



INTERIM REPORT

to the 87th Texas Legislature



HOUSE COMMITTEE ON
WAYS AND MEANS



JANUARY 2021

**HOUSE COMMITTEE ON WAYS & MEANS
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2020**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
87TH TEXAS LEGISLATURE**

**DUSTIN BURROWS
CHAIRMAN**

**PAIGE HIGERD
COMMITTEE CLERK**

**JIMMY SKIPTON
POLICY DIRECTOR
REPORT AUTHOR**



Committee On
Ways & Means

January 7, 2021

Dustin Burrows
Chairman

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

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

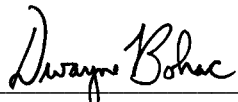
Dear Mr. Speaker and Fellow Members:

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

Respectfully submitted,



Dustin Burrows, Chair



Ryan Guillen, Vice-Chair


Dwayne Bohac


Jim Murphy

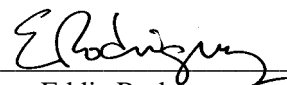

Scott Sanford

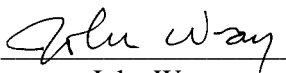

Sheryl Cole


Candy Noble


Matt Shaheen


Trey Martinez Fischer


Eddie Rodriguez


John Wray

RYAN GUILLEN
VICE-CHAIRMAN

MEMBERS:

DWAYNE BOHAC, SHERYL COLE, TREY MARTINEZ FISCHER, CANDY NOBLE, EDDIE RODRIGUEZ, SCOTT SANFORD, MATT SHAHEEN, JOHN WRAY

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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.¹ 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”).²

In the 86th Legislature, the Honorable Dennis Bonnen, Speaker of the Texas House of Representatives, appointed the following 11 members to the Committee: Chair Dustin Burrows (R-Lubbock), Vice-Chair Ryan Guillen (D-Rio Grande City), Representative Dwayne Bohac (R-Houston), Rep. Trey Martinez Fischer (D-San Antonio), Rep. Jim Murphy (R-Houston), Rep. Eddie Rodriguez (D-Austin), Rep. Sheryl Cole (D-Austin), Rep. Candy Noble (R-Lucas), Rep. Scott Sanford (R-McKinney), Rep. Matt Shaheen (R-Plano), and Rep. John Wray (R-Waxahachie).³

The Speaker of the House has “the authority to direct committees to make interim studies for such purposes as the speaker may designate.”⁴ Additionally, “[s]tanding committees . . . are . . . authorized to conduct studies that are authorized by the speaker.”⁵ On November 25, 2019, Speaker Bonnen issued six interim committee charges to Ways & Means.⁶ The first interim charge includes three sub-charges to monitor the implementation of S.B. 2 (Charge 1.1), H.B. 1525 and H.B. 2153 (Charge 1.2), and H.B. 4347 (Charge 1.3).⁷

On February 5, 2020, the Committee held a public hearing to take testimony on Charges 1.2, 5, and 6.⁸ The Committee met for over five hours and heard testimony from 28 witnesses.⁹ The Committee was unable to hold further public hearings because the State Preservation Board closed the Capitol to public access on March 18, 2020, due to the COVID-19 pandemic.¹⁰ Committees are not authorized to conduct business using virtual meetings or virtual hearings.¹¹ Therefore, Speaker Bonnen and the House Parliamentarians provided committees with three options to continue conducting interim charge research, including “issu[ing] a public request for information to solicit comments and information on committee matters, including specified interim charges, from agency personnel, experts, stakeholders, and the public, or any combination of these groups.”¹²

On July 29, 2020, the Committee published two Notices of Formal Requests for Information (“RFIs”) for Charge 1.1 (“RFI 1”) and Charges 1.3, 2, 3, and 6 (“RFI 2”).¹³ Submissions in response to RFI 1 were due on November 13, 2020, and submissions for RFI 2 were due on September 14, 2020. The testimony received on February 5, responses to the RFIs, and Committee staff research are combined throughout the “Introduction” and “Committee Review” sections of each interim charge to arrive at the Committee’s recommendations throughout this Report.

IMPLEMENTATION MONITORING: S.B. 2 (CHARGE 1.1)

Monitor the implementation of the legislation, including a review of the tax rates adopted by taxing units in 2019 and 2020, the appraisal review board survey system, and progress in onboarding the tax rate notices and websites. Make recommendations for modifications as necessary and appropriate.

Introduction

In 2019, the Legislature passed S.B. 2, the Texas Property Tax Reform and Transparency Act of 2019.¹⁴ S.B. 2 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.”¹⁵ Notably, S.B. 2 renamed the effective tax rate as the no-new-revenue tax rate and the rollback tax rate as the voter-approval tax rate; 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.

Since the passage of S.B. 2, taxing units have set property tax rates twice (in tax years 2019 and 2020), taxing units and tax assessor-collectors have used the new tax rate notice formats once (in tax year 2020), and 24 appraisal districts (“CADs”)* have launched the property tax databases. The Committee reviewed the progress that CADs, taxing units, and tax assessor-collectors have made to implement S.B. 2 with a specific focus on the four areas listed in Charge 1.1: (1) 2019 and 2020 adopted tax rates, (2) the ARB survey system, (3) tax rate notice onboarding progress, and (4) property tax database implementation. Although the Committee was unable to conduct in-person hearings on Charge 1.1, the Committee collected 91 pages of written testimony.

I. Interim Committee Testimony

The Committee requested input on this charge in RFI 1. In response to RFI 1, the Committee received submissions from the following 21 respondents:

- (1) Cheryl E. Johnson, Tax Assessor-Collector, Galveston County;
- (2) Brian Maxwell, City Manager, City of Galveston;
- (3) David S. Morgan, City Manager, City of Georgetown;
- (4) Tantri Emo, Director of Finance, City of Houston;
- (5) Victoria Runkle, Interim Finance Department Director, City of San Marcos;
- (6) Karen Selbo Hunt, Mayor, City of Coppell;
- (7) James P. Allison, General Counsel, County Judges & Commissioners Association of Texas (“CJCAT”);
- (8) Charles Reed, Assistant County Administrator, Dallas County;
- (9) Daniel F. Collins, Governmental Affairs Manager, El Paso County;

* S.B. 2 required CADs in counties with a population of 200,000 or more to launch the property tax database by August 7, 2020. All other CADs must establish the property tax database by August 7, 2021.

