



# INTERIM REPORT

## TO THE 88<sup>TH</sup> TEXAS LEGISLATURE

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HOUSE COMMITTEE ON WAYS & MEANS  
JANUARY 2023



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**HOUSE COMMITTEE ON WAYS & MEANS  
TEXAS HOUSE OF REPRESENTATIVES  
INTERIM REPORT 2022**

**A REPORT TO THE  
HOUSE OF REPRESENTATIVES  
88TH TEXAS LEGISLATURE**

**MORGAN MEYER  
CHAIRMAN**

**COMMITTEE CLERK  
RYAN MARQUESS**

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Committee On  
Ways & Means

January 3, 2023

Morgan Meyer  
Chairman

P.O. Box 2910  
Austin, Texas 78768-2910

The Honorable Dade Phelan  
Speaker, Texas House of Representatives  
Members of the Texas House of Representatives  
Texas State Capitol, Rm. 2W.13  
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Ways & Means of the Eighty-seventh Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-eighth Legislature.

Respectfully submitted,

Morgan Meyer, Chairman

Shawn Thierry, Vice Chair

Angie Chen Button

Sheryl Cole

R.D. "Bobby" Guerra

Trey Martinez Fischer

Jim Murphy

Candy Noble

Eddie Rodriguez

Scott Sanford

Hugh Shine

Shawn Thierry  
Vice-Chair

Members: Angie Chen Button, Sheryl Cole, R. D. "Bobby" Guerra, Trey Martinez Fischer,  
Jim Murphy, Candy Noble, Eddie Rodriguez, Scott Sanford, Hugh Shine



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## TABLE OF CONTENTS

WAYS & MEANS.....	1
IMPLEMENTATION AND MONITORING: HB 2080 and SB 903 (CHARGE 1.1).....	2
INTRODUCTION .....	2
FINDINGS.....	4
Interim Committee Testimony.....	4
Committee Review.....	4
RECOMMENDATIONS.....	5
IMPLEMENTATION AND MONITORING: HB 2404 (CHARGE 1.2) .....	6
INTRODUCTION .....	6
FINDINGS.....	7
Interim Committee Testimony.....	7
Committee Review.....	7
RECOMMENDATIONS.....	8
IMPLEMENTATION AND MONITORING: SB 248 (CHARGE 1.3) .....	9
INTRODUCTION .....	9
FINDINGS.....	9
Interim Committee Testimony.....	9
Committee Review.....	10
RECOMMENDATIONS.....	11
IMPLEMENTATION AND MONITORING: SB 2 (86R) AND RELATED	
LEGISLATION (CHARGE 1.4) .....	12
INTRODUCTION .....	12
FINDINGS.....	15
Interim Committee Testimony.....	15
Committee Review.....	15
RECOMMENDATIONS.....	19
IMPLEMENTATION AND MONITORING: PROPERTY TAX APPRAISAL	
(CHARGE 1.5) .....	20
INTRODUCTION .....	20
FINDINGS.....	23
Interim Committee Testimony.....	23
Committee Review.....	23
RECOMMENDATIONS.....	26
PROPERTY TAX RELIEF: (CHARGE 2).....	27

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INTRODUCTION .....	27
FINDINGS .....	27
Interim Committee Testimony .....	27
Committee Review.....	28
RECOMMENDATIONS .....	36
PROPERTY TAX APPRAISAL SYSTEM: (CHARGE 3) .....	37
INTRODUCTION .....	37
FINDINGS .....	37
Interim Committee Testimony .....	37
Committee Review.....	38
RECOMMENDATIONS .....	40
CHAPTER 313: (CHARGE 4) .....	41
INTRODUCTION .....	41
FINDINGS .....	42
Interim Committee Testimony .....	42
Committee Review.....	42
RECOMMENDATIONS .....	46
DESTINATION SOURCING: (CHARGE 5) .....	47
INTRODUCTION .....	47
FINDINGS .....	48
Interim Committee Testimony .....	48
Committee Review.....	49
RECOMMENDATIONS .....	52
ENDNOTES .....	53

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## WAYS & MEANS

The House Committee on Ways & Means (“Ways & Means” or “the Committee”) has jurisdiction over all legislation relating to raising state revenues through taxes or fees and collecting those revenues; allocating funds to or diverting funds from the state treasury; permitting local governments to raise revenues through taxes or fees and regulating the local government’s collections of those revenues; and appraising property for taxation.<sup>1</sup> In addition, the Committee has jurisdiction over two agencies: (1) the Office of Multistate Tax Compact Commissioner for Texas and (2) the Comptroller of Public Accounts (“CPA” or “Comptroller”).<sup>2</sup>

In the 87th Legislature, the Honorable Dade Phelan, Speaker of the Texas House of Representatives, appointed the following 11 members to the Committee: Chairman Morgan Meyer, Vice-Chair Shawn Thierry, Rep. Angie Chen Button, Rep. Sheryl Cole, Rep. R.D. "Bobby" Guerra, Rep. Trey Martinez Fischer, Rep. Jim Murphy, Rep. Candy Noble, Rep. Eddie Rodriguez, Rep. Scott Sanford, and Rep. Hugh Shine.<sup>3</sup>

The Speaker of the House has “the authority to direct committees to make interim studies for such purposes as the speaker may designate.”<sup>4</sup> Additionally, “[s]tanding committees . . . are . . . authorized to conduct studies that are authorized by the speaker.”<sup>5</sup> On March 10, 2022, Speaker Phelan issued five interim committee charges to Ways & Means.<sup>6</sup> The first interim charge included five sub-charges.<sup>7</sup>

On April 21, 2022, the Committee held a public hearing to take testimony on Charges 1.1, 1.3, 2, and 5.<sup>8</sup> The Committee met for over five hours and heard testimony from 31 witnesses.<sup>9</sup>

On September 8, 2022, the Committee held a public hearing to take testimony on Charges 1.2, 1.4, 1.5, 3, and 4.<sup>10</sup> The Committee met for just under ten hours and heard testimony from 52 witnesses.<sup>11</sup>

The *Introduction* and *Findings* sections of each interim charge combine testimony received in the hearings on April 21 and September 8, and Committee staff research.

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## **IMPLEMENTATION AND MONITORING: HB 2080 and SB 903 (CHARGE 1.1)**

*Monitor agencies and programs in the Committee's jurisdiction and oversee the implementation of legislation passed by the 87th Legislature. Actively oversee associated rulemaking and agency actions to ensure the intended legislative outcome of all legislation, including HB 2080 and SB 903, relating to taxpayers' suits.*

### **INTRODUCTION**

The 87th Legislature addressed payment requirements and procedures for challenges to tax assessments. The Legislature also addressed concerns regarding the mandatory administrative hearing process at the State Office of Administrative Hearings (SOAH) for appealing the denial of a refund.

Senate Bill 903 and House Bill 2080 expanded a taxpayer's right of access to Texas courts.

HB 2080 allows taxpayers to file suit without first paying the disputed amounts under protest.

SB 903 allows refund claimants to go directly to district court without an administrative hearing.

Together, these legislative changes to administrative procedure allow taxpayers to bypass an administrative hearing and to also only pay undisputed portions of the assessment before bringing suit for de novo review in district court.<sup>12</sup>

#### *HB 2080*

Prior to this legislation a taxpayer could only challenge a tax assessment in district court if the taxpayer had paid the total amount of tax, penalties, and interest assessed in full. Taxpayers will no longer be required to prepay the disputed amount prior to a protest and will no longer be subject to collection actions during the process of the suit.

House Bill 2080 by Rep. Ben Leman (R-Iola)<sup>13</sup> restructured the process for bringing suit; creating a simpler method for taxpayers to access the courts in tax suits. The legislation updated and revised procedures for a person to file suit against the comptroller to dispute the amount of a tax.<sup>14</sup> The effect of the bill expanded access to courts for taxpayers.

The previous requirement held that a taxpayer pay the entire assessed tax liability (both the contested and uncontested amounts) before being allowed to take the case to court. Moving forward, only the undisputed amount must first be paid. Any unpaid disputed amount that is finally determined to be due will be subject to penalty and interest.

The entire administrative appeal process must be completed before going to court, the suit must

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be brought within 90 days of rehearing denial, and a third party may not intervene.

The Act applies to a suit to dispute an amount of tax, penalty, or interest that became due and payable after September 1, 2021.<sup>15</sup>

The bill repeals Subchapter C of Chapter 112 of the Texas Tax Code, which allowed taxpayers to request restraining orders or injunctions to prevent the state from collecting a tax or fee.<sup>16</sup>

HB 2080 also added several other provisions to Chapter 112 of the Texas Tax Code,<sup>17</sup> including:

- no attorneys' fees awarded in tax cases;
- no injunctions to prevent tax collection; and
- no class action lawsuits

Under HB 2080, taxpayers who could not previously afford to pay an assessment under protest now have a path to de novo court review that is not dependent upon their financial health, and taxpayers who can afford to pay under protest may seek judicial relief without having their funds held by the state, thus accruing minimal interest during litigation.<sup>18</sup>

HB 2080 provides an alternative to Texas's traditional protest suit, which requires pre-payment of the assessment in full and is "onerous for both taxpayers and the state."<sup>19</sup> HB 2080 "seeks to ease the burden on taxpayers and ensure that all Texans, regardless of means, are able to access the taxpayer suit processes by establishing a new type of taxpayer protest suit that does not require prior payment of the amount in protest"<sup>20</sup>

HB 2080 became effective September 1, 2021.<sup>21</sup>

### *SB 903*

Prior to this legislation, the Tax Code prohibited a taxpayer from appealing the denial of a refund claim directly to district court. After a Comptroller denial of a refund claim and a refund hearing at SOAH, a taxpayer would have to file a motion for rehearing before filing suit.

Senate Bill 903 by Sen. Charles Perry (R-Lubbock)<sup>22</sup> allows a protesting taxpayer to elect to bypass an administrative hearing at SOAH before filing a district court appeal.<sup>23</sup> By filing a prescribed notice within 60 days of the Comptroller's denial of a refund claim, a taxpayer is authorized to pursue a court appeal of that determination.

However, the Comptroller within 30 days can require that a conference be convened to clarify material facts or legal positions in dispute and to discuss the availability of additional documentation that could aid in resolving any outstanding unsettled elements of the case. The taxpayer's notice must assert the material facts and each specific legal basis on which a specified refund amount is sought. The only issues that may be raised in court are those enumerated in the tax refund claim.<sup>24</sup>

SB 903 provides taxpayers an additional option for appealing the denial of a refund claim.

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Taxpayers may file suit within 60 days after the bypass conference.

Taxpayers may choose to either:

- go through the existing hearings process at SOAH; or
- go straight to district court after holding a SOAH bypass conference with the Comptroller.

SB 903 became effective September 1, 2021.<sup>25</sup>

## **FINDINGS**

### **Interim Committee Testimony**

The Committee held a public hearing on April 21, 2022, to take testimony on this charge.<sup>26</sup> The following witness provided testimony:<sup>27</sup>

1. Arbogast, James (Texas Comptroller of Public Accounts)

Testimony from this witness is referenced in the Committee Review section below.

### **Committee Review**

#### **CPA Testimony**

##### *HB 2080*

James Arbogast, Texas Comptroller of Public Accounts (CPA), explained the rules to implement HB 2080. CPA testified that both bills provide new ways for taxpayers to bring a lawsuit. CPA, the Texas Office of the Attorney General (OAG), and taxpayers all supported the bills and the bills are being used.<sup>28</sup>

In this alternative way to sue the Comptroller, the prepayment of disputed amounts is no longer required. After completing the administrative redetermination process at SOAH and filing a motion for rehearing, a taxpayer may challenge the final determination in district court by paying only the amounts of tax found to be due. If the taxpayer withholds payment of the undisputed amounts, they will accrue penalties and interest if ultimately found to be due.<sup>29</sup>

Eleven suits have been brought as of hearing date, seven are currently going through the process. No issues are anticipated.<sup>30</sup>

CPA testified that HB 2080 provides an alternative way to bring a suit when a taxpayer believes

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they shouldn't have to pay a state tax assessment. Under old law, one had to pay under protest or make a pauper's pledge. Now, the law allows a taxpayer to pay only the undisputed portion of the tax, modifying the old pay-to-play law. "We believe this has been effective...seven lawsuits are now using it; it seems to be working fine."<sup>31</sup>

### *SB 903*

CPA explained that prior to SB 903 the only way to bring a refund suit was to exhaust all remedies in the administrative hearings process.<sup>32</sup>

CPA explained their process to implement SB 903. A taxpayer must submit a Notice of Intent to Bypass Hearing, which must be written, contain all material facts, list the amount in dispute, and list the legal reason for the dispute. CPA may require informal bypass conference (notice must be given within 30 days of Notice of Intent). CPA may use the bypass conference to narrow the issues in dispute or possibly avoid litigation altogether. If a bypass conference fails to resolve all issues, then the taxpayer may proceed to court.<sup>33</sup>

Implementation appears successful to date. The law took effect September 1, 2021, and only one case has been processed as of the hearing date. No implementation issues are anticipated. CPA speculated that the bill might never be widely used because it denies a taxpayer "another bite at the apple" but it is appropriate in some cases. CPA is not writing rules for it; the statute is clear.<sup>34</sup>

## **RECOMMENDATIONS**

CPA has successfully adopted rules to implement HB 2080 and did not need to adopt rules for SB 903 because of the clear statutory text. The Committee did not receive testimony indicating concerns with CPA's implementation of these bills. Therefore, the Committee makes no recommendations regarding Charge 1.1. However, the Committee encourages CPA to update the Committee if CPA determines that either bill is materially, negatively impacting CPA operations or resources.

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## **IMPLEMENTATION AND MONITORING: HB 2404 (CHARGE 1.2)**

*Monitor agencies and programs in the Committee's jurisdiction and oversee the implementation of legislation passed by the 87th Legislature. Actively oversee associated rulemaking and agency actions to ensure the intended legislative outcome of all legislation, including HB 2404, relating to creating and maintaining a database of information regarding certain local economic development agreements.*

### **INTRODUCTION**

HB 2404 by Rep. Morgan Meyer (R-Dallas)<sup>35</sup> increased transparency for local governments by creating a centralized database for local Chapter 380 and Chapter 381 economic development agreements. It directed the state comptroller's office to create and maintain a database of local economic development agreements.<sup>36</sup> HB 2404 requires local governments to submit information on their economic development agreements under Chapters 380/381 of the Local Government Code to the Comptroller, who is required to post the information in an online database.

