

Wrap-Up for the 86th Legislature

Tax and Fiscal Policy

The 86th Legislature may have disappointed those looking for drama, but it was incredibly productive. Lawmakers successfully tackled two critical issues left unfinished two years earlier—property tax reform and school finance—passing landmark legislation in each case. The task was made somewhat easier by Comptroller Glenn Hegar’s revenue estimate and aided by a robust Texas economy, but was still fraught with political minefields around which the state’s top leaders, Governor Greg Abbott, Lt. Governor Dan Patrick, and House Speaker Dennis Bonnen, danced skillfully.

In this report, TTARA summarizes the key tax legislation passed into law in the 2019 regular session (bills shown in bold font)—property, sales, franchise and other taxes, as well as those that didn’t (shown in regular font). This is one of a series of three reports summarizing the activity of the 86th Legislature; the other two will dissect the school finance bill and the state budget.

Property Tax

Over 420 bills amending the Property Tax Code or making other changes to the property tax system were introduced during the regular session of the 86th Texas Legislature. Forty-nine (49) of these bills passed. The most significant was the omnibus Texas Property Tax Reform and Transparency Act of 2019—SB 2 authored by Sen. Paul Bettencourt and Rep. Dustin Burrows. The legislation represents the most comprehensive changes to the property tax system in the state since the Property Tax Code was enacted in 1979. A detailed analysis of the bill may be found on TTARA’s website.

Other bills passing related to appraisal protests and appeals, bond indebtedness, disaster relief and recovery, economic development, exemptions, local government transparency, open-space land appraisal, and tax payments.

Bills That Passed

SB 2 by Bettencourt (R-Houston) (Texas Property Tax Reform and Transparency Act of 2019) is an omnibus bill that makes significant changes to local government tax rate-setting, truth-in-taxation, rollback tax rates, elections to approve tax increases, appraisal review board procedures, and local government notices and websites concerning property taxes.

The key elements of the bill are:

1. reduction in the rollback tax rate (or threshold over which voters must approve tax increases) for cities, counties, and special districts from 8% to 3.5% beginning in 2020 (excluding units with tax rates of 2.5 cents per \$100 valuation or less, junior colleges, and hospital districts, which remain at 8%; and school districts which are addressed in the Education Code);
2. mandatory elections on the uniform election date in November for tax rate increases that exceed the threshold rates, as well as voter petitions for certain small taxing units;
3. change in the term “rollback” rate to “voter-approval” rate;
4. change in the term “effective” rate to “no-new-revenue” rate;
5. creation of real-time tax notices to be delivered in August to each property owner directing the owner to countywide websites that provide information concerning tax rates, levies, and public hearings for all taxing units in the county, beginning in 2020 in larger counties;

Website Information for Property Taxes

Property Address: 123 Sycamore Lane
Legal Description: Lot 18 Block C Frosty Acres Sec 2
Property Identification ID: 624387
Market Value: \$280,000

Jurisdiction	Taxable Value	"No New Revenue" Tax Rate	"Voter-Approval" Tax Rate	Proposed Tax Rate	Tax on Property at "No New Revenue" Tax Rate	Tax on Property at Proposed Tax Rate	Proposed Tax Increase	Time/Date/ Location of Public Hearing	Link for Comment
<u>County</u>	\$277,000	\$0.380	0.393	\$0.393	\$1,052.60	\$1,088.61	\$36.01	8:00 p.m.; Aug 15, 2017 211 Main St; Smith City	County@email.gov
<u>School District¹</u>	\$255,000	\$1.315	\$1.315	\$1.315	\$3,353.25	\$3,353.25	\$0.00	6:00 p.m.; Aug 1, 2017 457 Rock Ln.; Green City	School@email.gov
<u>City</u>	\$280,000	\$0.472	\$0.510	\$0.540	\$1,321.60	\$1,512.00	\$190.40	2:00 p.m.; Aug 18, 2017 477 Sun Dr.; Smith City	city@email.gov
<u>Junior College District</u>	\$280,000	\$0.050	\$0.054	\$0.054	\$140.00	\$151.20	\$11.20	6:00 p.m.; Aug 16, 2017 100 Travis St.; Travis City	JrCollege@email.gov
<u>Special District #1</u>	\$280,000	\$0.082	\$0.089	\$0.086	\$229.60	\$240.80	\$11.20	4:00 p.m.; Aug 18, 2017 3 Calvert Rd.; Smith City	SD1@email.gov
Total					\$6,097.05	\$6,345.86	\$248.81		