-
- (10) Cheryl McLaughlin, President, Hatch RV Park;
 - (11) John Kroll, Partner, HMWK Global;
 - (12) Russell Schaffner, Assistant County Administrator – Legislative Affairs, Tarrant County;
 - (13) Maureen Milligan, President and CEO, Teaching Hospitals of Texas (“THOT”);
 - (14) Monty Wynn, Director – Grassroots and Legislative Services, Texas Municipal League (“TML”);
 - (15) Dale Craymer, President, and Carl Walker, Senior Analyst, Texas Taxpayers and Research Association (“TTARA”);
 - (16) David Mintz, Vice President of Government Affairs, Texas Apartment Association (“TAA”);
 - (17) Brian Schaeffer, President and CEO, Texas Association of Campground Owners (“TACO”);
 - (18) Brent South, Chair – Legislative Committee, Texas Association of Appraisal Districts (“TAAD”);
 - (19) Adam Haynes, Policy Director, Texas Conference of Urban Counties (“CUC”);
 - (20) Laura Lee Prather, Partner, Haynes and Boone LLP on behalf of the Texas Press Association (“TPA”);
 - (21) Tammy McRae, President, and Larry Gaddes, Vice-Chair – Legislative Committee, Tax Assessor-Collectors Association of Texas (“TACA”).¹⁶

The Committee divided these respondents into five categories: (1) cities (six responses), (2) counties (five responses), (3) tax administrators (three responses), (4) taxpayers (five responses), and (5) others (two responses). The testimony is discussed throughout the Committee Review section below.

Committee Review

The property tax cycle in Texas under S.B. 2 follows the schedule below:

Appraisal Phase (Jan. 1–May 15)	Equalization Phase (May 15–July 25)	Assessment Phase (July 25–Oct. 1)	Collection Phase (Oct. 1–Jan. 31)
<p>Jan. 1–Apr. 30: Property is appraised, and exemption applications are processed¹⁷</p> <p>Apr.–May 1: Notices of appraised value are sent¹⁸</p> <p>May 15: Appraisal record prepared and submitted to the ARB¹⁹</p>	<p>May 15–July 20: Protests and challenges are heard and determined²⁰</p> <p>July 20: Appraisal records are approved²¹</p> <p>July 25: Appraisal roll is certified²²</p>	<p>July 25: Appraisal roll received by taxing units²³</p> <p>July 25–Sept. 30: Tax rates are adopted, and taxes are levied (calculated)²⁴</p> <p>Oct. 1: Tax bills begin to be sent to taxpayers²⁵</p>	<p>Oct. 1–Jan. 31: Current taxes are collected²⁶</p> <p>Feb. 1: Penalties and interest begin to accrue²⁷</p> <p>July 1: Additional penalties may be added for legal costs²⁸</p>

The Committee addresses the S.B. 2 reforms mentioned in Charge 1.1 in the order they occur in the property tax cycle, followed by the feedback the Committee received from cities, counties, property tax administrators, taxpayers, and others.

I. Charge 1.1 S.B. 2 Reforms

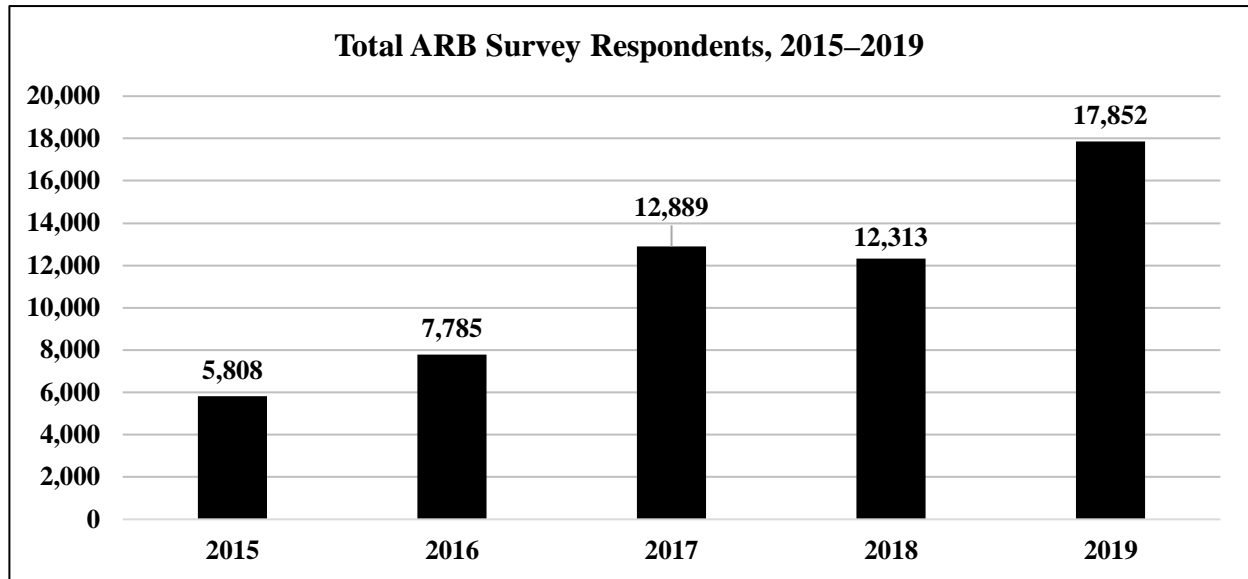
A. The ARB survey system.

Prior to S.B. 2, an ARB survey had been available since 2014 to allow “the public a reasonable opportunity to offer comments and suggestions concerning the [ARB] established for an appraisal district.”²⁹ However, the previous ARB survey could only be completed by a property owner, and CADs were only required to provide property owners with paper copies of the survey form.³⁰ In addition, property owners often only had the option to fill out and submit the survey at the appraisal office.