Local governments that do not comply with providing information can be fined a \$1,000 civil penalty.<sup>37</sup>

### **BACKGROUND**

Previously, there have been concerns regarding the ability of the public to access and evaluate information relating to certain economic development agreements entered into under Chapters 380 and 381 of the Local Government Code.<sup>38</sup>

Chapter 380 of the Local Government Code authorizes municipalities to offer incentives designed to promote economic development such as commercial and retail projects. Specifically, it provides for offering loans and grants of city funds or services at little or no cost to promote state and local economic development and to stimulate business and commercial activity.<sup>39</sup>

In order to provide a grant or loan, a city must establish a program to implement the incentives. Before proceeding, cities must review their city charters or local policies that may restrict a city's ability provide a loan or grant.<sup>40</sup>

Chapter 381 of the Local Government Code allows counties to provide incentives encouraging developers to build in their jurisdictions. A county may administer and develop a program to make loans and grants of public money to promote state or local economic development and to stimulate, encourage and develop business location and commercial activity in the county.<sup>41</sup>

The county may also develop and administer a program for entering into a tax abatement agreement. This tool allows counties to negotiate directly with developers and businesses.<sup>42</sup>

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HB 2404 required that the website be activated by no later than September 1, 2022.<sup>43</sup>

HB 2404 became effective September 1, 2021.<sup>44</sup>

## **FINDINGS**

### **Interim Committee Testimony**

The Committee held a public hearing on September 8, 2022, to take testimony on this charge.<sup>45</sup> The following three witnesses provided testimony:<sup>46</sup>

1. Castillo, Korry (Texas Comptroller of Public Accounts)
2. Haynes, Adam (Conference of Urban Counties); and
3. Longley, Bill (Texas Municipal League)

Testimony from these witnesses is referenced in the Committee Review section below.

### **Committee Review**

#### **CPA Testimony**

Korry Castillo, CPA, explained the rules to implement HB 2404 and testified that implementation appears successful to date. Ms. Castillo described the new database. She said there are over 3,000 agreements in the database. CPA testified there could possibly be agreements that CPA is unaware of.<sup>47</sup>

Rep. Murphy asked how much the database is being accessed. CPA responded that they are able to pull statistics on how much the website is being visited and will provide them to the Committee.

Rep. Martinez Fischer asked how easy it is to file, asked about notifications to businesses out of compliance. CPA replied that because the requirement is on the local government to supply the agreements, they have sent notifications out to local governmental entities but not to businesses.

Chairman Meyer inquired about outreach and education to cities. CPA replied that they have ongoing educational efforts through their newsletter.<sup>48</sup>

Chairman Meyer asked about other complaints. CPA responded that there have been none. The

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website and program have been well received.<sup>49</sup>

Chairman Meyer asked about compliance. CPA replied that they would refer cases to OAG to have the penalty enforced.<sup>50</sup>

### **Association Testimony**

Bill Longley, Texas Municipal League (TML) testified that they favor the legislation as it has created a one-stop clearing house for information.<sup>51</sup>

Adam Haynes, Conference of Urban Counties, suggested that the new system could improve competitiveness or cooperation between the local governments. In concurrence with TML and CPA, they agreed that there have been no serious problems or complaints related to the new system.<sup>52</sup>

## **RECOMMENDATIONS**

CPA timely launched the economic development agreement website that the Legislature required it to create in HB 2404. CPA's website complies with HB 2404's requirements and the Committee did not receive any testimony indicating that local governments experienced difficulties submitting their agreements to CPA.

Additionally, the volume of economic development agreements on the website indicates that at least a substantial portion of the cities and counties with such agreements have submitted them to the website. However, the Committee is unable to determine whether every city and county with an agreement has submitted that agreement to CPA.

Regarding Charge 1.2 the Committee makes the following four recommendations for the Legislature to improve the economic development agreement website created by HB 2404:

1. Require cities and counties to enter the estimated annual and lifetime value of the economic development agreement in the database.
2. Require cities and counties to select from a standardized list of options the types of incentives (e.g., sales tax, property tax, development fees) that the local government is granting to the entity.
3. Require cities and counties to list the entity commitments (e.g., property improvements, new jobs) in the database.
4. Evaluate whether the State Auditor or another entity could conduct annual compliance audits of a sample of economic development agreements.



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## **IMPLEMENTATION AND MONITORING: SB 248 (CHARGE 1.3)**

*Monitor agencies and programs in the Committee's jurisdiction and oversee the implementation of legislation passed by the 87th Legislature. Actively oversee associated rulemaking and agency actions to ensure the intended legislative outcome of all legislation, including SB 248, relating to the sale of cigarettes, tobacco products, and e-cigarettes.*

### **INTRODUCTION**

Texas does not currently levy an excise tax on e-cigarettes like it levies on cigarettes, cigars, and other tobacco products. The 87th Legislature passed SB 248 by Sen. Nathan Johnson (D-Dallas)<sup>53</sup> to improve e-cigarette purchase-age compliance by harmonizing permitting regulations between e-cigarettes and tobacco.

Under SB 248, e-cigarette retailers are required to obtain a similar permit to traditional tobacco retailers. Existing retailer underage sales penalties for cigarettes and tobacco products were consolidated with other tobacco laws in Chapter 161 of the Texas Health and Safety Code.<sup>54</sup> E-cigarette retailers were included in the reorganized statute. The accrual schedule and severity of penalties were enhanced to increase accountability for retailers and simplify administration for the Comptroller.

A new tobacco wholesaler permit was created to resolve a logistical issue regarding untaxed tobacco that is ultimately destined for out-of-state wholesale.

SB 248 requires e-cigarette retailers to obtain permits and sets up a framework to regulate those retailers in the same way as other tobacco product dealers are regulated. The bill is aimed at curbing vaping in general and youth e-cigarette use.

SB 248 became effective September 1, 2021.<sup>55</sup>

### **FINDINGS**

#### **Interim Committee Testimony**

The Committee held a public hearing on April 21, 2022, to take testimony on this charge.<sup>56</sup> The following two witnesses provided testimony:<sup>57</sup>

1. Elwell, Michael (Texas Comptroller of Public Accounts); and
2. Gagen, Charlie (American Lung Association)

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Testimony from these witnesses is referenced in the Committee Review section below.

## **Committee Review**

### **CPA Testimony**

Michael Elwell, CPA, explained the legislation. CPA testified that 10,520 taxpayers are licensed to sell e-cigarettes and only two violations have been issued. The licenses expire after two years and have been prorated. May 31, 2024, is the next renewal date.<sup>58</sup>

Rep. Murphy asked if program fees paid for administration. CPA replied that although close, the fees appear to be covering the costs of administration.<sup>59</sup>

Vice-Chair Thierry asked about the differences between a tax based on the milliliter (“ml”) compared with a unit-based tax. CPA said ml would be a new taxing measurement and the variable of e-cigarette potency would affect the calculation and would be difficult to monitor accuracy of listed potency versus actual potency. The penalty for infractions starts at \$500, and increases with repeat offenses, culminating in revocation.<sup>60</sup>

Chairman Meyer asked about concerns and issues regarding the issuance of permits. CPA indicated that the issue was resolved.<sup>61</sup>

### **Association Testimony**

Charlie Gagen, American Lung Association, spoke about the “explosion of vaping... of this dangerous product” and pointed out the ease with which the products can be obtained and made suggestions for toughening the program and raising the taxes on tobacco and vaping products. Mr. Gagen said he supports a price-based e-cigarette tax of 30%. Mr. Gagen said that current taxes are around 1% of the value of e-cigarettes.<sup>62</sup>

Vice-Chair Thierry raised the question of whether e-cigarettes are less damaging than leaf tobacco and whether the tax level should reflect that.

Chairman Meyer suggested that the American Lung Association work with Vice-Chair Thierry in the future.

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## **RECOMMENDATIONS**

Regarding Charge 1.3 the Committee makes the following three recommendations to address SB 248 implementation:

1. The Committee should continue to monitor implementation of SB 248, including the number of permits issued, number of permit violations, outcome of enforcement actions against permitted retailers, and accessibility of the permit issuance process.
2. The Committee should monitor the existing penalty structure for tobacco retailers, including repeat violators and retailers that sell tobacco and e-cigarettes to minors.
3. The Committee should evaluate the e-cigarette tax structures of other states, including the units of measurement, tax rates, and taxable products. The Committee should determine whether Texas should impose an additional excise tax on e-cigarettes.

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## **IMPLEMENTATION AND MONITORING: SB 2 (86R) AND RELATED LEGISLATION (CHARGE 1.4)**

*Monitor agencies and programs in the Committee's jurisdiction and oversee the implementation of legislation passed by the 87th Legislature. Actively oversee associated rulemaking and agency actions to ensure the intended legislative outcome of all legislation, including SB 2 (86R - the Texas Property Tax Reform and Transparency Act of 2019) and related property tax reform legislation passed by the 87th Legislature, including HB 1869, HB 2429, HB 2723, and SB 1438.*

### **INTRODUCTION**

The 86th Legislature passed SB 2, by Sen. Paul Bettencourt (R-Houston), the Texas Property Tax Reform and Transparency Act of 2019.<sup>63</sup> The legislation was a landmark property tax bill that reformed numerous parts of the Tax Code and included “the most comprehensive changes to the property tax system in the state since the Property Tax Code was enacted in 1979.”<sup>64</sup>

SB 2 renamed the effective tax rate as the no-new-revenue (NNR) tax rate and the rollback tax rate as the voter-approval tax rate. SB 2 decreased the voter-approval tax rate multiplier from 8% to 3.5%; increased Appraisal Review Board (ARB) accessibility; standardized tax rate notices; and created new property tax databases that taxpayers can use to better understand the tax-rate-setting process.<sup>65</sup> There was no state cost associated with this legislation.

From 2012 through 2019, cities, counties, and special districts raised property taxes on an annual basis by an average of 6.5%.<sup>66</sup>

Excluding a voter-approved 24% tax hike in Austin in 2020 for a major transportation initiative, city, county, and special district levies increased at an annual average of 4.7% in 2020 and 2021 – almost two percentage points below the historical trend.<sup>67</sup>

Since the passage of SB 2, taxing units have set property tax rates four times (in tax years 2019, 2020, 2021, and 2022), and taxing units and tax assessor-collectors have used the new tax rate notice formats three times (in tax years 2020, 2021, and 2022).

SB 2 created a tax notice system allowing property owners to assess how each jurisdiction’s proposed rates will impact their tax bills. SB 2 also reduced the rate by which many jurisdictions may raise property taxes. Most taxing units are subject to a 3.5% tax revenue increase threshold before voters must approve the proposed tax rate, rather than the previous 8% limit. A “de minimis” rate was added to provide a bit more flexibility for smaller taxing units. Taxing units in an area under a disaster declaration are allowed to calculate their voter-approval rate to allow for an 8% property tax increase, rather than the 3.5% which would normally apply.

The 87th Legislature acted on several concerns arising from the implementation of SB 2 by passing legislation including:

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### *HB 1869*

In 2019, the 86th Legislature adopted Senate Bill 2 overhauling the state's property tax system in order to give taxpayers more control over property tax increases by reducing the voter-approval tax rate multiplier from 8% to 3.5%. However, the voter-approval tax rate only limited the increase of the maintenance and operations portion of the tax rate, not the debt portion of the tax rate. Taxing units were able to issue non-voter-approved debt, such as certificates of obligation, to avoid submitting tax increases to the voters.

HB 1869 by Rep. Dustin Burrows (R-Lubbock)<sup>68</sup> built on SB 2's reforms by addressing a major increase in debt issued by taxing units without the approval of voters. HB 1869 limits the property tax for debt service to only that debt approved by a jurisdiction's voters with certain exceptions.<sup>69</sup>

HB 1869 amended Section 26.012, Tax Code to revise the requirements for a bond, warrant, certificate of obligation, or other evidence of indebtedness owed by a taxing unit to qualify as "debt" for purposes of calculating the unit's property tax rates.<sup>70</sup> HB 1869 redefines "debt" to mean:

A bond, warrant, certificate of obligation, or other evidence of indebtedness owed by a taxing unit that:

Is payable from property taxes, rather than solely from property taxes, in installments over a period of more than one year, not budgeted for payment from maintenance and operations funds, and secured by a pledge of property taxes; and meets one of the following requirements:

- has been approved at an election;
- includes self-supporting debt;
- evidences 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 a project under Chapter 311, Tax Code, or Chapter 222

HB 1869 became effective September 1, 2021.<sup>71</sup>

### *HB 2429*

HB 2429 by Rep. Morgan Meyer<sup>72</sup> clarifies the language used in the real time tax notice when the de minimis rate exceeds the voter-approval rate.

HB 2429 amended the Tax Code<sup>73</sup> to require a taxing unit that is not required to hold an election to approve a property tax increase and whose qualified voters may not petition to hold an election to reduce an adopted tax rate to do the following with respect to a notice of public

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hearing on a tax increase:

- add the de minimis rate per \$100 to the end of the list of rates included in the notice;
- substitute certain specified language for the definition of "voter-approval tax rate";
- add a certain definition of "de minimis rate"; and
- substitute certain specified language for the provision that provides notice that an election is required, that indicates that an election is not required, and that the voters may not petition to hold an election.

HB 2429 was passed unanimously by both houses and went into effect immediately on May 15, 2021.<sup>74</sup>

### *HB 2723*

HB 2723 by Rep. Morgan Meyer<sup>75</sup> amended the Tax Code to require the Department of Information Resources to develop and maintain an easily accessible central website that lists each property tax database created and maintained by a chief appraiser.<sup>76</sup> HB 2723 requires the website to provide a separate link to the location of each database online, include a method to assist a property owner to identify the appropriate database for the owner's property, and provide property owners a direct link to their local appraisal district's "real-time" tax information. The website's address is "Texas.gov/PropertyTaxes"

HB 2723 requires public notices for budget and tax rate meetings to include a statement with a link to find each individual's local property tax database with easily accessible information regarding property taxes and public hearings of each entity that taxes an individual's property. Local property tax databases are required to be updated regularly during August and September as local elected officials propose and adopt property tax rates.

HB 2723 became effective June 3, 2021.<sup>77</sup>

### *SB 1438*

SB 1438 by Sen. Paul Bettencourt (R-Houston)<sup>78</sup> closed a loophole that local governments have used to raise property taxes above the 3.5% threshold without voter approval. SB 1438 ensures that local governments cannot raise tax rates due to a declared disaster when no physical property damage has been caused.