¹ The school district "no new revenue tax rate" is one which would generate the same amount of state aid and revenue under current school finance formulas as in the previous year.

Note: Clicking on the name of the jurisdiction will connect to the webpage for that jurisdiction. Clicking on the link for comment will direct to a form by which comments may be conveyed to the governing board concerning the proposed tax rate.

6. inclusion of links on the county-wide websites for the public to provide online comments to governing bodies of taxing units about tax rates;
7. additional requirements for posting of property tax and budget information on taxing unit websites;
8. changes to appraisal review board procedures and training, including a prohibition against increased values after protest hearings;
9. setting the business personal property rendition date on April 15 and requiring extensions for property owners regulated by certain governmental entities;
10. creation of special appraisal review board panels to hear protests if requested concerning complex properties (commercial, industrial, utility, and multi-family) valued at \$50 million or more (adjusted annually for inflation);
11. additional Comptroller duties, including prescribing tax rate calculation forms;
12. creation of a Property Tax Administration Advisory Board to make recommendations to the Comptroller concerning the effectiveness and efficiency of the property tax system, best practices, and complaint resolution procedures;
13. prohibition of taxing unit challenges concerning levels of appraisal for categories of property on appraisal rolls; and
14. changes to binding arbitration.

Importantly, SB 2 will demystify Texans property tax bills. Taxpayers will have much better information about their property taxes thanks to a new provision in SB 2. Texans are used to getting an estimate of their October tax bill in early spring. The notices of proposed value from the appraisal districts include a property tax estimate using last year's tax rates for each jurisdiction. Unfortunately, that estimate is almost always wrong—the values used are preliminary and a final value may come after the property owner has successfully protested to a lower number, and each taxing unit will adopt new rates over the summer that may be very different from the prior year rates.

SB 2 requires appraisal districts to craft a "real time" tax estimate on-line using a property's final determined value. The estimate will include three tax rates:

1. the no-new-revenue tax rate (formerly the "effective tax rate," i.e. the rate which will raise the same amount of property tax revenue as in the previous year, excluding revenue from taxes on new property);
2. the voter approval tax rate (formerly the "rollback tax rate," i.e. the rate above which voters could prevent an increase); and
3. the proposed tax rate the taxing unit intends to adopt.

The amount of taxes the proposed tax rate would raise versus the no-new-revenue tax rate is the increase in taxes the property owner will pay if that rate and the corre-

sponding budget it finances is adopted. Property owners will be able to see, in real time, how each individual taxing unit's budget decisions will impact their individual tax bills and by how much. The webpage will give them basic information about each jurisdiction's tax hearing, should they decide to attend, and will provide a link by which they may submit comments to the governing board about the proposed tax rate.

A more detailed analysis of Senate Bill 2 with a comparison to current law is available on TTARA's website.

HB 380 by Geren (R-Fort Worth) allows a property owner to appeal an appraisal review board order dismissing a protest or motion to correct on jurisdictional grounds. If the court determines that the board had jurisdiction, it may make a final determination on the merits of the case on any ground of protest authorized by law, regardless of whether the owner included the ground in the notice of protest. The bill also addresses jurisdictional pleas in district court based on exhaustion of remedies. The changes in law apply to appeals under Tax Code Chapter 42 filed on or after September 1, 2019.

HB 861 by Anchia (D-Dallas) imposes penalties and interest when additional taxes are due based on a final judgment in a property value case, but only if the taxes are not paid within 21 days. If the taxes are not paid by that deadline, they are treated as delinquent.

