposed on local taxing units trying to raise rates to fund services adequately. It would impose additional requirements that substantively already exist in current law. In terms of taxpayer protections, CSHB 2291 only would impose additional red tape on cash-strapped local governments, not a substantive fix.

NOTES:

The committee substitute differs from the bill in that the caption relates to the “procedure” to be used by a taxing entity in adopting a property tax rate as opposed to relating to the “adoption” of a property tax rate.