SB 1438 amended the Tax Code to consolidate provisions governing the calculation and adoption of certain property tax rates in a declared disaster area and revised those provisions.<sup>79</sup>

SB 1438 provides that if the governing body of a taxing unit other than a school district uses the exemption from the requirement for the governing body of a taxing unit to hold an election to approve the taxing unit's adopted tax rate for the year following the year in which a disaster occurs, the amount by which that rate exceeds the taxing unit is voter-approval tax rate may not be considered when calculating the taxing unit is voter-approval tax rate for the tax year following the year in which the taxing unit adopts the rate.<sup>80</sup>

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SB 1438 became effective June 16, 2021.<sup>81</sup>

## **FINDINGS**

### **Interim Committee Testimony**

The Committee held a public hearing on September 8, 2022, to take testimony on this charge.<sup>82</sup> The following fourteen witnesses provided testimony:<sup>83</sup>

1. Berry, Russell (Texas Realtors)
2. Billings, David (City of Fate)
3. Castillo, Korry (Texas Comptroller of Public Accounts)
4. Craymer, Dale (Texas Taxpayers and Research Association)
5. Crouch, Chandler (Self)
6. Fairly, Alex (Self)
7. Gaddes, Larry (Tax Assessor/Collectors Association of Texas)
8. LeBas, James (Texas Oil and Gas Association, Texas Association of Manufacturers, Texas Chemical Council, and Texas Apartment Association)
9. Longley, Bill (Texas Municipal League)
10. Quintero, James (Texas Public Policy Foundation)
11. Rhodes, Fran (Self; True Texas Project)
12. Richardson, Dale (Texas Department of Information Resources)
13. Rome, Christy (Texas School Coalition)
14. South, Brent (Texas Association of Appraisal Districts)

Testimony from these witnesses is referenced in the Committee Review section below.

### **Committee Review**

#### **Association, Advocacy, and Public Testimony on SB 2.**

Dale Craymer, Texas Taxpayers and Research Association (TTARA), discussed SB 2 and the tax calculation worksheet and thanked the Comptroller for the work on it. He said that simplification would be welcome. “We have trouble identifying what data is being used, and we think the data should be verified”, perhaps as part of a city’s annual audit. “There should be some kind of true-up”. He suggested that the need for the de-minimis rate be reconsidered and that the unused increment be converted to a dollar amount rather than a percentage. The real-time website has been a tremendous advance; TTARA has developed a proposed simplification to the presentation of the data.<sup>84</sup>

James Quintero, Texas Public Policy Foundation (TPPF), said that SB 2 is one of the most consequential changes in a generation. He offered several ideas, including simplification; borrow from HB 3 the requirement that in a bond election include “This is a tax increase”; adopt a tax-

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impact statement; strengthen HB 1869 (debt exception); examine including new construction in the TNT calculation; and lower the limit and apply it to all taxing units.<sup>85</sup>

Bill Longley, TML, said that since SB 2, cities have had to transition and learn the new calendar, new processes, notices, and nomenclature. He pushed back against Mr. Quintero's comments about HB 1869. Mr. Longley added that the current state statute on cities' budget adoption does not align timing wise with SB 2 deadlines.<sup>86</sup>

Rep. Martinez Fischer raised a question relating to the disaster exception and recommended that the law defer to local judgment.

James LeBas on behalf of Texas Oil and Gas Association (TXOGA), Texas Association of Manufacturers (TAM), Texas Chemical Council, and Texas Apartment Association testified that the most important factors in property tax relief are rate reductions that apply equally to all taxpayers and that the appraisal process remain independent from election politics.<sup>87</sup>

### *HB 1869*

#### **CPA Testimony**

Ms. Castillo, CPA, testified regarding definitions of debt, designated infrastructure, refunding bond, and self-supporting debt for purposes of tax rate calculations. She also said that there are no changes required to tax rate calculation forms, nor are there necessary changes to website or publications. Implementation of this legislation is occurring at the local level.<sup>88</sup>

### *HB 2429*

#### **CPA Testimony**

CPA testified regarding required notice for certain proposed tax rates for a taxing unit that is not a special taxing unit or is a municipality with a population of less than 30,000, regardless of whether it is a special taxing unit.<sup>89</sup>

*RE: Form 50-878, Notice of Public Hearing on Tax Increase*

The form is used if proposed tax rate exceeds the no-new-revenue tax rate and the voter-approval tax rate and the de minimis rate exceeds the voter-approval tax rate. A taxing unit in this scenario can adopt a rate above the voter-approval tax rate and below the de minimis rate without a required election and voters cannot petition for an election.<sup>90</sup>

### *HB 2723*

#### **CPA and DIR Testimony**

*RE: Form 50-313, Notice of Estimated Taxes*

The required postcard notice has been updated to reflect the new statutory language. Applicable



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webpages, publications, notices, and forms have all been updated to reflect the change in Rule 9.3006.<sup>91</sup>

Ms. Castillo described the new website as a model for postcard notice to taxpayers. She also spoke about the new requirements relating to disaster declarations.<sup>92</sup>

Rep. Martinez Fischer asked about notifying taxing units eligible for the disaster provisions.

Chairman Meyer asked about compliance with the tax rate worksheet under SB 2. Ms. Castillo said “it was quite an undertaking” due to its complexity.<sup>93</sup>

Chairman Meyer asked if help was needed to simplify or clarify the worksheet design. CPA agreed to provide data on common areas causing concerns including confusing worksheet language.<sup>94</sup>

Dale Richardson with DIR explained the website and indicated all is working well.<sup>95</sup>

### **Association, Advocacy, and Public Testimony**

Brent South, Texas Association of Appraisal Districts (TAAD), said that how to treat the amount not in dispute (properties in litigation or arbitration) in the worksheet is an issue under current law. He complained that the “attorneys' fees are a one-way street”. Regarding SB 2, he said that it was a positive that the old estimate of tax was removed from the notice of appraised value. The real-time tax database is also a positive, he said, though people don't see much information on the website when the August 7 postcard comes out. “I don't think that the postcards are very effective. The date needs to be further out.”<sup>96</sup>

Larry Gaddes, Tax Assessor/Collectors Association of Texas, applauded the Comptroller's office for help on building the worksheets. The timing of the postcard is an issue, but it is effective. He suggested that taxpayers be able to sign up for email or text alerts to notify the taxpayer when new, relevant data is available.<sup>97</sup>

### *SB 1438*

### **CPA Testimony**

CPA testified that the legislation replaced existing optional provisions for the calculation of tax rates in a declared disaster area. At least one property owner must receive temporary exemption for damage caused by a disaster. Legislation created the emergency revenue rate calculation. 2022 is the first tax year in which a taxing unit might need to utilize the calculation.

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## NON-VOTER APPROVED DEBT ISSUANCE CASE STUDY

The following relates to the intent and implementation of certain provisions of SB2.

Concerns have been raised regarding the ability of taxing jurisdictions to abuse non-voter approved debt issuance. One specific case has illustrated the potential abuses of the system.

Business owner Alex Fairly filed a lawsuit against the city of Amarillo on May 27, 2022, for a temporary injunction preventing the issuance of debt for a \$260 million rehabilitation plan for the Amarillo civic center.

Fairly sought injunctive relief from the court preventing the city from using tax and revenue notes that were approved 4-1 at a May 24, 2022, city council meeting. He maintained that these notes were not aligned with the will of the Amarillo voters, who soundly rejected a proposition to finance civic center renovations in 2020.

Amarillo had issued anticipation notes under Chapter 1431 of the Texas Government Code. Under this code, municipalities can issue anticipation debt notes to pay for the construction of a public work, along with materials, supplies and equipment that are required to complete this action. The notes can be paid from revenue, taxes, a combination of revenue and taxes or bond proceeds. Once approved under this chapter, the action is then reviewed and considered for approval by the Texas Attorney General. Fairly maintained that because of the usage of government code section 1431, and the extraordinary amount of money involved, he believes it was completely out of the norm.

“The largest 1431 bond issuance in the history of the state is only \$60 million and that was in San Antonio - a city that is 10 times bigger than Amarillo,” Fairly stated. “The \$260 million we are asking for is like San Antonio asking for \$2.6 billion.”

Fairly stated that the \$60 million issuances in San Antonio was used to build fire stations. He contended that is in line with what 1431 has been used for traditionally - for critical needs in a community.

“It’s not about should we have the building or not or what size the building it is,” Fairly said. “It is completely about that you should not be able to ignore taxpayers and just do what a small group of people want to do. I think more voters would be against this measure than voted against the last measure the city tried.”

After a two-day trial in October 2022, Judge William Sowder ruled in favor of Fairly, declaring the ordinance authorizing the anticipation tax notes void.

Sowder found that the Amarillo City Council failed to give the public “sufficient notice” of the items relevant to the Civic Center project under Section 551.041 under the Texas Government Code, thus making those items void under Section 551.141 of the Texas Government Code.<sup>98</sup>

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Sowder also found that the tax anticipation notes, which, under Section 1431.004 of the Texas Government Code, must only be used for public works, were invalid “as the new construction of the civic center complex is not a public work.”<sup>99</sup>

After the final judgement in October of 2022, both sides have filed appeals that are currently pending.

## **RECOMMENDATIONS**

Regarding HB 2429, the Committee determines that the legislation adequately provides the notice that was missing from SB 2 and no interested parties have raised concerns that any other notices are needed. Thus, the Committee makes no recommendations regarding HB 2429.

Regarding the remainder of Charge 1.4, the Committee makes the following eight recommendations to address the continued implementation of SB 2 and related legislation:

1. The Committee should continue to monitor implementation of SB 2.
2. The Committee should continue to monitor implementation of HB 1869.
3. The Legislature should consider the reforms and transparency enacted in HB 1869 and apply those reforms to Tax Anticipation Notes.
4. The Committee should continue to monitor implementation of HB 2723 and should consider allowing property owners to register for email or text notifications from their local property tax website.
5. The Committee should continue to monitor implementation of SB 1438 to ensure compliance.
6. The Committee should investigate avenues for improving the transparency of property taxes, including public hearing information, and taxpayer opportunity for involvement in the process.
7. The Committee should determine, per HB 1869, whether certain debt which is currently excluded from the 3.5% limit should be included in the 3.5% limit.
8. The Committee should monitor CPA's continued revisions, clarifications, and processing of tax calculation worksheets. The Committee encourages CPA to simplify the process, simplify the forms, increase accessibility and identification of data points, and increase verification of data. The Legislature should consider requiring tax calculation data verification to be part of a city's annual audit.

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## **IMPLEMENTATION AND MONITORING: PROPERTY TAX APPRAISAL (CHARGE 1.5)**

*Monitor agencies and programs in the Committee's jurisdiction and oversee the implementation of legislation passed by the 87th Legislature. Actively oversee associated rulemaking and agency actions to ensure the intended legislative outcome of all legislation, including Legislation relating to reform of the property tax appraisal system, including HB 988, HB 2941, HB 3971, SB 63, SB 916, and SB 1919.*

### **INTRODUCTION**

The 87th Legislature addressed several concerns surrounding the implementation of legislation relating to property tax appraisal, including:

#### *HB 988*

House Bill 988 by Rep. Hugh Shine (R-Temple)<sup>100</sup> requires an ARB to conduct hearings in accordance with adopted hearing procedures. It allows a property owner to request limited binding arbitration to compel compliance with certain procedural requirements related to protests and makes changes to the selection of the appraisal district board of directors in counties with a population of at least 120,000.<sup>101</sup>

The legislation also:

Creates a class A misdemeanor for a member of the governing body, officer, or employee of a taxing unit if the person directly or indirectly communicates with the chief appraiser or another employee for the purpose of influencing the value at which property in the district is appraised unless the person owns or leases the property.

- Requires an informal conference prior to hearing a protest.
- Allows for an extension of goods-in-transit to no more than 270 days.
- Requires unique account numbers for each appraisal record and allows for combination or separation of contiguous parcels.
- Allows for a single-member ARB panel at the request of the taxpayer.
- Allows for a person leasing a property to appeal an order of the ARB for property that the property owner chooses not to appeal.

HB 988 became effective January 1, 2022, except Sections 1, 2, 4, 14, 18, 20, 21, 23, and 24 which became effective on June 15, 2021.<sup>102</sup>

#### *HB 2941*

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House Bill 2941 by Rep. DeWayne Burns (R-Cleburne)<sup>103</sup> updated the tax code relating to appointment of members of ARBs and created a uniform system throughout the state. The legislation requires that all ARB members be appointed by the local administrative district judge.<sup>104</sup>

HB 2941 no longer allows removal of a board member by majority vote of the board of directors, but instead makes the local administrative judge or the judge's designee the governing authority for removal of an ARB member.<sup>105</sup>

HB 2941 became effective June 7, 2021.<sup>106</sup>

### *HB 3971*

House Bill 3971 by Rep. Morgan Meyer<sup>107</sup> ensures that appraisals more accurately reflect the value of residential historic properties by instructing appraisal districts to take into consideration the effect of restrictions placed by the historic districts on the property owner's ability to alter, improve, or repair the property.<sup>108</sup>

House Bill 3971 amends the Tax Code to require a chief appraiser who is determining the market value of residential real property located in an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law to consider the effect on the property's value of any restriction placed by the district on the property owner's ability to alter, improve, or repair the property.<sup>109</sup>

HB 3971 became effective January 1, 2022.<sup>110</sup>

### *SB 63*

Senate Bill 63 by Sen. Jane Nelson (R-Flower Mound)<sup>111</sup> is an appraisal-process reform bill that improves the ARB and Appraisal District Board member selection process. SB 63 establishes term limits for appraisal district boards of directors, prevents former appraisal district employees from serving on the board for three years, prevents former ARB members from being employed by the appraisal district for two years, and requires the entity responsible for appointing ARB members to take action on allegations of potential grounds for removing those members within 90 days.<sup>112</sup>

SB 63 requires chief appraisers to respond to applications within 90 days of receiving all necessary application information, requires appraisal districts to request additional information on exemption or special appraisal applications within 30 days of receiving the application, and requires chief appraisers to fully explain each reason the chief appraiser denies or modifies an exemption application.<sup>113</sup>

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The bill also requires ARBs to schedule protest hearings within 90 days, allows property owners to check one box to protest on both the grounds that the market value of the property is incorrect and that the value is unequal compared to other properties, creates an optional text message and email ARB hearing reminder system for property owners (in counties with populations over 120,000), and prevents appraisal districts from introducing additional reasons for denial or modification of exemptions at the ARB hearing, unless the chief appraiser provides 14 days' notice and was not aware of the additional reason when sending the initial denial or modification determination.<sup>114</sup>