S.B. 2 substantially improved and standardized the survey process by allowing property owners, the designated agent of the property owner, and the designated representative of the CAD to complete or submit the ARB survey.³¹ Additionally, S.B. 2 allows individuals to submit the survey in person, by mail, by email, or through an online survey portal³² and prohibits CADs from requiring an individual “to complete a survey at the appraisal office.”³³

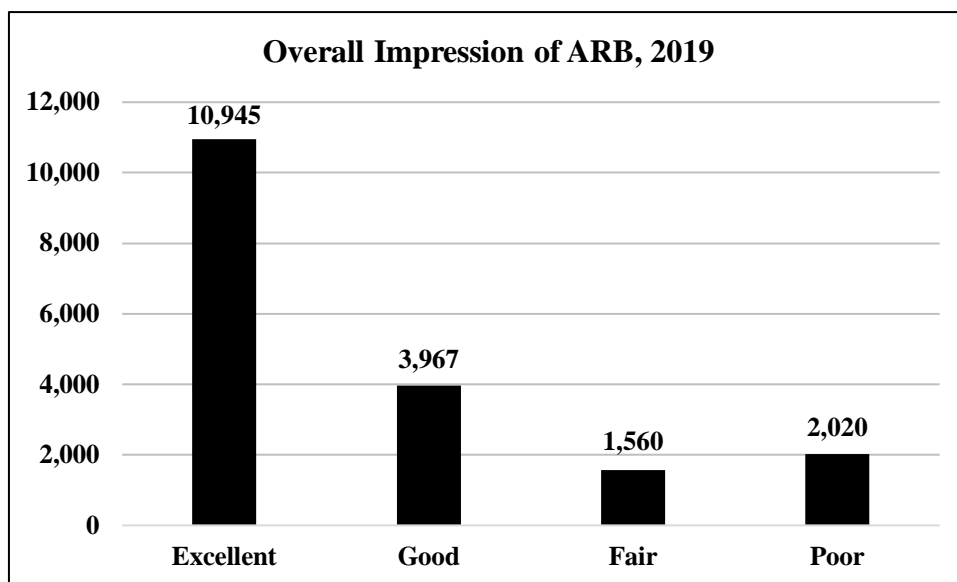
The Committee reviewed the materials created by CPA in response to S.B. 2 and noted that the CPA published English and Spanish versions of the ARB survey (including general instructions),³⁴ the survey instructions for taxpayer liaison officers or CAD designees,³⁵ and the ARB survey advertisement flyer.³⁶ Additionally, CPA provided clear instructions for individuals to deliver survey responses any of the four submission methods allowed by S.B. 2: (1) in person at 1711 San Jacinto, 3rd Floor, Austin, Texas 78701; (2) by mail to 1711 San Jacinto, 3rd Floor, Austin, Texas 78701; (3) by email to ptad.communications@cpa.texas.gov; and (4) online at <https://www.surveymonkey.com/r/surveyarb>.

CPA has published an annual report of all ARB survey responses since 2015. The most recently available ARB survey report is the tax year 2019 survey, which CPA published in March 2020.³⁷ Unfortunately, this report does not capture changes in ARB survey results that may occur due to S.B. 2. However, the Committee included the total survey responses from 2015 through 2019 in the chart below and briefly discusses the 2019 results.



The Committee reviewed the 2019 responses and found that a large majority of respondents agreed or strongly agreed that the ARB was courteous (94.6%), attentive (92.1%), knowledgeable (84.0%), organized (91.5%), and fair (76.8%).³⁸ Further, similarly large majorities of respondents agreed or strongly agreed that the hearing procedures were informative (90.0%), the hearing procedures were followed (92.6%), the property owner received prompt service (88.0%), the property owner was given reasonable time to present evidence (89.6%), the ARB considered the evidence thoughtfully (77.4%), and the protest determination was stated clearly (90.7%).³⁹

Lastly, most property owners had an excellent overall impression of the ARB, and the respondents with a poor overall impression were primarily property owners whose property value was not lowered by the ARB.⁴⁰



B. The property tax database implementation process.

In 2020, S.B. 2 required CADs located in counties with a population of 200,000 or more to establish a property tax database.⁴¹ Based on the population threshold, 24 CADs were required to launch the property tax database website. The Committee worked with TAAD to collect data from each of the 24 CADs.* The table below lists the county the CAD is located in; the CAD’s website vendor; the date ranges for the website visits and taxpayer feedback; and the website visits, visits per day, unique visits, and taxpayer feedback responses.

County:	Website Vendor:	Start:	End:	Website Visits:	Visits per Day:	Unique Visits:	Taxpayer Feedback:
Tarrant	BIS Consulting	8/7/20	9/10/20	38,278	1,126	28,583	7,941
Williamson	BIS Consulting	8/7/20	9/10/20	18,562	546	14,800	4,409
Hays	BIS Consulting	8/7/20	9/10/20	Not provided	Unknown	Not provided	849
Travis	True Prodigy	8/31/20	9/10/20	128,475	12,848	Not provided	657
Dallas	True Prodigy	8/7/20	9/15/20	Not provided	Unknown	34,132	646
Denton	True Prodigy	8/7/20	9/15/20	137,312	3,521	Not provided	509
Brazos	BIS Consulting	8/7/20	9/10/20	Not provided	Unknown	Not provided	344
Harris	True Prodigy	8/7/20	9/16/20	4,249,930	106,248	49,542	279
Fort Bend	True Prodigy	9/2/20	9/16/20	176,804	12,629	4,471	178
Collin	Harris Govern	8/13/20	9/14/20	8,969	280	7,637	137
Cameron	Harris Govern	8/13/20	9/14/20	2,088	65	1,783	91
Webb	True Prodigy	9/3/20	9/16/20	141	11	Not provided	75
Bexar	Harris Govern	8/13/20	9/14/20	5,626	176	4,917	71
Brazoria	Harris Govern	8/13/20	9/14/20	3,265	102	2,830	68
El Paso	Harris Govern	8/13/20	9/14/20	6,048	189	5,187	63
Bell	Harris Govern	8/13/20	9/14/20	3,103	97	2,651	27
McLennan	Harris Govern	8/13/20	9/14/20	1,760	55	1,559	26
Montgomery	Tyler Technologies	8/1/20	9/31/20	Not provided	Unknown	Not provided	25
Galveston	Harris Govern	8/13/20	9/14/20	1,950	61	1,685	24
Jefferson	Harris Govern	8/13/20	9/14/20	2,170	68	1,923	18
Nueces	Harris Govern	8/13/20	9/14/20	2,321	73	2,008	14
Hidalgo	Harris Govern	8/13/20	9/14/20	1,657	52	1,422	7
Lubbock	Tyler Technologies	Not provided					
Smith	Not provided						

Among the 18 CADs providing statistics on total website visits, the websites had a total of around 4.8 million visits between mid-August and mid-September. Among the 16 CADs providing statistics on unique website visits, 165,130 unique individuals visited the websites between mid-August and mid-September. Lastly, among the 22 CADs providing a count of taxpayer feedback submissions, taxpayers submitted feedback 16,458 times.

* TAAD and the Committee did not receive a response from Smith CAD, and Lubbock CAD responded that its vendor “do[es] not track anything.”

