

BILL ANALYSIS

HB3742 (83R)
By: Russell J Bennett

BACKGROUND AND PURPOSE

Texas' present state and local systems of taxation & public finance unfairly distribute the tax burden among individuals, groups, and industries. The current system distorts economic incentives, creates inefficiencies, and suppresses growth in Texas jobs and income. Further, it systematically deprives *ad valorem* property taxpayers of their fundamental due process and property rights and persistently fails to meet Texas constitutional standards for provision & financing of public education. It prevents millions of Texas pupils & family members from residing in truly local, community school districts and promotes a multiplicity of special purpose districts driven by tax base distribution in preference to local need. This bill replaces the pyramiding, distorting and inefficient state taxes with a 7% value-added tax.

CRIMINAL JUSTICE IMPACT

This bill does not 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

Rulemaking authority is granted to the Texas Comptroller of Public Accounts.

ANALYSIS

A flat rate value-added tax promotes sound economic decision-making, efficient and transparent collection & administration, and fair distribution of the tax burden in proportion to real economic output. Virtually *all* other state taxes are repealed. No business is disadvantaged by the value-added tax relative to other businesses, but very small businesses are exempt. Exemptions are also created for governmental, public, and not-for-profit organizations. The value-added tax is embedded, but disclosed, in the price of goods & services. Individuals not engaged in a trade or business bear *no tax reporting burden*.

The bill provides for replacing local sales & use taxes with value-added taxes. The Comptroller collects, apportions, and allocates local revenues to local taxing authorities. Municipalities' 1/2% sales & use tax rate cap is raised to a 1% value-added tax rate cap. Counties' tax rate caps remain at 1%, but the broader tax base permits higher tax revenues. School districts are authorized to levy up to 1/2% of a value-added tax within their boundaries for enrichment purposes. Other local sales taxes are converted to a value-added tax at reduced rates, but the total local burden is capped at 3%

The ad valorem property tax is phased out. The annual ritual of reappraisals, hearings & denials ends for most Texans & phases out for most others. "Basic" education funding replaced with allocations from state general revenues under expanded Foundation School Program that preserves existing formulae for equity and proportionality. "Enrichment" education funding is sourced through local value-added tax and other revenues.

BILL ANALYSIS

TAX CODE, TITLE 2, STATE TAXATION

ARTICLE 1 REPEAL OF CERTAIN STATE TAXESⁱ

Article 1 of the bill repeals certain state taxes found in Tax Code, Title 2, State Taxation.

Subtitle E, limited sales, excise and use tax,¹ taxes on the sale, rental and use of motor vehicles,² cigarette tax,³ cigars and tobacco products tax,⁴ hotel occupancy tax,⁵ manufactured housing sales and use tax,⁶ taxes on sales and use of boats and boat motors,⁷ motor fuel taxes⁸ are all repealed.

Subtitle F, the franchise tax is repealed.⁹

Subtitle G, gross receipts taxes, cement production tax,¹⁰ miscellaneous gross receipts taxes,¹¹ and mixed beverage tax,¹² are repealed.

Subtitle H, business permit taxes¹³ is amended to repeal:

Subchapters E, F, and G oil well services, tax receipt as a permit, nature and allocation of tax.

Subtitle I, severance taxes are amended to repeal the gas production tax,¹⁴ oil production tax,¹⁵ and the tax credit for new field discoveries.¹⁶

ARTICLE 2 STATE VALUE-ADDED TAX

Article 2 of the bill creates a state value-added tax, makes general provisions, creates requirements for administration and records, the imposition of a value-added tax, sets the rate of tax, and provides exemptions.

¹ Chapter 151

² Chapter 152

³ Chapter 154

⁴ Chapter 155

⁵ Chapter 156

⁶ Chapter 158

⁷ Chapter 160

⁸ Chapter 162

⁹ Chapter 171

¹⁰ Chapter 181

¹¹ Chapter 182

¹² Chapter 183

¹³ Chapter 191; Subchapter H is removed from the tax code.

¹⁴ Chapter 201

¹⁵ Chapter 202

¹⁶ Chapter 204

BILL ANALYSIS

Subchapter A, and B, set out general provisions, along with rules for administration and records.

Subchapter C imposes the rate of a state value-added tax at seven percent (7%) on transaction of goods or service for the purpose of profit.

Subchapter D provides exemptions to small businesses (less than \$100,000 annual taxable receipts) and government entities, religious, educational, and public service organizations.

Subchapter E provides exclusions from taxation on monetary instruments, financial assets and investments, intercompany services, employment services, incidental transactions, transfers of common interests in property.