SB 63 became effective September 1, 2021.<sup>115</sup>

### *SB 916*

Senate Bill 916 by Sen. Kel Seliger (R-Amarillo)<sup>116</sup> requires the Texas Department of Licensing and Regulation to provide a link on each biennial report of an appraisal district's performance review to the comptroller's report for the review and each property value study the comptroller conducted on the study of school district property values. Districts are allowed to request information on a registered professional appraiser whom a board is considering for appointment as a chief appraiser of the appraisal district.<sup>117</sup>

SB 916 became effective September 1, 2021.<sup>118</sup>

### *SB 1919*

Senate Bill 1919 by Sen. Eddie Lucio Jr. (D-Brownsville)<sup>119</sup> authorized the use of videoconferences of ARB hearings in the same manner as telephone conferences are conducted, if requested by a property owner.<sup>120</sup>

Senate Bill 1919 amends the Tax Code to give a property owner offering evidence or argument by affidavit in a protest without appearing in person the option to do so by appearing through videoconference. The bill requires the ARBs established for certain more populous counties to conduct a hearing on a taxpayer protest by videoconference if a property owner elects for such remote hearings.<sup>121</sup>

An ARB must provide an Internet location or URL address to the property owner. An ARB is not required to conduct a hearing by videoconference if the board is established for a county with a population of less than 100,000 and lacks the technological capability to conduct a video conference.<sup>122</sup>

A property owner who appears by telephone conference call or videoconference must offer any evidence by affidavit. A property owner must submit an affidavit to the board hearing the protest before the board begins the hearing on the protest. Upon receiving an affidavit, the board shall notify the chief appraiser. The chief appraiser may inspect the affidavit and is entitled to a copy

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on request.<sup>123</sup>

SB 1919 became effective September 1, 2021.<sup>124</sup>

## **FINDINGS**

### **Interim Committee Testimony**

The Committee held a public hearing on September 8, 2022, to take testimony on this charge.<sup>125</sup> The following seven witnesses provided testimony:<sup>126</sup>

1. Bruno, Steve (Texas Department of Licensing and Regulation)
2. Castillo, Korry (Comptroller of public accounts)
3. Harrison, Joseph (Texas Association of Property Tax Professionals)
4. LaVoie, Megan (Office of Court Administration)
5. Pennington, Paul (Self; Citizens for appraisal reform)
6. Popp, Jim (Self; Popp Hutcheson PLLC)
7. South, Brent (Texas Association of Appraisal Districts)

### **Committee Review**

For this Charge, and for Charge 3, there are several references to the School District Property Value Study (PVS). The purpose of the School District Property Value Study (PVS) is to help ensure equitable distribution of state funding for public education.<sup>127</sup> Government Code Section 403.302<sup>128</sup> requires the Texas Comptroller of Public Accounts to conduct a study to determine the total taxable value of all property in each school district at least once every two years. The Comptroller's Property Tax Assistance Division (PTAD) conducts the PVS to estimate a school district's taxable property value and certifies those values to the Commissioner of Education. The Commissioner of Education uses the PVS results to ensure equitable distribution of education funds, so school districts have roughly the same number of dollars to spend per student, regardless of the school district's property wealth. The PVS results can affect a school district's state funding.<sup>129</sup>

### **CPA, OCA, and TDLR Testimony**

Ms. Castillo, CPA, talked about HB 988: ARBs must incorporate Comptroller model hearing procedures. She also stated that it can be difficult to find enough ARB members given the large number of protests.<sup>130</sup>

Rep. Shine asked about what happens when a school district repeatedly fails the PVS. Ms. Castillo answered that a deeper study and recommended changes are being developed and

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provided to the Central Appraisal District (CAD) board of directors. Depending on how this year goes, there could be over 40 that have repeatedly failed.<sup>131</sup>

Rep. Shine asked about whether the Comptroller should enforce adherence to the PVS. Ms. Castillo responded that the enforcement is through the school finance system.<sup>132</sup> Rep. Shine questioned if there is perhaps a better way to enforce and administer the ARB process.

Rep. Martinez Fischer also commented that other agencies must come in on other (non-tax) situations and “right the ship.” “What bells and whistles would you need?” “There seems to be a want” of corrective procedures to bring things to closure, for an authority to step in.

Megan LaVoie, Office of Court Administration (OCA), spoke on HB 2941 and local administrative district judges having to appoint ARBs and the large number of cases the courts are handling.<sup>133</sup>

Steve Bruno, Texas Department of Licensing and Regulation (TDLR), discussed the current regulatory structure of chief appraisers and property tax professionals.<sup>134</sup>

### **Association Testimony**

Brent South, TAAD, spoke on the issue of the margin of error in the PVS. He disagreed that widening the margin would lead to lower values. “We still have an obligation to be at 100%.” Regarding HB 988, he said “it grew through the legislative process, but established the arbitration authority.” He testified that is helpful that an informal meeting is required before going to an ARB. “We must have some way to expand the amount of time we have for protests, or we have to provide additional resources for CADs/ARBs,” he said. Mr. South mentioned the cost of mailing and notices and added “we should move to electronic notices. We would like to see further separations between ARBs and CADs.”<sup>135</sup>

Mr. South testified that HB 2941 was a good step. “The problem is that they’re still funded out of the CAD budget. We should remove some of the restriction on who can serve, such as teachers,” he said. Regarding SB 63, TAAD is concerned that the new deadline for an exemption application is 90 days. On SB 916, TAAD's concern is that when a CAD is struggling, it takes time to get back to full functioning; “they’re going to fail some reviews for 2-3 years and should not reflect on new chief appraisers,” Mr. South testified.<sup>136</sup>

Jim Popp, Popp Hutcheson PLLC, spoke positively of how Rep. Shine produced HB 988 and the collection of survey data regarding ARB issues. The surveys indicated that 83% of respondents said that ARB procedures were followed. The results were not as negative as one might have expected. The bill improved things and created incremental changes for taxpayers. “We’re always looking for better ways to choose ARBs. The judges don’t like it,” he said.<sup>137</sup>

Rep. Button asked about the length of time to get an appeal done and what kind of experience is required for ARB members. Mr. Popp replied “They get paid around \$150 - \$200 a day. Most are retired and around 80 years old.”<sup>138</sup>



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Chairman Meyer asked who should appoint ARBs if not administrative judges. Mr. Popp said the judge could appoint some special master to appoint the ARB.<sup>139</sup>

Chairman Meyer asked about the dropping scores in the ARB surveys. Mr. Popp blamed the COVID-19 pandemic and the inability to get in-person hearings.<sup>140</sup>

Paul Pennington, Citizens for Appraisal Reform, spoke favorably about HB 2941. He testified that "the problem is that when we go to boards, sometimes they're fair and consider both sides, but other times, and this is truer in Dallas where they blew up home values. The board went for the CAD every time. We need to make a stronger connection to the ARB. Maybe in the training of ARBs there should be someone to advocate for the taxpayer."<sup>141</sup>

Joseph Harrison, Texas Association of Property Tax Professionals (TAPTP), said the property tax system is bent, not broken. The addition of remedies, training, and the MAP and the PVS are all positives; there is a good framework already in place, if all CADs would diligently adhere. Unfortunately, he said, that's not always the case. He testified that the legislative changes have focused on enforcement of what's already in the code, but it is not always followed. The CAD boards should have members who represent taxpayer interests, including residential, and commercial, to add balance. Mr. Harrison advocated for CAD boards to have pro-taxpayer trainers.<sup>142</sup>

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## RECOMMENDATIONS

Regarding Charge 1.5, the Committee makes the following seven recommendations to address implementation of property tax appraisal reform related legislation:

1. The Committee should continue to monitor implementation of HB 988 and should investigate solutions to increase the available pool of potential ARB members.
2. The Committee should investigate the efficacy of the current enforcement mechanism that requires adherence to the PVS and should consider requiring CPA to enforce PVS adherence.
3. The Committee should continue to monitor implementation of HB 2941 and consider ways to expand the candidate pool for ARBs. The Committee should also examine the training methods for ARB members, and ensure these methods achieve equitable consideration of both the ARB, and the taxpayer.
4. The Committee should continue to monitor implementation of HB 3971 to ensure historic districts are accurately appraised.
5. The Committee should continue to monitor implementation of SB 63 and address additional concerns raised within the appraisal process.
6. The Committee should continue to monitor implementation of SB 916 to ensure transparency in chief appraisers' PVS results.
7. The Committee should continue to monitor implementation of SB 1919 and should gather any available data regarding satisfaction levels for this medium compared with in-person or telephone hearings.

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## **PROPERTY TAX RELIEF: (CHARGE 2)**

*Study and consider methods of providing additional property tax relief, including the use of \$3 billion in available American Rescue Plan Act funds that were held for future tax relief by the 87th Legislature, and other sources of revenue. Explore options to reduce business property tax burdens and options for limiting the growth of property tax bills.*

### **INTRODUCTION**

Texas' overall tax environment is very competitive with other states; however, Texas' property tax burden can limit its attractiveness. According to the Tax Foundation, Texas has the 13th best overall state business tax climate but ranks 38th on property taxes.<sup>143</sup> According to Rocket Mortgage, Texas has the 5th highest property tax burden, with an average 1.80% rate.<sup>144</sup> According to Rich States Poor States, Texas has the 11th best economic outlook based on a review of 15 state policy variables, including 11 taxation metrics, but ranks 43rd on property tax burden.<sup>145</sup>

Property tax in Texas is locally imposed and administered. There is no state property tax. The property tax is used to finance the State's 254 counties, over 1,000 cities, 1,018 independent school districts, and more than 1,800 special districts. Property value appraisals are administered by county appraisal districts, and taxing units assess and collect taxes locally. These political subdivisions operate according to statutes and regulations established by the state.<sup>146</sup>

In the 86th Legislative Session, the Legislature passed House Bill 3<sup>147</sup>, which provided property tax relief by appropriating additional state funding to increase school funding per student while compressing the local school district Maintenance & Operations (M&O) tax rates. Additionally, the Legislature passed Senate Bill 2<sup>148</sup>, which slows the growth of property taxes in other taxing units unless the taxing units obtain voter approval for property tax increases that raise revenues above 3.5% on existing properties for Cities, Counties, and most Special Districts, 8.0% for Junior Colleges and Hospital Special Districts, and 2.5% for School Districts<sup>149</sup>

### **FINDINGS**

#### **Interim Committee Testimony**

The Committee held a public hearing on April 21, 2022, to take testimony on this charge.<sup>150</sup> The following seventeen witness provided testimony:<sup>151</sup>

1. Billings, David (City of Fate)
2. Craymer, Dale (Texas Taxpayers and Research Association)
3. Currah, Tom (Texas Comptroller of Public Accounts)
4. Ginn, Vance (Texas Public Policy Foundation)

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5. Goshen, Danielle (National Wildlife Federation)
  6. Head, Ray (Self; Texas Association of Property Tax Professionals)
  7. Johnson, Cheryl (Self; Galveston County Tax Office)
  8. Kavanaugh, Kevin (Legislative Budget Board)
  9. Koch, J.J. (Dallas County)
  10. Lopez, Leonardo (Texas Education Agency)
  11. Mansfield, Allison (Texas Comptroller of Public Accounts)
  12. Meyer, Mike (Texas Education Agency)
  13. O'Connor, Elizabeth (Legislative Budget Board)
  14. Reed, Cyrus (Lone Star Chapter Sierra Club)
  15. Rome, Christy (Texas School Coalition)
  16. Villanueva, Chandra (Every Texan)
  17. Wheaton, David (Texas Housers)

Testimony from these witnesses is referenced in the Committee Review section below.

Local taxing units and public policy advocacy groups provided testimony to the Committee recommending various ways the Legislature could provide additional property tax relief.

## **Committee Review**

For this Charge, there are several references to the American Rescue Plan Act (ARPA). ARPA was signed into law on March 11, 2021, guaranteeing direct relief to cities in the United States. The U.S. Department of the Treasury is responsible for overseeing this program.<sup>152</sup>

ARPA funds must be allocated by December 2024 and expended by December 2026.<sup>153</sup>

Since the April 2021 hearing where CPA provided information on Texas' anticipated budget surplus, there has been another update provided. In July of 2021, Comptroller Hegar provided a revised the Certification Revenue Estimate (CRE) stating that the State will have \$149.07 billion in available for general-purpose spending for the 2022-23 biennium, resulting in a projected fiscal 2023 ending balance of \$26.95 billion.<sup>154</sup>

The Texas Constitution limits the amount of additional money the state can spend every two-year budget cycle to the rate of the state's economic growth.<sup>155</sup> Per Texas Government Code, the Legislative Budget Board is directed to use Texas' personal income growth to measure growth in the state's economy and adopt a growth rate for each budget.<sup>156</sup> On November 30, 2022 the LBB adopted a growth rate of 12.33% allowing the Legislature to spend about \$12.5 billion more state tax dollars than the previous budget.<sup>157</sup>

### **CPA, LBB, and TEA Testimony**

Chairman Meyer asked Allison Mansfield, CPA, for any ideas on additional property tax relief. She declined but discussed HB 3's rate compression machinery and homestead exemptions.

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Chairman Meyer asked about decreasing the 10% homestead appraisal cap and about a cap on commercial property. Ms. Mansfield said it would slow the rate of valuation increases and would have a substantial cost.

Rep. Shine asked about other states that have put caps in place. Ms. Mansfield offered to investigate and get back to him.

Tom Currah, CPA, said that around \$12 billion is the current estimate of the biennial state surplus and that revenues are running slightly ahead of estimate.

Rep. Shine talked about the limitations of the Fed's monetary policy and the risk of recession, and that that would hurt sales tax collections.

Rep. Martinez Fischer asked about the fiscal conditions. Mr. Currah said that the Comptroller will revise the estimate if fiscal conditions warrant, such as in preparation for any transportation borrowing this summer. Rep. Martinez Fischer said he would like to get economic guidance from the Comptroller as the Legislature considers its options.

Rep. Noble asked about the surplus and returning it to the citizens as a rebate of their property taxes. Mr. Currah said that they could talk with her about this.

Kevin Kavanaugh, Legislative Budget Board (LBB), was asked by Chairman Meyer about the new spending limit and property tax relief. He answered that it is not in effect yet, but it does not count property tax relief. Also, historically, the Legislature has appropriated to the schools the cost of property tax reductions.

Rep. Murphy asked whether a business tax incentive would count. LBB stated that SB 2 would not count because the Legislature did not reimburse the locals. However, reimbursing cities for veterans' exemptions would count.

Chairman Meyer asked Elizabeth O'Connor, LBB, about possible ARPA funds availability. She answered that ARPA could be used for tax cuts, pending litigation.