CADs relied on four vendors to launch the property tax database websites. Of the 23 CADs that provided information on their property tax database websites, 11 contracted with Harris Govern, 6 contracted with True Prodigy, 4 contracted with BIS Consulting, and 2 contracted with Tyler Technologies. The Committee noted that the four BIS Consulting websites generated over 82% of the feedback comments received. Additionally, the Committee received sufficient data to calculate the rate of unique website visits to taxpayer feedback comments for 16 websites, including the Tarrant and Williamson CAD websites. Those two BIS Consulting websites had respective feedback rates of 29.8% and 27.8%. The average feedback rate among the other 14 websites was 1.8%. Links to all 24 websites are below.

County:	Website Vendor:	Property Tax Database Website URL:
Bell	Harris Govern	https://bell.truthintaxation.com/
Bexar	Harris Govern	https://bexar.truthintaxation.com/
Brazoria	Harris Govern	https://brazoria.truthintaxation.com/
Brazos	BIS Consulting	https://brazos.countytaxrates.com/tax
Cameron	Harris Govern	https://cameron.truthintaxation.com/
Collin	Harris Govern	https://collin.truthintaxation.com/
Dallas	True Prodigy	https://dallas.trueprodigy-taxtransparency.com/taxTransparency/propertySearch
Denton	True Prodigy	https://denton.trueprodigy-taxtransparency.com/taxTransparency/propertySearch
El Paso	Harris Govern	https://elpass.truthintaxation.com/
Fort Bend	True Prodigy	https://ftbend.trueprodigy-taxtransparency.com/taxTransparency/propertySearch
Galveston	Harris Govern	https://galveston.truthintaxation.com/
Harris	True Prodigy	https://harris.trueprodigy-taxtransparency.com/taxTransparency/propertySearch
Hays	BIS Consulting	https://hays.countytaxrates.com/tax
Hidalgo	Harris Govern	https://hidalgo.truthintaxation.com/
Jefferson	Harris Govern	https://www.jefferson.truthintaxation.com/
Lubbock	Tyler Technologies	https://lubbockcountytaxes.org/truthintaxation/
McLennan	Harris Govern	https://mclennan.truthintaxation.com/
Montgomery	Tyler Technologies	https://mocotaxes.org/truthintaxation/
Nueces	Harris Govern	https://nueces.truthintaxation.com/
Smith	Not provided	https://smith.truthintaxes.com/
Tarrant	BIS Consulting	https://tarranttaxinfo.com/tax
Travis	True Prodigy	https://travistaxes.org/
Webb	True Prodigy	https://webb.trueprodigy-taxtransparency.com/taxTransparency/propertySearch
Williamson	BIS Consulting	https://williamsonpropertytaxes.org/

These 24 CADs have varying names for the website (e.g., travistaxes.org, tarranttaxinfo.com, mocotaxes.org, bexar.truthintaxation.com, and brazos.countytaxrates.com), which could confuse taxpayers. Additionally, in some cases, property owners reported difficulty accessing the correct website.⁴²

The Committee visited each of the websites and included screenshots in the sections below from a BIS Consulting website, True Prodigy website, Harris Govern website, and Tyler Technologies website.

(1) *BIS Consulting property tax database website example.*

The screenshots below represent the tax database websites provided by BIS Consulting.

Taxes

Two major components of your property tax calculation are Exemptions and Tax Rates which are both determined by your Taxing Units (School District, County, City, etc.). **These are NOT determined by the Appraisal District or Tax Office.**

Taxes Due = (Taxable Value * Tax Rate) / 100 **Taxable Value** = Assessed Value – Exemptions
* Exemptions might include Homestead, Over65, Disabled Person, Disabled Veteran, etc.

Blank values in the table below indicate rates that have not yet been determined or are not required. This data is updated as it becomes available from each respective Taxing Unit.

Taxing Unit	Last Year's Taxes (2019)	No New Revenue Taxes (2020)	Voter-Approval Taxes (2020)	Proposed Taxes (2020)	Adopted Taxes (2020)	Difference Between No New Revenue and Proposed (2020)
+ TARRANT COUNTY	\$873.08 0.234000	\$873.08 0.239145	\$873.08 0.248985			
+ TARRANT COUNTY HOSPITAL	\$959.68 0.224429	\$970.63 0.226990	\$1,110.38 0.259672	\$959.68 0.224429	\$959.68 0.224429	-\$10.95 -0.002561
+ TARRANT COUNTY COLLEGE	\$501.16 0.130170	\$501.16 0.129698	\$501.16 0.149729	\$501.16 0.130170	\$501.16 0.130170	\$0.00 0.000472
+ HURST-EULESS-BEDFORD ISD	\$4,582.39 1.220000					
+ CITY OF HURST	\$1,692.01 0.597299	\$1,692.01 0.606234	\$1,692.01 0.625159	\$1,692.01 0.625159	\$1,692.01 0.625159	\$0.00 0.018925
Total	\$8,608.32	\$4,036.88	\$4,176.63	\$3,152.85	\$3,152.85	

* Your taxes in **Blue** are limited due to a Property Tax Freeze you qualified for

Public Feedback

The property owner is invited to provide feedback regarding the Proposed Tax rates for the Taxing Units listed below. Please enter your contact information, enter your feedback, and press submit.

Name

I am the owner of the property displayed on the current page.

Property Address

Email **Phone Number**

Taxing Unit	Proposed Taxes (2020)	I support the proposed tax rate	Comments:
CITY OF HURST	0.625159 \$1,692.01	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/>
TARRANT COUNTY	0.000000 \$0.00	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/>

(2) True Prodigy property tax database website example.

The screenshots below represent the tax database websites provided by True Prodigy.

Harris Taxes | Truth-in-Taxation

Please be advised that the value shown on the website will not reflect the final value of your property for this tax year until the account is certified. If your value on this site is currently zero, it could mean the account has not been certified or qualifies for a total exemption.

Truth-in-Taxation laws give taxpayers a voice in decisions that affect their property tax rates. Taxing units take the first step toward adopting a tax rate by calculating and publishing the no new revenue and voter approval tax rates. Below is a list of the proposed rates and the date and location of the public hearing to consider the tax rates. The hearings give taxpayers an opportunity to voice their opinions about the proposed tax increases.

The key estimate does not take into account any tax ceiling limitation.