Subchapter F, G, and H define the requirements for the input and output of taxes, reporting and payment, refunds and relief.

Subchapter I, J, and K describe the revenue apportionment, allocation, enforcement and disposition for local taxing units.

ARTICLE 3 CERTAIN CONFORMING REVISIONS

Article 3 creates conforming revisions to the Tax Code, Title 2, State Taxation and repeals the Simplified Sales and Use Administration Act entirely.

ARTICLE 4 REVISIONS TO CERTAIN LOCAL TAXES

Article 4 establishes revisions to certain local taxes.

Subchapter A, B, C, and D provide for the adoption or repeal of a value-added tax by municipalities of up to three percent (3%) when approved by a majority of voters, the computation of that tax, its collection and administration by the Comptroller.

Subchapter E defines the tax election procedures for the adoption of an ordinance by a local governing body and petitioning by the voters.

Subchapter F identifies requirements for the deposits and distribution of the tax by the Comptroller and the use by the municipalities.

BILL ANALYSIS

TAX CODE, TITLE 3, LOCAL TAXATION

SUBTITLE C, VALUE-ADDED TAXES

Chapter 322 For Special Purpose Taxing Authorities

Subchapter A, B, and C impose the value-added tax by the Comptroller with general provisions, computation, administration, collection, reporting and enforcement with rules on delinquent taxes, seizure and sale of property, suits for collections and judgements for value-added taxes in municipalities.

Subchapter D defines the requirements for revenue deposits, distributions, and use.

Chapter 323 County Value-Added Tax Act

Subchapter A, B, and C impose the value-added tax by counties with general provisions, assessment and computation of taxes, certain provisions, and exemptions.

Subchapter D defines the imposition, computation, administration, collection, reporting and enforcement with rules on delinquent taxes, seizure and sale of property, suits for collections and judgements.

Subchapter E defines the tax election procedures for the adoption of an ordinance by a local governing body and petitioning by the voters.

Subchapter F defines the requirements for revenue deposits, distributions, and use.

Chapter 324 County Health Services Value-Added Tax

Subchapter A, B, C, and D impose the value-added tax by counties, tax rate computations, election procedures, and their use to provide health services.

Chapter 325 County Value-Added Tax for Landfill and Criminal Detention

Subchapter A, B, C, and D impose the value-added tax by counties, tax rate computations, election procedures, and their use to maintain a landfill and criminal detention center in the county.

(Chapter 326 not found)

Chapter 327 Municipal Value-Added Tax for Street Maintenance

The imposition of the value-added tax by municipalities, computation of tax rates, the use, election and reauthorization procedures to maintain and repair municipal streets.

BILL ANALYSIS

Chapter 328 School District Enrichment Value-Added Tax

Subchapter A, B, C, D, E, and F impose the value-added tax for school districts, general provisions, computation of tax rates, transition exemptions, the Comptroller's administration, reporting duties, rules and enforcement, the district's elections, revenue deposit, distribution and use.

Chapter 775 Emergency Service Districts

Chapter 285 Special Provisions relating to Hospital Districts

These are amended by replacing "sales and use tax" with "value-added" in each place where the term appears.

ARTICLE 5 PROPERTY TAXES

Article 5 declares neither the state, nor any political subdivision, may impose ad valorem taxes.

Subchapter A require Comptroller oversight for certified exempt taxing units, appraisal district elimination, of record retentions and regulations.

ARTICLE 6 SCHOOL FINANCE REFORM

EDUCATION CODE, TITLE 2, PUBLIC EDUCATION

SUBTITLE I, SCHOOL FINANCE AND FISCAL MANAGEMENT

Chapter 41, Equalized Wealth Levels, is repealed.

Chapter 42, Foundation School Program is amended by adding that the state shall appropriate sufficient revenues to provide each school district funding necessary to meet established standards, to provide basic education, facilities and maintenance. Additional amendments include Special Education, Career & Technology, Gifted & Talented, new Instructional Facilities, staff salary increases, miscellaneous minor revisions and repeals.

Chapter 44 Fiscal Management is amended by adding that the commissioner will facilitate a transition from ad valorem to value-added tax revenues for the districts' budgeting, funding and debt servicing.

Chapter 46, Instructional Facility Debt Assistance is repealed completely.

EFFECTIVE DATE

On or after September 1, 2013

ⁱ The repeal of sales and use tax on aircraft is not found in HB3742 (83R) but its inclusion should likely be considered and amended. This tax was added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015. <https://statutes.capitol.texas.gov/Docs/TX/htm/TX.163.htm>