Leo Lopez, Texas Education Agency (TEA) spoke about HB 3 tax compression. Tax rates went from a dollar to 93 cents. There is a 2.5% limit, but it functions differently from cities and counties. It is a limit on Tier 1 growth. .9134 is the current state compression percentage. \$9.5 billion in taxpayer savings is due to HB 3, he said.

Chairman Meyer asked for the cost per penny of compression. Mr. Lopez said \$300 million.

### **Association Testimony**

Mr. Craymer, TTARA, said that all real property is subject to property tax, but only businesses pay on personal property; individuals do not, and that Texas is one of only few states that pay tax on business inventory. For property tax on a manufacturing plant, Texas ranks 7<sup>th</sup> highest; for

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home tax Texas ranks 12<sup>th</sup> highest nationally. He explained the functioning of HB 3 and the reduction in school tax rates. TTARA has released a report on the success of rate reductions and suggests that part of the \$12 billion surplus can be used for further compression. Under HB 3, school districts are lowering tax rates, being driven down by rising values, and for the first time in recorded years, rates have fallen three consecutive years, and this year will make 4. According to Mr. Craymer and TTARA, HB 3 is working.

On SB 2, Mr. Craymer explained that the 8% threshold was lowered to 3.5%. In the two years since the law has been effect, levies are not rising as fast as before. Combining all taxing units' levies and comparing to market value, effective rates rose until SB 2 and HB 3 took effect, forcing taxing units to lower their rates. Taxpayers have saved \$6 billion already and in school taxes alone, they have saved \$4 billion.

Regarding rising appraisals, Mr. Craymer said that their taxes are not going to go up that much. First, the protections under HB 3 and SB 2. Second, for homeowners, they get they 10% appraisal cap. Third, there are two new ballot proposals will save homeowners property tax. Come October, the taxes are likely to increase less than inflation. HB 3 and SB 2 are working. Taxes only go up if the taxing units set a rate that makes that happen.

Regarding appraisal caps and homestead exemptions, Mr. Craymer said the City of Austin had doubled its exemption which took \$8 billion off the tax rolls. The City wanted to raise the same amount of money, so because the tax roll value was lowered, they raised the rate, and remained revenue neutral. Businesses got only the higher tax rate; It shifted the tax burden onto business, small and large, apartments, etc. TTARA does not think that taking value off the rolls helps; the other taxpayers have to pay it. TTARA opposes appraisal caps, well intentioned though they are.

Taking inventory off the rolls also shifts the tax burden onto homeowners, so the better way to do it would be to offer a state tax credit like Louisiana does. The state could exempt inventory under the school tax and pay for that directly, but not for cities and counties.

The most efficient use of state funding is to invest it through HB 3 which is a benefit that everyone shares.

Rep. Martinez Fischer talked about whether ARPA could be used for tax cuts. He also asked about business tax cuts. Every business pays property tax on business personal property, even if they rent their facility. It makes more sense to me to give relief to more businesses.

Mr. Craymer said that rate compression is fairest form of relief and that it benefits the most taxpayers. Second on the list would be inventory. Given a large and growing surplus, TTARA would put a heavier weight on rate compression. Even at a \$12 billion surplus, property tax is \$73 billion, so no one is going to get a significantly lowered tax bill.

Mr. Craymer said that when properly used, changing business relocation decisions to Texas' benefit will bring in new value, so you're not shifting the tax burden. You want a policy that creates a return on your investment.

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Rep. Shine asked about compression for cities and counties. Mr. Craymer said that SB 2 effectively does that. Rep. Shine asked about the impact of exemptions on cities and counties. Mr. Craymer replied that any time you're increasing exemption of property that is already on the rolls, you're socializing that exemption. That's what we saw in Austin.

Vice-Chair Thierry asked about an inventory exemption for service companies such as a lawyer who buys laptops and desks. Mr. Craymer explained that those items are not considered inventory because they're not for sale.

Chairman Meyer said, "This is going to have to be a multi-pronged approach."

Mr. Craymer said "We've got a lot of room for a recession... ideally, just to pick a number, \$6 billion would be a nice target, and maybe north of that... we know that many people are knocking on your door. A ten-cent compression would be very generous." Mr. Craymer advocated for a permanent reduction, and in answer, Rep. Murphy warned of the risk of the occasional downturn in state finance.

Chairman Meyer agreed that tax relief needs to be lasting.

The next witness was Commissioner J.J. Koch of Dallas County, who suggested that counties be allowed to provide a flat, \$100,000 homestead exemption to be paired with the 20% already in law; he suggested that a homeowner should get the higher of the two. The median homeowner would see a 30% reduction, which he claimed would not impact state coffers. Dallas has the 6<sup>th</sup> lowest tax rate in the state and has been debt-free for years. Mr. Koch encouraged the Legislature to review exemptions for commercial property, which are "unfortunate", and described a business personal property exemption as damaging, requiring a 14% increase on other property owners.

Rep. Button asked about further details on Mr. Koch's homestead proposal.

Rep. Shine requested a copy of the proposal in writing.

Chairman Meyer asked how much money has been saved by not raising the property tax rate. Mr. Koch answered \$54 million over recent years.

Chandra Villanueva of Every Texan recommended against using ARPA funds for tax cuts. Ms. Villanueva said that HB 3 is not good for school finance, and that Texas is "on a glide path for the elimination of the M&O school tax." Ms. Villanueva said that English-language learners were left behind in HB 3 and that there is no inflation provision. Teacher pay should be raised so that teachers can afford houses. "We've already provided enough tax relief," Ms. Villanueva said.

Vance Ginn, TPPF, testified that we have a housing affordability crisis, not only on homesteads but noted that landlords raise rent in order to pass along the property tax. Mortgage rates are up. Mr. Ginn said that we need to make Texas more competitive. Lowering the tax rate is best for everyone and there is excessive government spending at the local level. Texas has not yet seen

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the full benefits of SB 2 because of the disaster loophole. Slowing the growth is good, but we need to lower the tax bills. Mr. Ginn described a proposal to phase down the school M&O tax over time using state revenue. The state should pay 100%. Texas should broaden the sales tax base, get rid of those exemptions, and bring in 700,000 more people to Texas, Mr. Ginn stated.

Rep. Martinez Fischer challenged Mr. Ginn on his reading of the Constitution and whether the state is literally required to fund the schools. On overall budget policy, Rep. Martinez Fischer asked “Should Texas reject the federal funds?... if you don’t want to spend it.” Ginn answered, “Give the money back... economies are already recovering, and states were not running deficits.” Rep. Martinez Fischer said, “We could not have paid for the unemployment relief without the federal funds... was it a bad idea to accept those dollars?”

Cyrus Reed, Sierra Club, argued that the state shouldn’t use the \$3 billion of ARPA funding for property tax relief. Mr. Reed argued that there are a lot of investments in the state that would give more benefit to the residents of Texas: drinking water projects and clean water projects, helping people pay their utilities bills, weatherization, or energy conservation, being among them.

Ray Head, Texas Association of Property Tax Professionals (TAPTP), testified that the Governor’s proposed taxpayer bill of rights would raise the small business exemption for property.

Cheryl Johnson, Tax Assessor-Collector for Galveston County, said that nothing has stopped the bleeding, mainly due to appraisal creep. Taxes are out of control because the appraisal system has not been reformed. Options: 1 – truly reform the system; 2 – apply more band aids; 3 – lower the appraisal cap and apply it to all real property. Ms. Johnson also suggested to roll back property values to pre-covid times with a Joint Resolution and that the Constitution does not require market value. Ms. Johnson argued that we should move valuation of business property to the Comptroller’s office and that big business can easily hide their sales price and to let the Comptroller fight that. Right now, Ms. Johnson alleges that these lawsuits are mostly all settled and that we have lost every lawsuit since 2000. Ms. Johnson also suggested that we eliminate CADs and go to a price-paid system and suggested that Texas give the \$3 billion in ARPA money directly to the homeowners of the state. Ms. Johnson asked that we consider a 3% appraisal cap.

Rep. Martinez Fischer asked about having the Comptroller do business appraisals. Ms. Johnson answered that finding most big business sales “is far more complex” and that it would be more efficient for the Comptroller to do it.

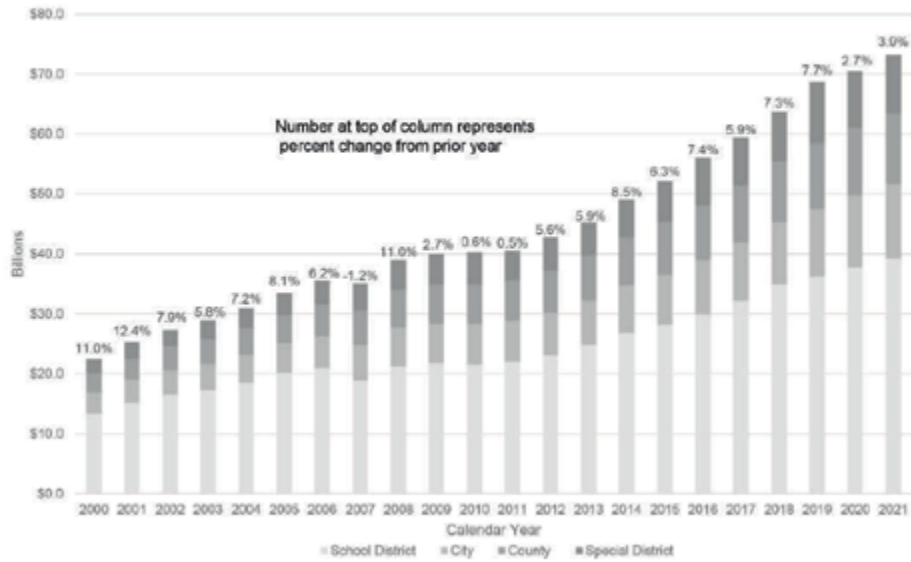
Danielle Goshen, National Wildlife Federation, suggested the ARPA funds be used for water infrastructure.

David Billing, Mayor City of Fate, complained that school taxes are the highest and continue to rise. He also asked for more transparency for MUDs.

Christy Rome, Texas School Coalition, testified that tax relief should be lasting.



# Texas Property Tax Levies

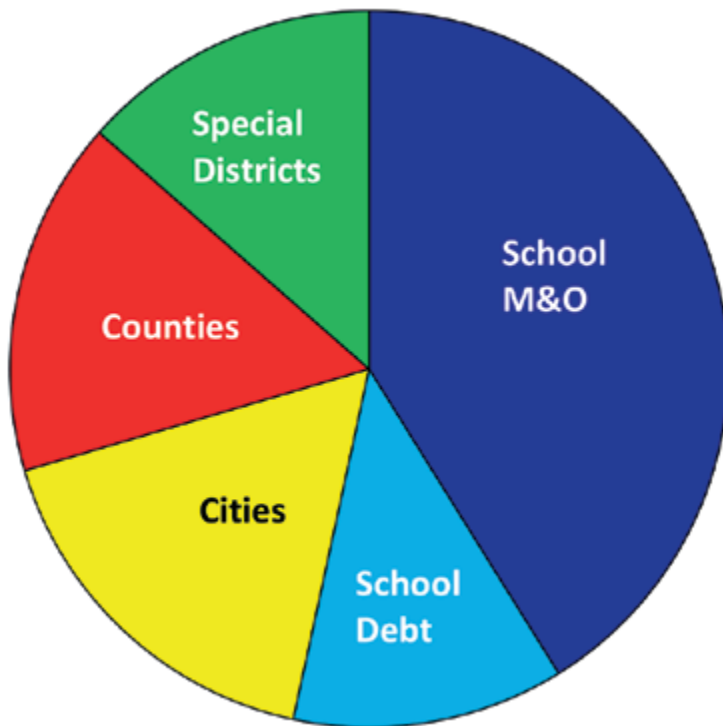


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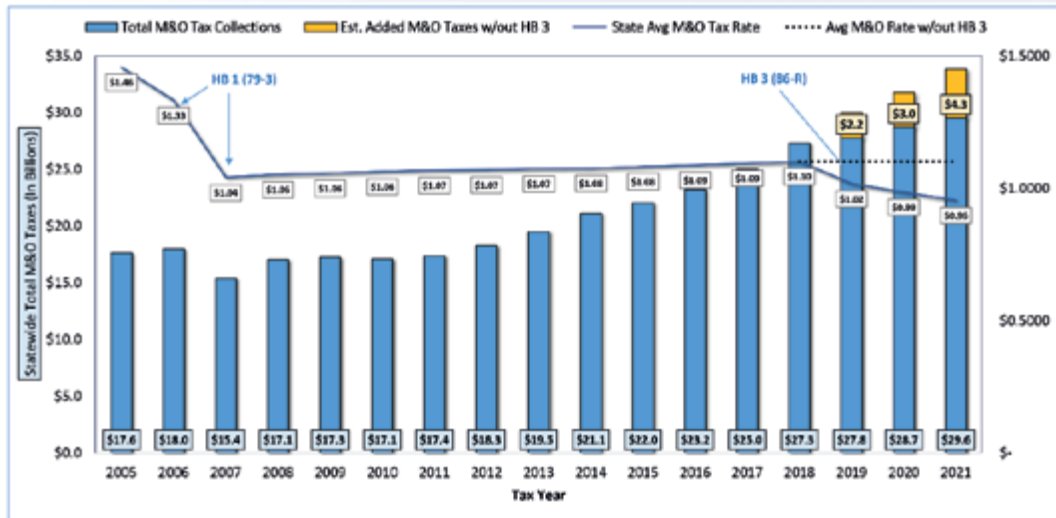
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## 2021 Tax Levy (\$bl)