Property Search → Account #: 007027000003

Account #: 007027000003 | Owner: SMITH, JOHN D. | Situs: 1614 OVID HOUSTON, TX 77067 | Year: 2020 | DCA: | Market Value: \$655,825

HOUSTON ISD Taxing Unit Code: 001
Taxable Value: \$655,825

	No New Revenue	Proposed	Difference	Voter Approval	Adopted
Rate	1.071900	1.133100		1.140200	1.133100
Amount	\$7,029.79	\$7,431.15	\$401.36	\$7,517.07	\$7,431.15

Worksheet: [2020 Tax Rate Calculation Worksheet](#)

Hearing: Board of Education Meeting | Date & Time: 2020-10-08 5:00:00 pm | Location: 4400 West 18th St, Houston, Texas 77092

Taxing Unit Contact Info: HOUSTON ISD | Website: <http://www.houstonisd.org> | Phone Number: (713) 558-6686 | Email: hisdpropertytax@houstonisd.org

Tax Assessor/Collector: ANN HARRIS BENNETT | Website: <http://www.harris.net> | Phone Number: (713) 274-8000 | Email: tax_office@hctx.net

Budget & Tax Rates: Budget & Rate Information: No Document

HARRIS COUNTY Taxing Unit Code: 040
Taxable Value: \$655,825

	No New Revenue	Proposed	Difference	Voter Approval	Adopted
Rate	0.391160	0.391160		0.391560	0.391160
Amount	\$2,595.32	\$2,595.32	\$0.00	\$2,597.95	\$2,595.32

Worksheet: [2020 Tax Rate Calculation Worksheet](#)

Hearing: Public Hearing on Tax Rate | Date & Time: 2020-10-21 9:00:00 am | Location: 901 Bagby, Legacy Room, Houston, TX 77002

Taxing Unit Contact Info: CITY OF HOUSTON | Website: <http://www.houston.tx.gov> | Phone Number: (832) 393-9000 | Email: FINPropertyTax@houston.tx.gov

Tax Assessor/Collector: ANN HARRIS BENNETT | Website: <http://www.harris.net> | Phone Number: (713) 274-8000 | Email: tax_office@hctx.net

Budget & Tax Rates: Budget & Rate Information: [Worksheet EDC](#)

SUMMARY TOTAL FOR ALL TAXING UNITS
2020 Property Taxes

ADOPTED RATE 2.39556 / \$100

NO-NEW REVENUE RATE 2.398197 / \$100

TOTAL TAXES

\$16,736.86 PROPERTY TAX

No New Revenue
A calculated rate that would provide the taxing unit with approximately the same amount of revenue as reported in the previous year on properties taxed in both years. This rate calculation does not include the impact of additional tax revenue resulting from new construction. (ie. The districts created under Water Code Section 48 will use current year tax rate)

Voter Approval
To exceed this tax rate, most taxing jurisdictions must seek voter approval. The maximum rate varies based on the type of jurisdiction.

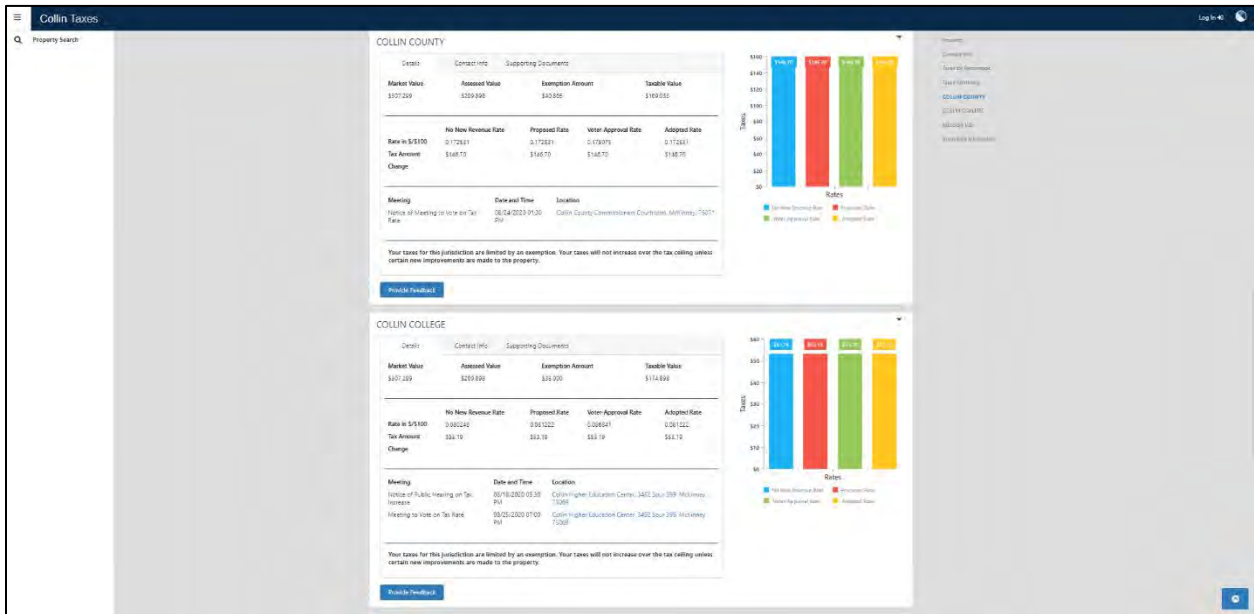
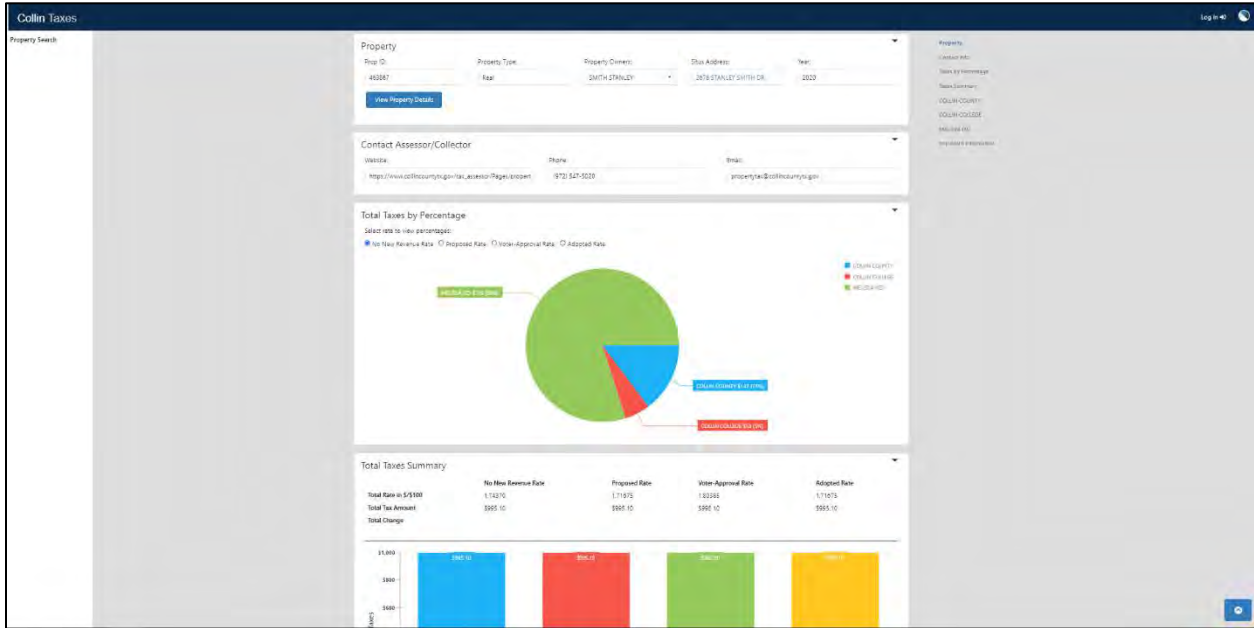
Proposed
This is the tax rate that is proposed by the taxing unit.

