

Legislative Brief

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#254
STRONG

PROPERTY TAX

BACKGROUND

Every legislative session, bills are filed in response to issues occurring in members' districts, statewide or nationally. The 86th Legislature made major changes to the state's property tax system with the Texas Property Tax Reform and Transparency Act of 2019. For many counties, these changes went into effect in 2020 around the same time that COVID-19 hit. The simultaneous arrival of these two events was the impetus for many of the property tax bills filed during the 87th Legislature. As counties began implementing the sweeping changes from the previous session, many officials had questions about the applicability of certain statutes. Additionally, COVID-19's economic impact prompted the Legislature to look at other ways to provide financial relief through additional property tax reforms.

Items included in this issue brief will focus only on changes made by the 87th Legislature. For an explanation of previous legislative changes to the property tax system, please refer to the **"Property Tax and Transparency Reforms"** issue brief on the Texas Association of County's Legislative page.

EMERGENCY REVENUE RATE

The Texas Property Tax Reform and Transparency Act of 2019 included a provision that allowed taxing units to calculate their tax rate as a special taxing unit in an area declared a disaster by the governor or president. In 2020, COVID-19 resulted in both a presidential and gubernatorial disaster declaration for the state of Texas. The applicability of the disaster exemption included in the act due to economic damage sustained from the global pandemic came into question by taxing units as they began their budget process in 2020.

As a result, Senate Bill 1438 by Sen. Paul Bettencourt (R-Houston) clarifies the applicability of the disaster exemption. SB 1438 allows a governing body to direct a designated officer to calculate the tax rate as a special taxing unit if any part of the taxing unit is in an area declared a disaster. If the taxing unit calculates the tax rate under the disaster exemption as a special taxing unit, it must continue to calculate that rate until the earlier of the first tax year in which the total taxable property value exceeds the taxable value in the year the disaster occurred or the third year after the disaster.

Additionally, the first year following the last year of calculating the tax rate using the disaster exemption, the taxing unit must reduce its rate by the emergency revenue rate using the following calculation:

EMERGENCY REVENUE RATE

(Last year's adopted tax rate \ominus
Adjusted voter-approval rate)

\otimes Last year's total value

(Current total value \ominus
new property value)

Adjusted voter-approval tax rate means the voter-approval tax rate a taxing unit would have calculated in the last year for which the disaster exemption applied to the taxing unit if in each tax year the disaster exemption applied to the taxing unit the taxing unit had adopted a tax rate equal to the greater of:

1. The tax rate adopted by the taxing unit for that tax year if that tax rate was approved by the voters at an election.

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2. Or the taxing unit's voter-approval tax rate for that tax year, calculated in the manner provided for a taxing unit other than a special taxing unit.

SB 1438 defines a disaster as a tornado, hurricane, flood, wildfire or other calamity, and it specifically excludes droughts, epidemics and pandemics. When increased expenditures are required to respond to a disaster, an election is not required to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurred. However, if a taxing unit adopts this rate, the amount by which the rate exceeds the voter-approval rate may not be considered when calculating the voter-approval rate in the year following adoption of the disaster rate. Lastly, if the taxing unit opts to use this rate, they must specify which disaster declaration they are using to do so and cannot use the same disaster declaration in subsequent years.

Effective Date: June 16, 2021. Sections that apply to ad valorem taxes imposed are effective for a tax year that begins on or after Jan. 1, 2022. The remaining sections of SB 1438 are effective Sept. 1, 2021.

CHANGES TO THE DEFINITION OF DEBT

House Bill 1869 by Rep. Dustin Burrows (R-Lubbock) made changes to the definition of debt, limiting what a political subdivision can use property taxes on. Bonds, warrants, certificates of obligation or other evidence of indebtedness payable over a period of longer than a year via property taxes may be issued if it meets one of the following criteria:

- Has been approved at an election.
- Includes self-supporting debt.
- Documents a loan under a state or federal financial assistance program.
- Is issued for designated infrastructure.
- Is a refunding bond.
- Is issued in response to an emergency under Section 1431.015, Government Code.
- Is issued for renovating, improving or equipping existing buildings or facilities.
- Is issued for vehicles or equipment.
- Is issued for a project under Ch. 311, Tax Code, or Ch. 222, Transportation Code, that is in a reinvestment zone created under one of those chapters.

- Is a payment made under contract to secure indebtedness of a similar nature by another political subdivision on behalf of the taxing unit.

Additionally, designated infrastructure (included in the previous bullet points) is defined as infrastructure including a facility, equipment, rights-of-way, or land for the following purposes:

- Streets, roads, highways, bridges, sidewalks, parks, landfills, parking structures or airports.
- Telecommunications, wireless communications, information technology systems, applications, hardware or software.
- Cybersecurity.
- As part of any utility system, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, or flood control or drainage project.
- Police stations, fire stations or other public safety facilities, jails, juvenile detention facilities or judicial facilities, and any facilities that are physically attached to the facilities described by this paragraph.
- As part of any school district.
- As part of any hospital district created by general or special law that includes a teaching hospital.

Lastly, self-supporting debt is defined as the portion of a bond, warrant, certificate of obligation or other evidence of indebtedness payable over a period of more than a year designated by the governing body of a political subdivision as being repaid from a source other than property taxes.

INSTALLMENT PAYMENTS IN DISASTER OR EMERGENCY AREAS

Before the 87th Legislature, counties were allowed to offer installment payment for property taxes under specific circumstances. When COVID-19 hit, counties were not able to offer installment payments to businesses under existing law to provide financial relief for COVID-19. As a result, the 87th Legislature passed Senate Bill 742 by Sen. Brian Birdwell (R-Granbury), which allows counties to offer installment payments to businesses for property taxes in areas where a disaster has occurred, or an emergency has been declared.

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Emergency is defined as “a state of emergency proclaimed by the governor under **Section 433.001, Government Code.**”

Emergency area is defined as “an area designated by the governor to be affected by an emergency under Section 433.001, Government Code.”

The governing body is now able to authorize installment payments on property in a disaster or emergency area that has not been damaged. This applies to:

- Real property owned or leased by a business that met the limit on gross receipts provided for installment payments on the property damaged by a disaster under current law.
- Real property in a disaster or emergency area that has not been damaged as a direct result.
- Tangible personal property owned or leased by such a business.
- Taxes imposed on the property by a taxing unit before the first anniversary of the disaster or emergency.

The taxes become delinquent on or after June 1 in the same manner as existing law and incur additional penalties to be paid in connection with the delinquent taxes.

CONCLUSION

As laws continue to change, the Texas Association of Counties will continue to engage with the Legislature and provide updates on property tax laws. If you have questions regarding implementation of property tax laws, we encourage you to consult your county attorney. ★