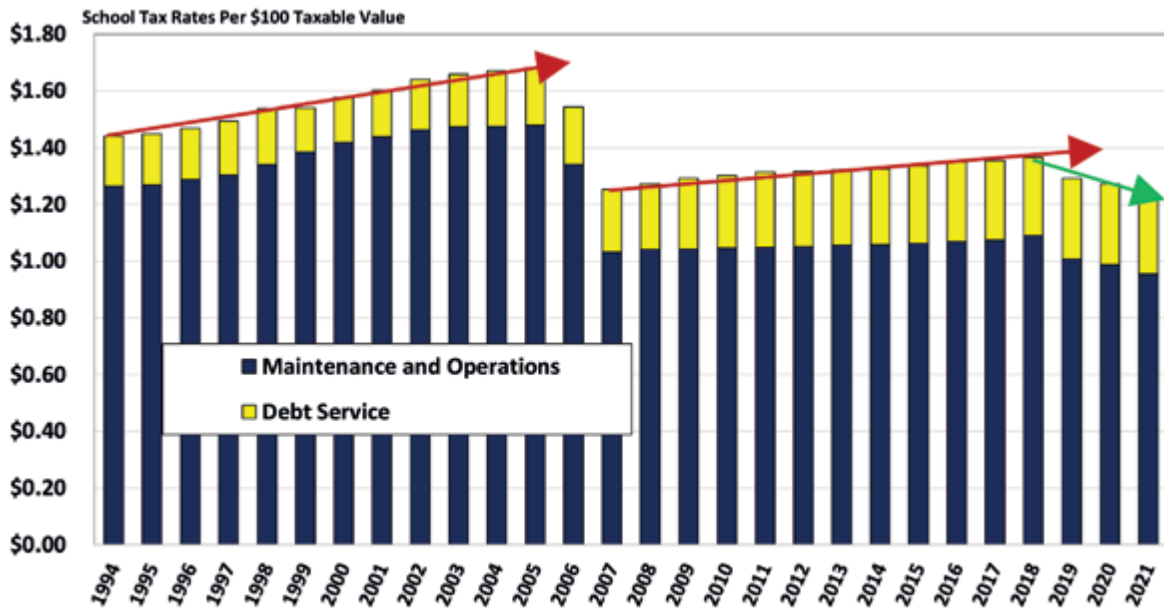
School M&O	\$30.1
School Debt	\$8.9
Cities	\$12.5
Counties	\$11.7
Spec Dists	\$9.9
<b>Total</b>	<b>\$73.1</b>

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## Statewide Average Rate Per \$100 of Taxable Value



161

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## ARPA UPDATE

It is unresolved as to whether ARPA funds may be used for tax relief. ARPA states:

A state cannot use ARPA funds to “*either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.*”<sup>162</sup>

Cases regarding use of ARPA funds are currently on appeal. Until a final decision in the case is reached, there is a risk that the use of ARPA funds for tax relief may be invalid; however, recent decisions suggest that there are opportunities for states to challenge the use ARPA dollars for tax relief. On November 18, 2022, the U.S. Court of Appeals for the Sixth Circuit issued opinions in two cases challenging the constitutionality of the American Rescue Plan Act of 2021 under which the federal government provided financial relief to states on the condition that the funds not be used to finance tax cuts. In *Ohio v. Yellen*, the court concluded the claims were moot. In *Kentucky et al. v. Yellen*, the court concluded that at least one of the plaintiff states had standing, and that the relevant provisions of the ARPA "offset provision" are unconstitutional. These decisions have signaled that there are opportunities in the future to use these funds for tax relief, but the discussions are ongoing.

## MCR

The Maximum Compressed Tax Rate (MCR) is the tax rate a district must levy to receive its full Tier 1 funding allotment in the Foundation School Program. HB 3 reduces property tax rates by compressing district MCRs in proportion to property value growth. School district MCRs are compressed annually by the amount a district's property value growth exceeds 2.5%, or the amount statewide average property value growth exceeds 2.5% - whichever is greater. To maintain tax rate equity, no district's MCR may be less than 90% of any other district.

HB 3 has successfully compressed district M&O tax rates from an average of \$1.09 in 2018 to \$0.89 in 2022. Ongoing property value growth - including the extraordinary growth in values in 2021-2022 - will result in additional tax rate compression automatically under the mechanism in HB 3. The legislature could choose to fund additional rate compression beyond the statutory formula.

In May 2022, Texas voters overwhelmingly approved increasing the Texas homestead exemption from \$25,000 to \$40,000, the largest increase since 2015. There will likely be proposals to further increase the value of the homestead exemption during the next legislative session. The legislature could choose to put another increase in the homestead exemption to Texas voters, which combined with further tax rate compression will reduce the tax burden on homeowners.

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## RECOMMENDATIONS

At the time of this Report, CPA had not published the FY 2024–2025 Biennial Revenue Estimate (BRE).<sup>163</sup> The BRE will allow the Legislature to accurately calculate the precise amount of property tax relief the Legislature can afford to provide through the recommendations below.

The following recommendations can be tailored to align with available state revenue.

Regarding Charge 2 the Committee makes the following four recommendations to provide meaningful property tax relief and improve Texas’ tax competitiveness:

1. The Legislature should use surplus revenue, and other available funding sources, including ARPA funds, to establish additional permanent school district tax rate compression (at least \$0.10) to provide uniform and substantial tax relief for all property taxpayers in the state.
2. The Legislature should examine further slowing the growth of school district property taxes by reducing the allowable growth percentage.
3. The Legislature should eliminate the property tax on intangible personal property.
4. The Legislature should provide tax relief on inventories taxed at the local level by reducing or eliminating the inventory tax.

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## **PROPERTY TAX APPRAISAL SYSTEM: (CHARGE 3)**

*Study Texas' property tax appraisal system and make appropriate recommendations to improve the appraisal system. The study should include: Assessing the accuracy of appraised values and operational effectiveness of appraisal districts; Evaluating methods of selecting chief appraisers, appraisal review boards, and appraisal district directors; and evaluating existing appraisal protections for taxpayers and ease of taxpayer participation in the appraisal process.*

### **INTRODUCTION**

The two principal components involved in Texas' property tax process are the appraised value of properties, determined by the local CAD, and the tax rates which are set by local governments.<sup>164</sup>

Concerns continue to be raised regarding the transparency and methodology of the appraisal process, the appointment or election of Boards of Directors, ARBs, and District Directors, and the process by which taxpayers can access the process.

The Texas Legislature enacted the current 10% annual appraisal limit on residential homesteads in 1997, limiting the value a residential property is taxed at regardless of the appraised value.<sup>165</sup> Proposals to reduce the 10% limit for residential homesteads have been filed in previous sessions, as well as proposals to extend the 10% limit to commercial property. None of these proposals have been enacted, with critics claiming this further artificially limits appraisal values and increases the burden on purchasing a new home. Conversely, supporters cite the 10% appraisal cap as one of the few protections homeowners have to avoid tax increases considering significant appraisal value increases in recent years.

With few exceptions, Tax Code Section 23.01 requires taxable property to be appraised at market value as of January 1. Market value is the price at which a property would transfer for cash or its equivalent under prevailing market conditions if:

- it is offered for sale in the open market with a reasonable time for the seller to find a purchaser;
- both the seller and the purchaser know of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions on its use; and
- both the seller and purchaser seek to maximize their gains, and neither is in a position to take advantage of the need or demand of the other.<sup>166</sup>

### **FINDINGS**

#### **Interim Committee Testimony**

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The Committee held a public hearing on September 8, 2022, to take testimony on this charge.<sup>167</sup> The following ten witnesses provided testimony:<sup>168</sup>

1. Castillo, Korry (Texas Comptroller of Public Accounts)
2. Clark, Larry (International Association of Assessing Officers)
3. Craymer, Dale (Texas Taxpayers and Research Assoc)
4. Head, Ray (Texas Association of Property Tax Professionals)
5. Healy, Lisa (Self)
6. LaVoie, Megan (Office of Court Administration)
7. Moore, Trevor (State Office of Administrative Hearings)
8. Pennington, Paul (Self; Citizens for appraisal reform)
9. Popp, Jim (Self; Popp Hutcheson PLLC)
10. South, Brent (Texas Association of Appraisal Districts)

Testimony from these witnesses is referenced in the Committee Review section below.

## **Committee Review**

### **CPA, SOAH, and OCA Testimony**

Ms. Castillo explained the Comptroller's roles including the ratio study. It takes awhile to get a noncompliant CAD into compliance. She said there have been some big swings on multifamily and commercial properties. There is not an enforcement procedure in the value study. It is not a stick to beat the CADs with. She talked about the decreasing participation in the ARB satisfaction survey. In 2020 and 2021 there were 4,776 and 5,310 respondents to the ARB surveys, down from 17,819 respondents in 2019.<sup>169</sup>

Judge Trevor Moore, SOAH, stated that property must be valued at more than \$1 million to go to SOAH and one must file a \$1,500 fee. Three SOAH judges hear tax cases. There are a small number of appeals, perhaps 15-25 a year; most are commercial. Very few cases actually go to a hearing; the parties normally hold discussions and they come back with a settlement. Those that do go, it is a three-hour hearing, it is the judge's discretion to allow evidence and render decision in 30 days. The decision is final and not appealable. Loser pays the cost of the hearing. Most of the parties are represented by lawyers. Most are far in excess of \$1 million; \$50 million or more. Some property owners make their own arguments, Judge Moore said.<sup>170</sup>

Ms. LaVoie testified that some district judges must appoint 200 ARB members; compared to others who may appoint five.<sup>171</sup>

Rep. Noble suggested that maybe a second or third judge should also make appointments, thereby splitting the workload.

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## Association Testimony

Mr. Craymer, TTARA, said that given the budget constraints of CADs, they do an amazing job. Mr. Craymer testified that TTARA members own property in all states and Texas' valuation system is the best. and that the problem is a rate issue. The taxing units are reluctant to adequately fund ARBs/dispute resolution. People can make more money as a Walmart greeter than an ARB member. Maybe the ARB members should be paid per case rather than per day. The caseloads are too high. Electing appraisal officials would be a huge step backward, politicizing the process. Texans would trade expertise for politics. CAD boards are possible; would offer broader participation than just the taxing units. Policy-focused, fresh blood could be beneficial.<sup>172</sup>

Larry Clark, Director of Initiatives for the International Association of Assessing Officers (IAAO), described education and training for mass appraisal techniques. IAAO has over 500 members in Texas.<sup>173</sup>

Lisa Healy, a homeowner new to Texas, doesn't like annual appraisal and it seems high. "I'm paying against something I'm not seeing, an unrealized gain."<sup>174</sup>

Brent South, TAAD, said that the Legislature has done a good job over the decades allowing taxpayers to participate in the appraisal of their properties. He said that the third option in equal and uniform appeals (the only one that taxpayers generally use) should be removed from law or revised. The lawsuits filed by commercial owners use this; there are no standards, some are drawn from outside the county or outside the state. CADs have limited budgets to go to trial, so they settle before trial; it is too high risk. A business owner is doing himself a disservice not to sue. A provision meant to create equity is actually creating inequity. \$24 billion was removed from the appraisal roll, the equivalent of 80,000 homes. The burden is shifted onto homeowners. TAAD would like to make Equal and Uniform (E&U) standards better, such as putting in a 10% margin of error. Attorney's fees should follow binding arbitration; whoever's value is closer wins. At the ARB level, the noticed value should be used for purposes of calculating the median, Mr. South said.<sup>175</sup>

Vice-Chair Thierry said, "It is shocking to me that there is no standard for selecting comps."

Jim Popp, Popp Hutcheson PLLC, testified on operational effectiveness; wanting to do more electronically including payment. "Get politics out of the appraisal process," he said. Mr. Popp testified that Texas has the best appraisal system in the country, without a doubt. Other states and national groups marvel at how well it works here. On electing ARB members, Mr. Popp opined that "Elect me and I'll lower your value!" would be the way to get elected. On E&U appeals, Mr. Popp said that there is no effective remedy outside of section 3. As to shifting the burden, Mr. Popp does not see the proof of that. The shares of residential and commercial have stayed constant. E&U is what distinguishes Texas for taxpayers. Most homeowners use it during protests.<sup>176</sup>

Ray Head, TAPTP, said that mass appraisals are the only practical way to go. CADs can also inspect property and have subscription data services. They could also contract out complex

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properties. ARB training by the Comptroller should include the taxpayers' perspective. E&U is a bedrock right of Texas taxpayers. TAPTP would like to clarify that it is an acceptable method under section 25.25 but still some CADs don't allow it. TAPTP would like to clarify that an E&U appeal is made with market value.<sup>177</sup>

## **RECOMMENDATIONS**

The Committee's analysis of PVS and MAP review results do not indicate significant issues regarding appraised value accuracy or appraisal district operations.

Regarding Charge 3 the Committee makes the following two recommendations to address the improvement of the property tax appraisal system:

1. The Committee should examine the effects of lowering the maximum statewide homestead exemption appraisal cap from the current 10%.
2. The Committee should monitor responses to the CPA's ARB satisfaction survey and examine ways to increase survey responses and gather better information on how best to improve the process for taxpayers.



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## CHAPTER 313: (CHARGE 4)

*Conduct a comprehensive review of the impact of not renewing Chapter 313, Tax Code. Evaluate tax incentives offered by other states and make recommendations for incentivizing manufacturers and other capital-intensive businesses to locate to Texas.*

### INTRODUCTION

Chapter 313 of the Texas Tax Code was created to allow school districts to offer a temporary and limited discount against school maintenance and operations taxes to certain new investment projects. Chapter 313 was not extended beyond its slated expiration at the end of 2022.<sup>178</sup>

Manufacturing properties in Texas have one of the nation's highest property tax burdens, with school taxes accounting for over half the average tax bill. State and local taxes represent a significant business cost for corporations operating in the United States and can have a material impact on net operating margins. Consequently, business location decisions for new manufacturing facilities, corporate headquarter relocations, and the like are often influenced by assessments of relative tax burdens across multiple states.<sup>179</sup>

Chapter 313 has been an important economic development tool as Texas' property taxes on industrial projects rank 4th highest nationwide and school taxes accounting for over half of the average tax bill.<sup>180</sup>

Some critics maintain the program is giving away tax dollars as projects will build in Texas absent any tax incentive. Others contend that the revenue sharing that school districts typically demand of participants threatens the level of equity in Texas school finance.

The 87th Legislature attempted to address the expiration of Chapter 313, including:

- HB 1556 by Murphy<sup>181</sup> which intended to substantially reform Chapter 313, simplifying the incentive while standardizing school revenue sharing. This bill was withdrawn from consideration on the House floor.<sup>182</sup>
- HB 4242 by Rep. Morgan Meyer<sup>183</sup> which would have extended the program through 2024. This bill passed the House but was not heard in the Senate.<sup>184</sup>

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## **FINDINGS**

### **Interim Committee Testimony**

The Committee held a public hearing on September 8, 2022, to take testimony on this charge.<sup>185</sup> The following eighteen witnesses provided testimony:<sup>186</sup>

1. Bennett, Brent (Texas Public Policy Foundation)
2. Bennett, Tony (Self; Texas Association of Manufacturers)
3. Brandon, Miles (Self; Texas Industrial Areas Foundation)
4. Cammenga, Janelle (Tax Foundation)
5. Castillo, Korry (Texas Comptroller of Public Accounts)
6. Craymer, Dale (Texas Taxpayers and Research Assoc)
7. Davis, Samuel (Texas Land & Liberty Coalition)
8. Goloby, Mark (Self)
9. Hamer, Glenn (Texas Association of Business)
10. Harris, Rickie (Self; West Orange-Cove CISD)
11. Lavine, Dick (Every Texan)
12. Lunning, Everett (Self; Central Texas Interfaith/Texas IAF)
13. Moore, Lydia (Self; Central Texas Interfaith and Texas IAF)
14. Pape, Pete (Self; TSED)
15. Paup, Spivey (Recurrent Energy and Texas Solar Power Association)
16. Peacock, Bill (Huffines Liberty Foundation)
17. Rome, Christy (Texas School Coalition)
18. Staples, Todd (Texas Oil and Gas Association)

Testimony from these witnesses is referenced in the Committee Review section below.