Adopted
This is the tax rate that was adopted by the taxing unit for tax year.

Tax Election
Water District election trigger rate. Mandatory or petition election criteria varies based on type of jurisdiction.

(3) *Harris Govern property tax database website example.*

The screenshots below represent the tax database websites provided by Harris Govern.



(4) *Tyler Technologies property tax database website example.*

The screenshots below represent the tax database websites provided by Tyler Technologies.

Montgomery Taxes HOME SEARCH

— Return to Search

QuickRef: **R118918** Owner Name: _____ Situs Address: _____

Market Value: **\$147,850.00** Estimated Tax Rate: **2.247800%** Estimated Property Tax: **\$3,323.37**

Category	City Of Conroe	Montgomery City	Mont Co Hospital	Lone Star College	Conroe ISD
Adopted Rate	0.35%	0.24%	0.24%	0.44%	0.38%
Voter Approval Rate	0.35%	0.24%	0.24%	0.44%	0.38%
Proposed Rate	0.35%	0.24%	0.24%	0.44%	0.38%
No-New Revenue Rate	0.35%	0.24%	0.24%	0.44%	0.38%

No New Revenue
The no-new-revenue tax rate is last year's tax rate, adjusted for changes in taxable value. The no-new-revenue tax rate takes into account all property on the tax roll for both last year and this year.

Voter Approval Rate
Tax rate level that allows the taxing jurisdiction to collect 3% more taxes (or 5% for special taxing units), not including debt repayment, than the previous year. This is the maximum tax increase allowed by law, without triggering an election to "rollback" the taxes. The 56th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes on the state.

Proposed Rate
This is the tax rate that is proposed by the taxing unit.

Adopted Rate
This is the tax rate that was adopted by the taxing unit for tax year.

Appraisal District **City Of Conroe**

Tax Rate Details Hearings & Documents Taxing Unit Info Tax Rate Details Hearings & Documents Taxing Unit Info

Appraisal District Contact Information

109 Gladstell Conroe
Conroe, 77303

xxxxxxx

mcad-tx.org

inquiry@mcad-tx.org

2020 Taxable Value **\$147,850.00**

No-New Revenue Rate	0.435600%	\$644.03
Proposed Rate	0.437500%	\$646.84
Difference (No-New Revenue vs Proposed)		\$2.81
Voter-Approval Rate	0.459600%	\$679.52
Adopted Rate	0.437500%	\$646.84

Montgomery Cnty **Mont Co Hospital**

Tax Rate Details Hearings & Documents Taxing Unit Info Tax Rate Details Hearings & Documents Taxing Unit Info

Public Hearing **Public Hearing Notice**

09/08/20 10:00 AM 501 N. Thompson 4th Floor, Conroe TX, 77301 09/25/20 03:45 PM 1400 S Loop 336 W Conroe TX, 77304

The Committee identified a key difference between the True Prodigy, Harris Govern, and Tyler Technologies sites and the BIS Consulting site when a taxpayer wants to provide feedback on a proposed tax rate. The True Prodigy, Harris Govern, and Tyler Technologies sites require taxpayers to click a separate “feedback” link button for each taxing unit that the taxpayer wants to provide feedback to. Conversely, the BIS Consulting site only requires taxpayers to scroll to the bottom of the page for their property, where taxpayers can then answer yes or no to the statement “I support the proposed tax rate.” Additionally, taxpayers can leave written comments for each taxing unit and submit feedback for all taxing units in one entry. This simplicity likely led to the increased feedback rates observed from BIS Consulting websites.

C. The tax rate notice onboarding process.

S.B. 2 standardized public hearing notices that taxing units must provide before adopting a tax rate. After the changes in S.B. 2, the Tax Code requires taxing units to provide one of four notices of a public hearing depending on the proposed tax rate.⁴³ Two of the notices address a situation where a taxing unit is required to hold an election because the adopted rate exceeds the voter-approval tax rate.⁴⁴ Those two notices include a required statement that “The proposed tax rate is also greater than the voter-approval tax rate. If (name of taxing unit) adopts the proposed tax rate, (name of taxing unit) is *required to hold an election* so that the voters may accept or reject the proposed tax rate.”⁴⁵

For taxing units eligible to use the de minimis rate (which is discussed further in the 2019 and 2020 adopted tax rates subsection), § 26.063 of the Tax Code provides two possible modifications to the § 26.06 notices. One modification applies when a taxing unit proposes a tax rate that exceeds the voter-approval tax rate and the de minimis rate.⁴⁶ The other applies when the proposed tax rate exceeds the voter-approval tax rate and does not exceed the de minimis rate but exceeds an eight percent increase.⁴⁷ However, the Tax Code does not include a notice, or modification to a notice, for a situation where a taxing unit’s proposed tax rate exceeds the voter-approval tax rate but does not exceed an eight percent increase or the de minimis rate. Therefore, the notice a taxing unit provides, in that case, would include the inaccurate statement regarding the required election, which is not truly required because of the de minimis rate.