HB 1313 by Phil King (R-Weatherford) has three parts: (1) a value may not be increased after an appraisal review board protest determination or a court order in the next reappraisal year, unless clear and convincing evidence exists; (2) the school tax "freeze" is extended to surviving spouses of disabled persons, just as exists for surviving spouses of persons age 65 or older; and (3) fees for filing a protest with an appraisal review board are prohibited.

HB 2179 by Wray (R-Waxahachie) allows for appraisal review board members to be removed from their positions because of repeated bias or misconduct. Property owners and consultants are permitted to communicate with the administrative district judges that make appointments of appraisal review board members about their conduct.

HB 492/HJR 34 by Shine (R-Temple) repeals current law regarding reappraisal of property after a disaster declared by the Governor and replaces it with an exemption process based on percentage damage amounts—a much simpler and cost-effective approach. Temporary property tax exemptions for tangible personal property and real property improvements (including manufactured housing) are available in amounts from 15% to 100%. Property owners must apply for the exemptions within a certain time after the disaster. The exemptions are mandatory if the disaster occurs before a tax rate is adopted by a taxing unit. If the disaster occurs after the tax rate is adopted, the taxing unit

must take official action to authorize exemptions. The effective date of the new law is January 1, 2020, if the constitutional amendment is approved at the election in November 2019.

HB 2859/HJR 95 by Capriglione (R-Southlake) exempts precious metals as defined by Government Code Section 2116.001 from property taxation if held in a precious metal depository, defined as one that is primarily engaged in the business of providing precious metal storage to the general public and maintains insurance to cover precious metal held in the depository. The effective date is January 1, 2020, if the constitutional amendment is approved at the election in November 2019.

SB 58 by Zaffirini (D-Laredo) exempts motor vehicles leased to the state, a political subdivision, or a non-profit organization from property taxation, just like personal vehicles. The Comptroller is required to prescribe a form that must be completed by the lessee and maintained by the owner of the motor vehicle subject to the lease.

HB 305 by Paul (R-Houston) requires political subdivisions with authority to impose a tax and that maintain websites to post contact information for the entities, the names of elected officers, the requirements and deadlines for filing for each elected office, and public meeting notices. Excluded are counties with populations of less than 10,000; cities with populations of less than 5,000 located in counties with populations of less than 25,000; and school districts with populations of less than 5,000 in counties with populations of less than 25,000.

HB 1409 by Ashby (R-Lufkin) allows timber land to continue to qualify for special appraisal if used for a purpose associated with the production of timber or forest products, including roads, rights-of-way, buffer areas, or fire-breaks. The bill also allows the land to continue qualification if a lessee under an oil and gas lease begins operations and the land otherwise qualifies. The provisions also apply to restricted-use timber land.

HB 1743 by Tracy King (D-Uvalde) reduces the number of years for which the rollback penalty applies when open-space land and timber land use is changed from five to three years, as well as the amount of annual interest from seven to five percent.

HB 440 and HB 477 by Murphy (R-Houston) make numerous changes to ballot language, posting of sample ballots on Internet websites, and required voter information for bond elections. The bills also address use of unspent bond proceeds by taxing units. Specific requirements for posting meetings to approve the issuance of certificates of obligation are included. General obligation bonds may not be issued for a term that exceeds 120% of the reasonably expected weighted average economic life of the improvements and personal property financed with the bonds.

Bills Vetoed

On June 15, Gov. Abbott vetoed three property tax bills. **HB 994 by Guillen** (D-Rio Grande City) would have allowed owners of residence homesteads valued at \$500,000 or less to appeal orders determining protests from appraisal review boards based on excessive appraisal to justice courts, rather than the district court, in Atascosa County. It was intended to be a pilot program, expiring in 2025. In the veto message, Gov. Abbott states that the Legislature did not identify a reason to treat the residents of one county so differently and to depart from uniform procedures for property tax appraisal and protest. Governor Abbott had vetoed a similar bill in 2017. **HB 2111 by Pacheco** (D-San Antonio) would have allowed Southside ISD to contribute property tax revenue to a tax increment reinvestment zone at the expense of state school finance formulas. Also vetoed was **SB 1861 by Menendez** (D-San Antonio). The bill would have allowed a sponsor of a multi-family residential development owned by a public facility corporation to be considered the user of the public facility, so that the property would be exempt from property taxation.