### **Committee Review**

Since the September 8, 2022, hearing, CPA has indicated they will not be able to complete all Chapter 313 applications by the December 31, 2022 deadline even if they were filed in line with deadline guidance given out by the CPA. A writ of mandamus was filed by multiple companies with the Texas Supreme Court (SCOTX) to compel CPA to process all Chapter 313 applications that have been received.<sup>187</sup> While the SCOTX wrote that they cannot grant that relief, Justice Evan Young did provide potential remedies that the Legislature could enact including requiring that all timely filed application be deemed approved or retroactively waiving the December 31 deadline for any application that was timely filed and direct the CPA to continue processing those applications.<sup>188</sup>

### **CPA Testimony**

Ms. Castillo discussed the structure of Chapter 313. CPA has seen a large increase in

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applications. CPA had anticipated an increase at end of program. To manage the workload, CPA provided guidance that all applications should be submitted by June 1, 2021. CPA will not allow amendments to applications that would extend an agreement in size or time. 39 applications were submitted in March, while there are normally 120 per year. By May 31, CPA had 378 applications. By September 8, 2022, 408 applications. CPA will not be able to process all applications. There are several ways that an application might fall out of line. Large and complex applications require more work. 324 were deemed complete by September 1. CPA has hired additional staff to process applications.<sup>189</sup>

Chairman Meyer asked about the economic impact of Chapter 313. Ms. Castillo answered that there would be a report issued in January, however it will not have the full scope of the program.<sup>190</sup>

### **Association, Advocacy, and Public Testimony**

Dale Craymer, TTARA, testified that Texas relies heavily on business-paid taxes, creating barrier to investment, 62% above the national average. Texas will not be able to compete for the projects like Samsung and Texas Instruments. He said that taxes distort the free market, not Chapter 313.<sup>191</sup>

Rep. Button said that we are competing in a global market and that other states are more aggressive with incentive programs.

Mr. Craymer said we will lose large projects, the bigger the project the more likely to lose it. Even with chapter 313, Texas wasn't always competitive. Intel went to Ohio with a \$20 billion project. Texas will miss out on a manufacturing renaissance in the United States. Only five states offer no incentives. Mr. Craymer said there is some speculative Chapter 313 application filing happening.<sup>192</sup>

Rep. Murphy pointed out that companies pay taxes from day one even if they do get a Chapter 313 limitation. And there is a gain when the projects come onto the tax roll afterward.

Tony Bennett, TAM, testified that not renewing the program, considering what's happening in the world, is going to hurt Texas. TAM companies work all over the world, and they know the incentive programs. Manufacturing spins off five additional jobs per manufacturing job, averaging \$90,000 salary; highly sought-after jobs. Competition is intensifying.<sup>193</sup>

Mr. Bennett said that in talking with his members and his own experience in taxes, "you cannot afford not to look at other places, the competition is so good. Louisiana is hungrier than Texas. It is a wide-open world out there." Mr. Bennett said that Rivian chose Georgia, Intel went to Ohio (Texas' sixth miss with Intel); they got a 30-year abatement. Ford EV went to Kentucky with an \$11 billion project. Texas is losing to the competition. We're about to go dark on chapter 313 even if we pass a new program. Word will spread globally. Our competitors will applaud that. Many companies want to come back to the US. We cannot afford to be going dark when the entire global chain is coming back to the US economy. Aerospace plants in Texas are waiting on

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chips; our national security is at stake. We can greatly improve our grid reliability. Winter Storm Uri gave us a new perspective.<sup>194</sup>

Rep. Martinez Fischer said that we knew all this in 2021 and asked if it was a mistake not to renew Chapter 313? Mr. Bennett said it was.<sup>195</sup> Mr. Craymer agreed that a two-year extension would have been better.<sup>196</sup>

Rep. Martinez Fischer said we should have thought about this a little harder.

Mr. Craymer said we are looking at what needs to happen next year, "Chapter 313 is damaged goods... We'd like to work with the Committee on a new program."<sup>197</sup>

Todd Staples, TXOGA, gave the committee credit for catapulting Texas' economic development. Policies complement resources. Most of our activity is not eligible, but there is no reason we should be relying on foreign countries. We need that manufacturing right here in the United States. Texas needs tools that others are using. This is important to our national security and to Texas' energy security.<sup>198</sup>

Rep. Martinez Fischer said he's heard nothing but crickets about any replacement despite his relationships with the member companies and asked for an explanation.

Mr. Staples said the business community has been working to come up with a consensus.

Spivey Paup, Recurrent Solar Energy, spoke of the need for the program. He pointed out that the value of a solar plant can never depreciate below 20% of value. Solar is increasingly being located closer to load. Local communities benefit and have little cost from solar plants, which are quiet and low impact. Recurrent is developing over 100 projects over 30 states. Other states have pro-solar incentives. Regarding any new successor program: 1. Keep it simple; 2. Prioritize the overall economic impact and ignore the direct job count; and 3. Cast a wide net to include many forms of projects, including batteries.<sup>199</sup>

Rep. Noble asked about taking land out of agricultural use and putting it into solar. Mr. Paup replied that current usage is a mixture of previous agricultural land and other areas.<sup>200</sup>

Glenn Hamer, Texas Association of Business (TAB), said if we don't have a replacement for Chapter 313 it would be devastating. For the past 10 years Texas has been the best state for new investment. It is even more important now than ever. In Arizona, they got Intel, and we don't want to lose a project like that again. Texas has been a long-term success, and now Chapter 313 is being pulled out from under them. This hurts the state of Texas. The best economist in Arizona did an analysis to reverse engineer what Texas did. The economist wrote that Texas has been a model directly due to business policy and economic development tools. We must replace Chapter 313 with an even better program to keep Texas a shining city on a hill.<sup>201</sup>

Samuel Davis, Texas Land and Liberty Coalition, wants to advance renewable energy and protect landowner rights. Not every county is blessed with oil and gas. "We struck wind," he said. "Chapter 313 allows us to preserve our way of life."<sup>202</sup>

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Janelle Cammenga (Fritts), Tax Foundation, opened with a discussion of “corporate welfare,” saying that the programs may cost more than they make. One study said that incentives were given to businesses that were going to locate anyway. There are options to be attractive without incentives. The Tax Foundation published a “Location Matters” report, looking at business taxes on a model firm. Texas’ sales tax applies to many business inputs. She also said that property taxes are not so bad, except imposed on inventory.<sup>203</sup>

Rep. Murphy pointed out that the rankings show Texas doing poorly on new investment, and Ms. Cammenga agreed. “Those are what we’re trying to attract,” Rep. Murphy said.

Dick Lavine, Every Texan, spoke generally on “whether these programs are needed.” He referred to a “But-for” study, “which is the key reason for the incentives.” The paper concludes that between 2% and 25% are incented, meaning that 75% of the time, the incentive didn’t matter. There are companies that have come to Texas and made major investments without incentives. They have other reasons for doing it. Property taxes are much lower now because of HB 3. When HB 1200 passed, the M&O tax rate was \$1.50. There are 700 now taxing at just over 80 cents. And nobody is over 90 cents. About a 45% discount compared to the old \$1.50. I didn’t say that nobody would be incentivized; 25% did, but 313 did not do a good job identifying who really needed it, this but-for issue. You really need the CEO to sign a sworn statement and open their books. Under HB 3, giving a Chapter 313, you’re taking away from everyone else who pays property tax in that school district.<sup>204</sup>

Miles Brandon, Texas Industrial Areas Foundation (TIAF), opposed “lining the pockets of wealthy corporations at the expense of school children. Corporate tax giveaways could better be spent on schools.” According to Mr. Brandon, Chapter 313 did nothing for small businesses or individual homeowners. Mr. Brandon concluded that Chapter 313 is inequitable at best and immoral at worst.<sup>205</sup>

Brent Bennett, TPPF, agreed with Mr. Brandon and Mr. Lavine. According to Mr. Bennett and TPPF, the best means of providing property tax relief is rate compression. Giving out tax breaks to selected beneficiaries detracts from that. Something needs to be done for all those homeowners and ERCOT is a closed market. A new program should not include power generation. For oil and gas related, Louisiana is our only competitor; you’re not going to build a pipe further than that.<sup>206</sup>

Rep. Shine asked if TPPF’s position is opposed to incentives; Mr. Bennett said they oppose selective incentives to specific businesses.<sup>207</sup>

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## **RECOMMENDATIONS**

Regarding Charge 4, the Committee makes the following two recommendations to address the impact of not renewing Chapter 313 of the Texas Tax Code:

1. The Legislature should establish an economic development program that allows limited and temporary school district property tax discounts to incentivize manufacturers and other large-scale, capital-intensive businesses to relocate or expand operations in Texas. This program should prioritize overall economic impact, be transparent, involve all stakeholders, have enhanced audit requirements to ensure agreements comply with the statute, and be simple for applicants to navigate.
2. The Committee should evaluate and consider addressing outstanding applications for value limitation agreements under Chapter 313 that were timely filed but not reviewed by CPA and if addressed, find the proper mechanism to do so.

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## **DESTINATION SOURCING: (CHARGE 5)**

*Evaluate the impact of shifting to destination sourcing for local sales and use tax purposes, including the benefits of reduced taxpayer confusion. Monitor the implementation of the Comptroller's amendments to 34 Tx. Admin. Code §3.334, relating to local sales and use taxes, and the Comptroller's Sales Tax Rate Locator. Make recommendations for legislation to improve Texas' local sales and use tax sourcing.*

### **INTRODUCTION**

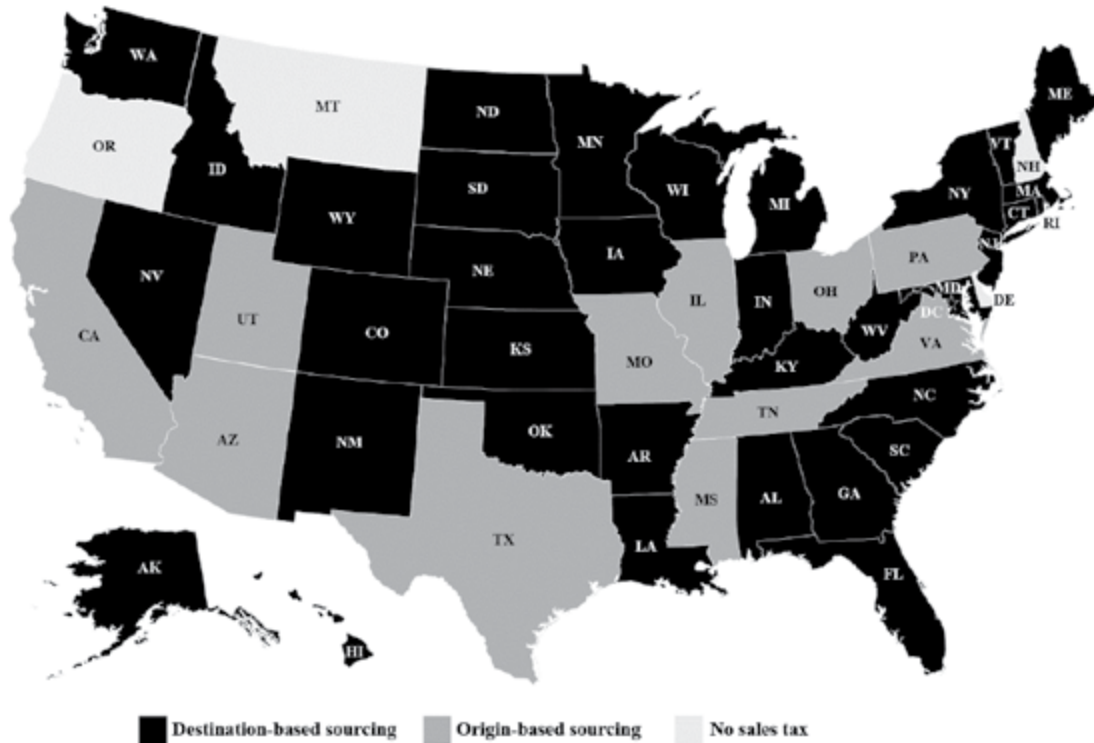
Texas is one of only eleven states that utilizes origin-based sourcing for sales tax rates.<sup>208</sup> Currently, with limited exceptions, local sales tax is based on the seller's place of business.<sup>209</sup> Sales by vendors with a qualifying Texas place of business are sourced at the origin of the sale, rather than at the destination. While origin-sourced sales are taxed where the seller is located, destination-sourced sales are taxed at the location where the buyer takes possession of the item sold.

Sales made by out-of-state vendors or other vendors with no qualifying place of business in the state are generally sourced to the destination: the place where the order was shipped or delivered.<sup>210</sup> This means the city of the buyer collects sales tax on the transaction if the seller is from out-of-state or has no qualifying place of business in Texas. But the city of the seller collects sales tax if the seller has an established place of business in the local jurisdiction from which the order was received or fulfilled.<sup>211</sup>

Both the Council on State Taxation and Tax Foundation support uniform destination sourcing of local sales taxes.

During the 87th regular legislative session the House Committee on Ways & Means unanimously approved HB 4072<sup>212</sup> by Meyer that would have provided for destination sourcing of local sales taxes. The measure did not advance passed this point.<sup>213</sup>

Sales Tax Sourcing by State, 2022



214

## FINDINGS

### Interim Committee Testimony

The Committee held a public hearing on April 21, 2022, to take testimony on this charge.<sup>215</sup> The following eleven witness provided testimony:<sup>216</sup>

1. Barber, A'Londa (Self; LonnieB Creative Designs)
2. Billings, David (City of Fate)
3. Braxton, Ellie (Coppell Chamber of Commerce)
4. Craymer, Dale (Texas Taxpayers and Research Association)
5. Haas, Shannon (Self)
6. Kasner, Kyle (Self)
7. Kroll, John (Self)
8. Langenberg, Ray (Texas Comptroller of Public Accounts)
9. Moline, Tony (Cedar Park Chamber of Commerce)
10. Powell, Claire (City of Lewisville)



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## 11. Spilman, Annie (NFIB)

Testimony from these witnesses is referenced in the Committee Review section below.