Multiple organizations, including TACA and TML, raised this issue to the Committee during the interim and note the issue again in their testimony to the Committee on this charge. During the interim, the Committee drafted example language that taxing units could use until the Legislature addresses the missing tax rate notice.⁴⁸ At least two taxing units used this language when publishing their tax rate notices.⁴⁹

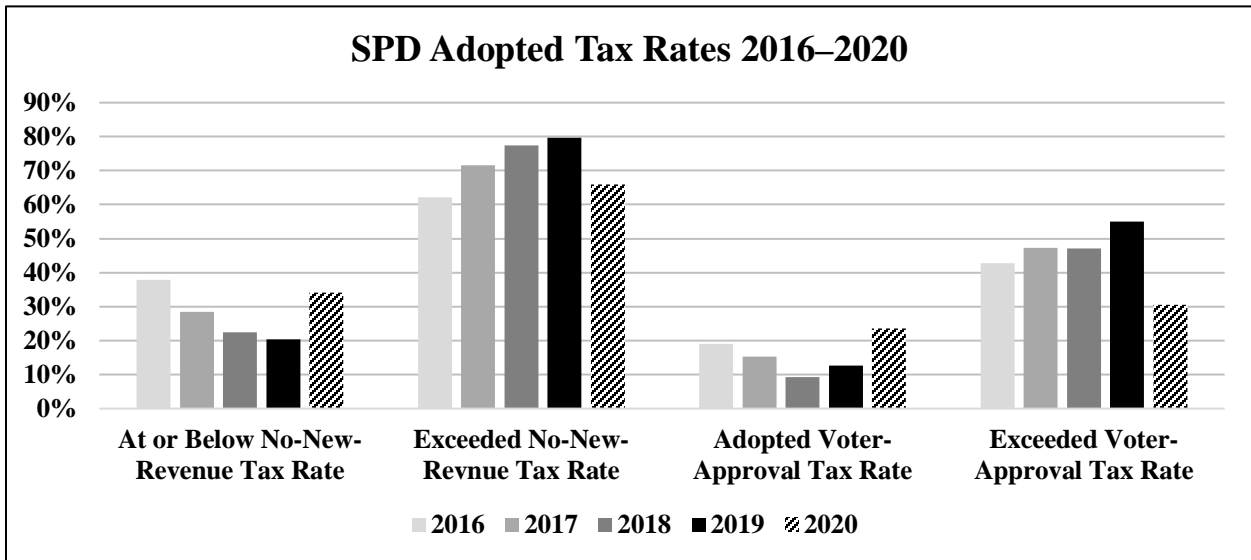
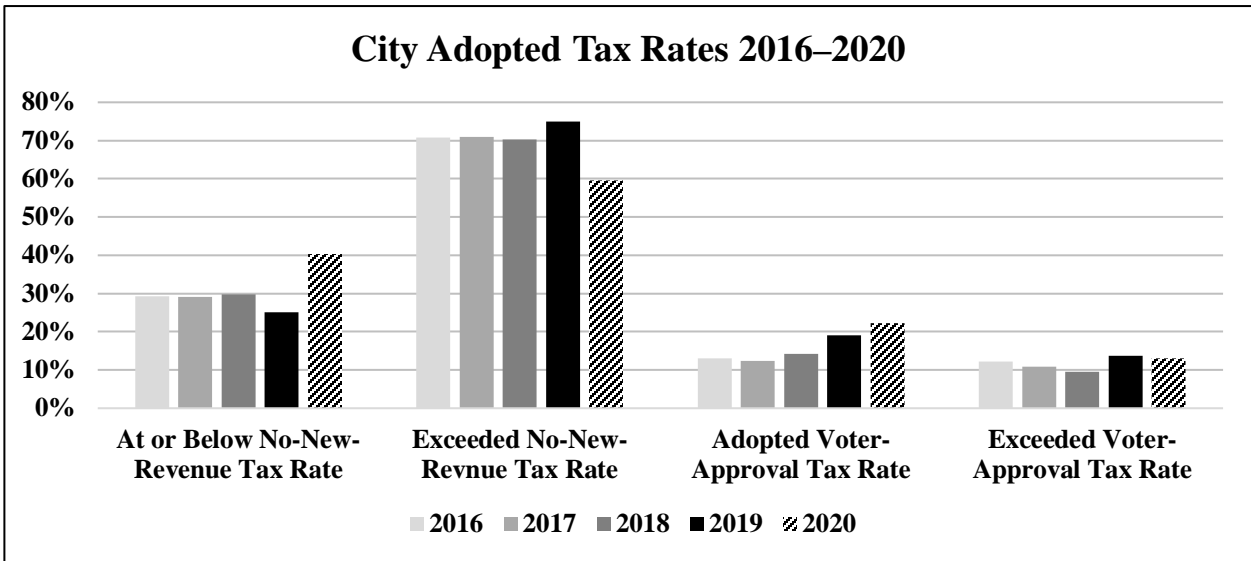
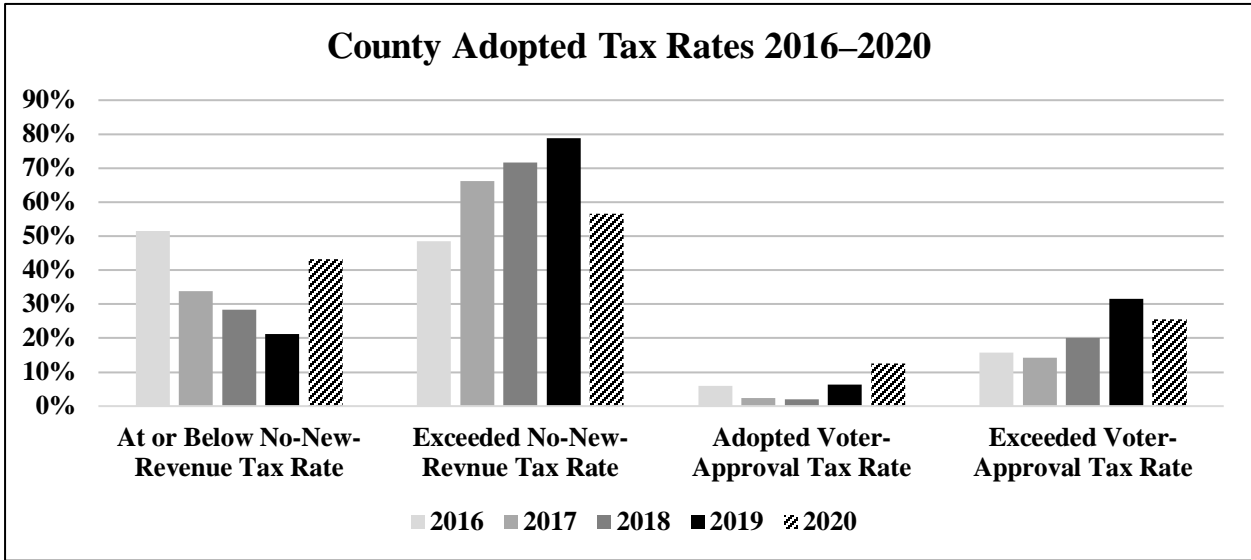
D. 2019 and 2020 adopted tax rates.