Bills That Failed

Numerous bills and constitutional amendments were introduced dealing with property tax exemptions, particularly for residence homesteads. A number of bills and constitutional amendments were introduced that would have expanded or created new homestead exemptions, but ultimately none passed as the Legislature's attention focused on the broad reforms and tax constraints in SB 2. Examples of these bills include:

- HB 384/HJR 29 by Bohac (R-Houston)—total exemption for the residence homesteads of persons who are age 80 or older;
- HB 453/HJR 33 by Shaheen (R-Plano)—local-option partial exemption by counties for residence homesteads of physicians who provide services without pay to indigent persons or Medicaid recipients;
- HB 715/HJR 44 by Leach (R-Plano)—exemption for the residence homesteads of disabled veterans with disability ratings of between 80% and 100%; and
- SB 196/SJR 47 by Campbell (R-New Braunfels)—total exemption for residence homesteads of members of the armed services who are killed or fatally injured in the line of duty and their surviving spouses.

Other bills proposed changes to tax limitations (called freezes). Examples are:

- HB 322/HJR 26 by Geren (R—Fort Worth)—extension of the school tax freeze to all taxing units for the residence homesteads of persons who are age 65 or older or who are disabled;
- HB 1102/HJR 56 by Bernal (D-San Antonio)—limitation on school taxes for residence homesteads that have increased at least 120% in a 15-year period; and
- HB 1265/HJR 60 by Bailes (R-Shepherd)—allowance for transferring local-option residence homestead tax freezes for cities, counties, and junior colleges to other locations that offer the option.

A number of bills that would have lowered the current 10 percent appraisal cap on homesteads:

- HB 383/HJR 28 by Bohac (R-Houston)—reduction in the appraised value limitation for residence homesteads from 10% to 5%;
- HB 945/HJR 50 by Metcalf (R-Conroe)—expansion of the 10% appraised value limitation to all real property;
- HB 4494 by Toth (R-The Woodlands)—appraised value limitation calculated on the date of purchase and would continue until the property transfers (with certain exceptions based on inheritance); and
- SB 657/SJR 38 by Creighton (R-Conroe)—reduction in the value limitation for residence homesteads to 3% if the appraised value is \$1 million or less, and 5% if the appraised value is over \$1 million.

No bill to add new residence homestead exemptions, expand the school tax freeze, or change the appraised value limitation for residence homesteads passed; nor did bills to increase the amount of the \$25,000 mandatory residence homestead exemption for school districts. Efforts to increase the \$5,000 floor for the 20% optional city and county homestead exemption also failed.

A provision that was included in SB 2 as it passed the House would have permitted cities, counties, and special districts to exclude local-option residence homestead exemption values from the no-new-revenue tax rate calculation. This provision would have allowed taxing units to increase their tax rates to pay for the homestead exemptions, shifting the tax burden to all other property owners. The provision was not included in the conference committee report.

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November 14—15, 2019 at the JW Marriott Hotel in Austin

A number of bills that could have politicized the appraisal process were introduced, but failed to pass. While Texans have many complaints about the current appraisal and value dispute process, some of which are addressed in SB 2, in fact, Texas' system of property tax administration is recognized as one of the best in the nation due largely to the involvement of professionally licensed and certified personnel. Some of these are:

- HB 483 by Phelan (R-Beaumont)—election of members of appraisal district boards of directors according to county commissioners' precincts;
- HB 1485 by Metcalf (R-Conroe)—election of the chief appraiser of each appraisal district;
- HB 2719 by Pacheco (D-San Antonio)—election of members of appraisal district boards of directors at large by the voters of counties;
- HB 3241 by Middleton (R-Wallisville)—limitation on reappraisal of all real and personal property in an appraisal district to not more often than once every two years;
- SB 347 by Flores (R-Pleasanton)—restriction on the eligibility of members of appraisal district boards of directors to elected officials of taxing units; and
- SB 1987 by Creighton (R-Conroe)—requirement that the Montgomery County appraisal review board be elected at a general election.