As reflected in testimony, city officials across the state are divided on the proposal because, as is common with changes to sales tax sourcing regulations, some cities stand to gain sales tax revenue to the detriment of other cities, who have relied on the existing sales tax sourcing structure to attract and retain businesses to their communities by using those sales tax revenues to provide incentives to businesses.

## Committee Review

### CPA Testimony

Ray Langenberg discussed shifting to destination sourcing. He testified that destination is already used to an extent; and the complexity of the statute leads to confusion. The instructions are more than 8 pages long. Not everything is origin-based. So, the notion that we're switching from all-origin to all-destination is incorrect. It is a mixture.<sup>217</sup>

CPA testified that there are also special situations in law, mostly destination, such as "marketplace" sales, like Amazon. The new rule implements new laws. There is a sourcing flowchart in the agency's instruction. You must know the meaning of a "place of business (POB)." For the purpose of receiving orders. First, the definition is narrower than the ordinary concept, leaving out, e.g., an executive office. Second, a location is not a POB *simply* because it receives orders. By rule, a computer server, website etc. is not a POB; earlier rulings support that. Does a location have personnel? Then maybe it is a POB. But if no personnel, not a POB. We've postponed the rule during the trial. Set for trial in the fall.<sup>218</sup>

Regarding the sales-tax-rate-locator; CPA has 1,698 overlapping sales-tax jurisdictions. The agency has launched a web-based sales-tax-rate locator, which allows users to search sales-tax rates by address or download the entire database for use in the users' systems.<sup>219</sup>

Rep. Noble said she's heard from sellers that the new rule will change everything. Mr. Langenberg suggested businesses call the agency and ask in-house experts on these specialty questions.<sup>220</sup>

Rep. Murphy asked for data on how this affects legislators' local communities.

Chairman Meyer and Mr. Langenberg agreed that under destination sourcing, the system could be simpler and less confusing "if done right".<sup>221</sup>

Chairman Meyer asked CPA to respond to the testimony of the day. Mr. Langenberg answered that the Comptroller is trying to comply with the statute. What has been discussed in testimony is more about whether the legislature should impose broad destination sourcing, he said. Many other states have adopted destination, so it has been done successfully.<sup>222</sup>

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## Association, Advocacy, and Public Testimony

Mr. Craymer, TTARA, agreed that there is currently a dual system for sales-tax sourcing in Texas and that a single system would be preferable. Ultimately, destination is the way to go, but how to do it is important. Mr. Craymer suggested a phase-in period or a temporary redistribution fund for local governments impacted by the change. Mr. Craymer encouraged a grandfather provision for Chapter 380 and 381 agreements that are for economic development rather than “a money grab.” Mr. Craymer noted that sourcing services is also complicated, and TTARA would prefer that service-sourcing decisions be made in statute rather than in rule. Mr. Craymer concluded by reminding the Committee that most states use destination sourcing.<sup>223</sup>

David Billings, mayor of Fate, shared his support for the Comptroller rule. Mr. Billings noted that some cities want to keep their 380 agreements.<sup>224</sup>

Claire Powell, City Manager for Lewisville, said that changing to destination sourcing could burden small companies, upend many agreements, and reduce the cities’ sales tax revenue. According to Ms. Powell, the City of Lewisville would be a loser; revenue imperiled from 16 companies; 25% of sales. \$10 million, or 10 cents on our property tax. The City of Lewisville opposes destination sourcing but if it is coming, the City of Lewisville would prefer a phased approach to allow the City to raise the property tax or to cut spending. Ms. Claire alleged that certain sales-tax-generating businesses would otherwise be in other states. Ms. Claire stated that Texas' sales-tax-sourcing system is part of the Texas Miracle and pointed to the City of Lewisville's 20-year Chapter 380 agreement with Bed Bath & Beyond agreement.<sup>225</sup>

Shannon Haas, a business owner, asks that everyone stop and think about what this really means for small business. Trying to navigate all the taxes we already deal with, on top of this, we’re going to have to learn another system. Fewer people physically come into our stores now. This is really going to put the screws to us.<sup>226</sup>

Annie Spilman, NFIB, said 87% of NFIB members were against going to destination sourcing, likely because small businesses prefer consistency. Ms. Spilman claimed that the CPA's auditors don’t necessarily know if a company is in compliance. Small businesses generally don’t have multiple locations. Small businesses will need outreach from the Comptroller to learn the system.<sup>227</sup>

Tony Moline, Cedar Park Chamber of Commerce, expressed concerns about destination sourcing and about the lack of information about its effect. He said it would be a huge burden to small businesses because origin sourcing is easy, but destination sourcing means up to 1,600 locations. Mr. Moline said destination sourcing is overregulation and sales-tax sourcing should be kept in its current form.<sup>228</sup>

Ellie Braxton, president of Coppell Chamber of Commerce, said the Chamber opposes the change in sourcing because of the potential impact especially on small business. We want to help grow Texas; a system that will better serve the state. Destination would be highly detrimental to

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the people of Texas. The small business community is not yet aware of this new requirement. There are over 200 incorporated towns in the Dallas metropolitan area. Texas has 2.8 million small businesses.<sup>229</sup>

Kyle Kasner, a sales tax consultant for cities and local taxing entities, has clients who would win and others who would lose. Most sellers have one location in Texas and are simple. Those outside-city-limits Texans are going to get a tax savings compared to current law. Mr. Krasner alleges that \$1 billion will be lost. He offers to be a resource.<sup>230</sup>

Olanda Barber, businesswoman, asked how to know where the tax is due because deliveries are to multiple locations. Today, the sales tax calculation is simple, but any change might have a cost to administer. Don't fix a system that isn't broken.<sup>231</sup>

John Kroll laid out the legislative history of the sourcing question. Taxable services went to destination in 2003. According to Mr. Kroll, upon implementation, there was allegedly a backlash; legislators wrote to the comptroller not to implement it, and it was repealed a session or two later. Metropolitan Transit Authorities were destination, everyone else was origin; that was changed in 2007. A Deuell-Thompson bill in 2009 in the wake of the Roomstore situation seemed to have settled it, until the Comptroller's new rule. Mr. Kroll stated that the CPA's proposed rule is a solution in search of a problem.<sup>232</sup>

## **LITIGATION UPDATE**

Several cities have filed suit against the Comptroller challenging the proposed rules to implement "destination-based sourcing." In August 2022, the district court ruled that the Comptroller failed to substantially comply with one or more of the procedural requirements in code necessary for rulemaking, thus further delaying the implementation of any rules. On September 23, 2022, CPA republished their proposed amendments to 34 TAC §3.334, concerning local sales and use taxes.<sup>233</sup> A trial date on the original suit has been set for May 2023, so the Legislature has an opportunity to clarify the definition of destination sourcing and give the Comptroller further guidance in this upcoming Legislative Session before the trial begins.

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## **RECOMMENDATIONS**

Regarding Charge 5 the Committee makes the following recommendation to address the impact of shifting to destination sourcing for local sales and use tax purposes:

1. The Legislature should require all sales to be sourced at the destination in the same manner as remote sales; marketplace sales; sales of natural gas and electricity; sales of mobile telecommunication services; sales of amusement services; sales of cable system services; sales of garbage or other solid waste collection or removal services; and sales of services to remodel, repair, or restore nonresidential real property. The Legislature should provide a sufficient transition period for businesses and consumers to prepare for the change. The Legislature should ensure that the transition period is sufficient for CPA to propose and adopt rules fully implementing the legislation.

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## ENDNOTES

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- <sup>2</sup> *Id.*
- <sup>3</sup> Honorable Dade Phelan, Tex. House of Representatives, Standing Committee Appointments by Committee 36 (2021),  
<https://house.texas.gov/media/pdf/committee.pdf>
- <sup>4</sup> Tex. H.R. Rule 1, § 17, *reprinted in Rules of the House*, Texas Legislative Manual 14 (2021).  
<https://house.texas.gov/media/pdf/House-Rules-of-Procedure-87.pdf>
- <sup>5</sup> Tex. H.R. Rule 4, § 24(a), *reprinted in Rules of the House*, Texas Legislative Manual 65 (2021).  
<https://house.texas.gov/media/pdf/House-Rules-of-Procedure-87.pdf>
- <sup>6</sup> Honorable Dade Phelan, Tex. House of Representatives, Interim Committee Charges 31 (2022),  
<https://house.texas.gov/media/pdf/interim-charges-87th.pdf>
- <sup>7</sup> *Id.*
- <sup>8</sup> Tex. H. Comm. on Ways & Means Minutes 1, 87th Leg., R.S. (Apr. 21, 2022),  
<https://tlis/tlisddocs/87R/minutes/pdf/C4902022042110001.PDF>
- <sup>9</sup> Tex. H. Comm. on Ways & Means Witness List 1–2, 87th Leg., R.S. (Apr. 21, 2022),  
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- <sup>10</sup> Tex. H. Comm. on Ways & Means Minutes, 87th Leg., R.S. (Sep. 8, 2022),  
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- <sup>11</sup> Tex. H. Comm. on Ways & Means Witness List, 87th Leg., R.S. (Sep. 8, 2022),  
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<https://www.bakerbotts.com/thought-leadership/publications/2021/april/texas-tax-talk-sales-tax-sourcing-and-court-access-issues>
- <sup>13</sup> Texas Legislature Bill History, 87th Leg., R.S. <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB2080>
- <sup>14</sup> Tex. Comptroller of Pub. Accts., “Appraisal Protests and Appeals.” Comptroller.texas.gov, 2022,  
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- <sup>17</sup> *Id.*
- <sup>18</sup> Tex. Gov Code § 403. <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.403.htm>.
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- <sup>20</sup> Texas Legislature Bill Analysis, 87th Leg., R.S.,  
<https://capitol.texas.gov/tlodocs/87R/analysis/pdf/HB02080H.pdf#navpanes=0>.
- <sup>21</sup> Texas Legislature Bill Text, 87th Leg., R.S., <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB02080F.pdf#navpanes=0>.
- <sup>22</sup> Texas Legislature Bill Text, 87th Leg., R.S., <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00903F.pdf#navpanes=0>.
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- <sup>24</sup> <https://statutes.capitol.texas.gov/Docs/TX/htm/TX.112.htm>.
- <sup>25</sup> Texas Legislature Bill Text, 87th Leg., R.S., <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00903F.pdf#navpanes=0>.
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- <sup>28</sup> Testimony of James Arbogast, CPA, to the House Comm. on Ways & Means (Apr. 21, 2022, 6:19),  
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- <sup>29</sup> *Id.*
- <sup>30</sup> *Id.*
- <sup>31</sup> *Id.*
- <sup>32</sup> *Id.*
- <sup>33</sup> *Id.*
- <sup>34</sup> *Id.*
- <sup>35</sup> Texas Legislature Bill Text, 87th Leg., R.S., <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB02404F.pdf#navpanes=0>.
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<sup>37</sup> *Id.*

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<sup>40</sup> *Id.*

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<sup>46</sup> Tex. H. Comm. on Ways & Means Witness List 1–2, 87th Leg., R.S. (Sep. 8, 2022),

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<sup>47</sup> Testimony of Korry Castillo, CPA, to the House Comm. on Ways & Means (Sep. 8, 2022),

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<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

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<sup>55</sup> Texas Legislature Bill History, 87th Leg., R.S., <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=SB248>.

<sup>56</sup> Tex. H. Comm. on Ways & Means Minutes 1, 87th Leg., R.S. (Apr. 21, 2022),

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<sup>58</sup> Testimony of Michael Elwell, CPA, to the House Comm. on Ways & Means (Apr. 21, 2022),

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<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

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<sup>63</sup> Texas Property Tax Reform and Transparency Act of 2019, 86th Leg., R.S., ch. 944, 2019 Tex. Gen. Laws.

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<sup>67</sup> *Id.*

<sup>68</sup> Texas Legislature Bill Text, 87th Leg., R.S., <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB01869F.pdf#navpanes=0>.

<sup>69</sup> Tax Rate Calculation, Comptroller.Texas.Gov <https://comptroller.texas.gov/taxes/property-tax/truth-in-taxation/calculations.php>.

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<sup>76</sup> Texas Legislature Bill Analysis, 87th Leg., R.S.,

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- <sup>81</sup> Texas Legislature Bill History, 87th Leg., R.S., <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=SB1438>
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- <sup>215</sup> Tex. H. Comm. on Ways & Means Minutes 1, 87th Leg., R.S. (Apr. 21, 2022), <https://tlis/tlisddocs/87R/minutes/pdf/C4902022042110001.PDF>
- <sup>216</sup> Tex. H. Comm. on Ways & Means Witness List 1–2, 87th Leg., R.S. (Apr. 21, 2022), <https://tlis/tlisddocs/87R/witlistmtg/pdf/C4902022042110001.PDF>
- <sup>217</sup> Testimony of Ray Langenberg, CPA, to the House Comm. on Ways & Means (Apr. 21, 2022), [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=23203](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23203)
- <sup>218</sup> *Id.*
- <sup>219</sup> *Id.*
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- <sup>221</sup> *Id.*
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- <sup>223</sup> Testimony of Dale Craymer, TTARA, to the House Comm. on Ways & Means (Apr. 21, 2022), [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=23203](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23203)
- <sup>224</sup> Testimony of David Billings to the House Comm. on Ways & Means (Apr. 21, 2022), [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=23203](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23203)
- <sup>225</sup> Testimony of Claire Powell to the House Comm. on Ways & Means (Apr. 21, 2022), [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=23203](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23203)
- <sup>226</sup> Testimony of Shannon Haas to the House Comm. on Ways & Means (Apr. 21, 2022), [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=23203](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23203)
- <sup>227</sup> Testimony of Annie Spillman, NFIB, to the House Comm. on Ways & Means (Apr. 21, 2022), [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=23203](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23203)
- <sup>228</sup> Testimony of Tony Moline to the House Comm. on Ways & Means (Apr. 21, 2022), [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=23203](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23203)
- <sup>229</sup> Testimony of Ellie Braxton to the House Comm. on Ways & Means (Apr. 21, 2022), [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=23203](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23203)
- <sup>230</sup> Testimony of Kyle Kasner to the House Comm. on Ways & Means (Apr. 21, 2022), [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=23203](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23203)
- <sup>231</sup> Testimony of Olanda Barber to the House Comm. on Ways & Means (Apr. 21, 2022),

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<sup>233</sup> <https://www.sos.state.tx.us/texreg/pdf/backview/0923/0923prop.pdf>