Sales Tax

The all-out effort to reduce and curtail the growth of property taxes in tandem with the overhaul of the public school finance system meant that consideration of significant changes in sales and other state taxes was limited at best. Although 121 sales tax-related bills were filed, only 18 passed – a 15% passage rate compared to just under 20% for all other bills. What doesn't pass in any given session usually is just as important as what does, and this session proved to be no exception. The following recaps the most noteworthy of the bills that did and did not manage to cross the finish line.

Bills That Passed

Enhanced Use Tax Collection

HBs 1525 and 2153 by Dustin Burrows (R-Lubbock) were proposed by the Comptroller to implement the expanded authority to require payment of use taxes by out-of-state vendors pursuant to last summer's U.S. Supreme Court decision in *South Dakota v. Wayfair*. Effective October 1st, **HB 1525** requires "marketplace providers" (those that provide a physical or electronic market-

place and process sales or payments for third-party sellers) to collect and remit use taxes on sales by non-resident sellers that make annual Texas sales over \$500,000 – a threshold established by Comptroller rule. Sales are deemed consummated where the taxable item is shipped or delivered. Affiliated providers and sellers are jointly and severally liable for any tax deficiencies and provider class action lawsuits are prohibited.

To reduce compliance burdens, **HB 2153** allows remote sellers to collect local use taxes at a uniform statewide rate determined by the proportional relationship between state and local total annual sales tax collections – currently 1.75%. If the actual aggregate local rate is less than 1.75%, purchasers may apply for a refund of overpaid tax. The Comptroller will collect and distribute the local taxes to entities based on their respective shares of the total.

HB 1543 by Drew Springer (R-Muenster) is designed to prevent avoidance of paying use taxes on out-of-state purchases of off-road vehicles. Manufacturers must report the issuance of a vehicle warranty to Texas residents on purchases from an out-of-state seller. The Comptroller will use the information in collecting unpaid use taxes and evidence of tax payment is required to obtain a Texas certificate of title.

Exemptions

As usual, a number of bills proposing new or expanded exemptions for a variety of items ranging from college textbooks to condoms were introduced but failed to pass. However, three bills concerning exemptions that did pass included **SB 1525 by Kirk Watson** (D-Austin), **HB 3086 by Sheryl Cole** (D-Austin), and **HB 4032 by Ryan Guillen** (D-Rio Grande City).

SB 1525 was a Comptroller bill to clarify and codify current agency policy regarding the sales for resale exemption. The bill language was thoroughly vetted with affected taxpayers in advance of the session. Among its provisions are: removal of items sold with items held for resale, clarification of the treatment of items or services transferred to a non-profit entity in performing a contract, exclusion of items or services acquired to perform a non-taxable service, and specification that only labor charges for the performance of environmental and conservation services are included, but only if itemized separately.

HB 3086, another Comptroller bill, clarifies that the exemption for audio/video production equipment is limited to making recordings for commercial purposes only. The equipment must be used to produce a motion picture, video or audio "master" recording, defined as one from which copies are made available for sale, license, broadcast, or exhibition for consideration.

The stated purpose of **HB 4032** is to make the Texas boat industry more competitive with other states, especially

Florida, in boat sales. Similar to the treatment of aircraft, no sales tax will be due if the watercraft leaves Texas within a specified time period: 10 days from purchase, 20 days from repair and modification work completion at a registered facility if transferred there within 10 days of sale, or 90 days from purchase provided that a \$150 temporary use permit is purchased from the Comptroller. The length of boats subject to tax increased from 65 to 115 feet. Getting the most comment is the provision limiting the total tax due to \$18,750 regardless of the purchase price, similar to Florida's \$18,000 tax cap

Bills That Failed

Perhaps even more interesting than the bills that passed were those that failed. Though the session saw the downfall of the usual hodgepodge of proposed new sales tax exemptions, a number of failed bills went the opposite direction—raising sales tax rates or eliminating exemptions, with the new money dedicated to reducing property taxes. While the big bills of the session—school finance and property tax reform—will limit the growth of future property taxes, the leadership advised Texans that significantly reducing property taxes will require alternative revenues. Ultimately the rank and file could not support any of the proposals, and a sales tax/property tax swap was left for another day.

Endorsed late in the session by the Governor, Lt. Governor and Speaker in a joint news conference, HJR 3 by Dan Huberty (R-Houston) would have asked voters to approve increasing the state sales tax rate by 1%, from 6.25% to 7.25%, and dedicate the annual revenue therefrom, currently about \$5 billion, to reducing school district maintenance and operations property taxes. In response to an apparent lack of support, the bill was withdrawn when it came up for House floor consideration.

HB 705 by Charlie Geren (R-Fort Worth) would have allowed cities and counties, if approved by voters, to increase their local sales tax rate by as much as 2%, provided tax collections were enough to pay for the mandated removal of all maintenance and operation property taxes. The 2% increases would have been on top of the long-standing and heretofore assiduously maintained 2% cap on aggregate local sales tax rates. Although the bill was the first one to be reported out of the House Ways and Means Committee, it was never approved for floor debate by the Calendars Committee.

HB 2915 by Drew Springer (R-Muenster) briefly caused a stir when introduced but failed to even get a committee hearing. At a cost of \$6.3 billion annually, it would have lowered property taxes by reducing school M&O tax rates by 10 cents, providing a 50% homestead exemption and enacting an exemption for finished goods and raw material inventories. The potpourri of new revenue sources to cover the cost included a 6.25% motor fuel sales tax, elim-

ination of six current sales tax exemptions (including residential utilities, water and over-the-counter medications), the addition of a mixed bag of 16 new taxable services (including accounting, construction labor, automotive services and package delivery), and repeal of the 1.25% sales tax prepayment discount.

HB 297 by Andrew Murr (R-Junction) would have taken the drastic and scary step of abolishing basic school maintenance and operations taxes, except for a 17-cent enrichment tax rate, on 1/1/2022 without providing additional revenue sources to pay for schools. Instead, a ten-member joint House and Senate committee would have been assigned the task of studying the feasibility of using consumption taxes to fund schools and reporting back a comprehensive plan, with implementing legislation, to accomplish that goal. Curiously, after touting and passing landmark legislation to permanently revamp the state's school finance formulas, the House soon voted to undo all that by passing HB 297 in early May with 95 ayes. However, the bill died in the Senate without a hearing.

Lastly, HB 3258 by Ina Minjarez (D-San Antonio), a local cap-buster bill to permit the aggregate 2% local sales tax limit to be exceeded, made it further in the legislative process than countless others from past sessions. It would have allowed the San Antonio Metropolitan Transit Authority (VIA), with voter approval, to levy up to a cap-busting additional 1/2% sales tax within the city to fund advanced transportation and mobility enhancement programs. The bill was placed on a House calendar for floor debate but ultimately was withdrawn from consideration.

Increasing sales taxes, either by raising the rate and/or expanding the base, to reduce property taxes has long been on the Legislature's radar but its blip on the screen got significantly closer this session. Consideration of this strategy was front-and-center in this session's property tax reduction efforts and, although failing to get the support needed this session, it's an issue that is not apt to go away anytime soon. It can be expected to continue to be a prominent part of the tax policy agenda in sessions to come.

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Unclaimed Property

Personal property (i.e. bank accounts, insurance proceeds, utility deposits, dividends, and mineral interests) that is unclaimed for more than three years is presumed abandoned. Holders of such property must report and remit the property to the Comptroller who holds it indefinitely until returned to the rightful owner. The Comptroller has been concerned that current law does not clearly provide the enforcement authority needed to effectively compel holders to report and remit unclaimed property and fully cooperate in compliance audits. A bill to address the issue failed to pass in the 2017 session but was adopted this session as **HB 3598 by Trey Martinez Fischer** (D-San Antonio).

Principal elements of the bill are: combined reporting for affiliated entities, 10-year record-keeping, 7-year audit period, subpoena power only for attorneys employed by the Comptroller, and a presumption of compliance avoidance if the amount originally reported is determined to be 25% less than what it should have been.

Franchise Tax

Once the tax everyone loved to hate, curbing the franchise tax was relegated to second fiddle behind property tax relief this session. Only 43 bills were introduced that dealt with the franchise tax, down from 64 in 2017 and 98 in 2015. Of those, only 2 franchise tax bills passed in 2019, compared to 4 in 2017 and 7 in 2015.

Most notably among the bills passing were **HB 1607 by Craig Goldman** (R-Fort Worth), which allows federal defense contractors to deduct their allowable costs under Federal Acquisition Regulations. This will greatly simplify recordkeeping while resulting in a modest tax cut that should make the Texas defense industry more competitive with other states.

SB 1824 by Charles Perry (R-Lubbock) is a very narrow bill that allows performing rights organizations to deduct pass-through fees for the use of copyrighted materials from their total revenue. These organizations act as a facilitator between performers and the composers, writers, and publishers of the materials used.

Among the interesting bills that failed were SB 66 by Senate Finance Committee Chair Jane Nelson (R-Flower Mound)—identical to a bill she introduced in 2017—which would use a portion of future revenue growth to reduce and phase out the rates of the franchise tax.

Personal Income Tax

HJR 38 by Jeff Leach (R-Plano) proposes an amendment to the Texas Constitution repealing the famed “Bullock amendment.” HJR 38 would place a simple prohibition

against an income tax on individuals in the Constitution, replacing current law that requires the Legislature to get voter approval for an income tax, and dictates that any revenue must be used to replace property taxes and supplement public education funding. Texas’ current law prohibition refers to a tax on the incomes of “natural persons,” while HJR 38 prohibits a tax on the incomes of “individuals.” Some case law exists that includes legal entities as “individuals,” so there has been concern that this language may inadvertently nullify Texas’ current business franchise tax should a taxpayer pursue the case. To strengthen the state’s hand should the courts weigh in, lawmakers amended **HB 4542 by Guillen** (D-Rio Grande City) to provide a Tax Code definition of “individual” to exclude anything but a natural person.

Economic Development

HB 3143 by Jim Murphy (D-Houston) extends the sunset date for Chapter 312 of the Tax Code through 2029 (a ten-year extension). This chapter allows cities, counties, and special districts to offer temporary exemptions on new investment. The bill also makes several changes to the procedures which jurisdictions must follow in an effort to provide greater “transparency.” This includes a list of items that must be publicly posted for 30 days prior to a jurisdiction adopting an abatement agreement, including the name of the property owner and applicant, the name and location of the reinvestment zone in which the project will be located, a general description of the project, and the estimated investment. The bill also requires a jurisdiction to hold a public hearing on its abatement guidelines and, once adopted, post the guidelines on their website. Further, appraisal districts must report to the Comptroller the value of projects for the first 3 years after the abatement expires—a provision designed to help the state more accurately estimate the gains from an abatement.

The Governor is poised to continue a more direct role in Texas economic development with additional funds to his office provided in **HB 1 by Zerwas** (R-Richmond), the general appropriations act. The 2020-21 Budget appropriates \$534 million for economic development and tourism, of which, \$150 million is for the Texas Enterprise Fund—the Governor’s “deal closing” fund.

Failing to pass was HB 2129 by Murphy, that would have extended Chapter 313 of the Tax Code, which allows school districts to offer temporary limitations on the taxable value of new investment projects. With the program set to expire in 2022, lawmakers will have to act in the 87th Legislature or this program will sunset.



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