The change to the voter-approval tax rate calculation in S.B. 2 did not take effect until January 1, 2020.⁵⁰ Therefore, when taxing units adopted tax rates in 2019, they did so under the previous law. CPA is required to “publish on the [CPA’s] Internet website the list” of tax rates imposed by each taxing unit in the State.⁵¹ The Committee reviewed these lists for cities, counties, and special purpose districts (“SPDs”) for 2016–2020.⁵²

(1) 2019 adopted tax rates.

In 2019, compared with 2016–2018, cities, counties, and SPDs were less likely to adopt a tax rate at or below the no-new-revenue tax rate and more likely to exceed the no-new-revenue tax rate and either adopt the voter-approval tax rate or exceed the voter-approval tax rate.* The three charts below show the trends in tax rate adoption from tax years 2016 through 2020.

* Although these rates were known as the effective tax rate and rollback tax rate in tax years 2016–2019, the Committee refers to them by their current names (no-new-revenue tax rate and voter-approval tax rate) for clarity.



(2) *2020 adopted tax rates.*

As shown in the chart above, in 2020, the first year under the S.B. 2 voter-approval tax rate calculation change, taxing units were more likely to adopt a tax rate at or below the no-new-revenue tax rate and less likely to exceed the voter-approval tax rate even though the voter-approval tax rate multiplier was 3.5% instead of 8%. Although generally taxing units must use the 3.5% multiplier to calculate the voter-approval tax rate, S.B. 2 included three exceptions to the 3.5% multiplier. Taxing units that did not use the 3.5% multiplier were either special taxing units (“STUs”), using the § 26.04(c-1) or § 26.041(c-1) disaster exceptions, or using the de minimis rate.

(a) *Special taxing unit voter-approval tax rate calculation.*

Under S.B. 2, STUs are taxing units with a proposed maintenance and operations tax rate of “2.5 cents or less per \$100 of taxable value,” junior college districts, and hospital districts.⁵³ These STUs are allowed to use an 8% multiplier to calculate the voter-approval tax rate.⁵⁴

(b) *S.B. 2 disaster provisions.*

S.B. 2 includes a provision that adjusts the voter-approval tax rate process for disaster situations.⁵⁵ This provision allows taxing units, including developed water districts but excluding special taxing units, to use an 8% voter-approval tax rate multiplier instead of 3.5% “if any part of the taxing unit is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States.”⁵⁶

Under the Government Code, “[t]he governor by executive order or proclamation may declare a state of disaster if the governor finds a disaster has occurred or that the occurrence or threat of disaster is imminent.”⁵⁷ The Government Code defines “disaster” as “the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including . . . epidemic, air contamination . . . [, or] other public calamity requiring emergency action.”⁵⁸

If a disaster area is declared, the taxing units in that disaster area can continue using the 8% voter-approval tax rate multiplier:

Until the earlier of: (1) the second tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred; or (2) the third tax year after the tax year in which the disaster occurred.⁵⁹

If a taxing unit wants to calculate its voter-approval tax rate using an 8% voter-approval tax rate multiplier instead of 3.5%, the taxing unit must “direct the designated officer or employee to calculate the voter-approval tax rate of the taxing unit [with an 8% voter-approval tax rate multiplier].”⁶⁰

(c) *The de minimis rate calculation.*

S.B. 2 allows one additional exception to the 3.5 voter-approval tax rate multiplier limit. The “de minimis rate” is an alternative rate taxing units can use to generate an additional \$500,000 in new tax revenue without holding an election.⁶¹ However, if a taxing unit uses the de minimis rate and adopts a tax rate greater than a the taxing unit’s “voter-approval tax rate calculated [with an 8% voter-approval tax rate multiplier],” then “[t]he qualified voters of [the] taxing unit by petition may require than an election be held to determine whether to reduce the tax rate . . . to the voter-approval tax rate.”⁶²

(d) *TML survey of adopted city tax rates.*

As part of its testimony, TML surveyed 344 cities regarding the cities’ adopted tax rates in 2020.⁶³ The survey results indicate that 92% of cities did not exceed the 3.5% voter-approval tax rate.⁶⁴ TML provided the following survey results to the Committee:

The city’s adopted tax rate for tax year 2020 was:

- Less than or equal to the city’s no new revenue rate – 51.2% (176 cities);
- Higher than the no-new-revenue rate, but less than or equal to the 3.5% voter approval rate – 40.4% (139 cities);
- Higher than the 3.5% voter-approval rate, but less than the equivalent of an 8% voter approval rate – 4.9% (17 cities); and
- Equal to or greater than the equivalent of an 8% voter-approval rate – 3.5% (12 cities).⁶⁵

II. City Testimony

Five individual cities and one association representing cities provided testimony to the Committee. Although some of the testimony focused on specific areas for improvement or clarification of S.B. 2, other testimony only contained generalized complaints or concerns with S.B. 2.

A. TML testimony.

TML’s testimony included the results of its 2020 city tax rate survey (discussed in the section above) and highlighted two S.B. 2 implementation issues.⁶⁶ First, TML discussed an S.B. 2 drafting error that resulted in cities publishing incorrect tax rate notices in a scenario where the city “proposes to adopt a tax rate that: (1) is less than the de minimis rate; (2) higher than the voter-approval tax rate (3.5% multiplier); and (3) equal to or lower than the voter-approval tax rate calculated as if the city were a special taxing unit (8% multiplier).”⁶⁷ The Committee notes this issue in the tax rate notice onboarding process subsection and includes it in the Recommendation section.

Second, TML raises concerns regarding a provision in S.B. 2 that requires taxing units to include in their calculation “the portion of taxable value of property that is the subject of an

appeal under Chapter 42 on July 25 that is not in dispute.”⁶⁸ TML is concerned that this “language doesn’t account for the fact that there’s no uniform way for a chief appraiser to determine the disputed amount remaining under protest for each city.”⁶⁹ The Committee includes a clarification of this provision in its Recommendation section.

B. City of Galveston testimony.

The City of Galveston “believe[s] recovery of taxable property values following a major storm will take longer than the three-year exception provided under current law, particularly in smaller coastal communities.”⁷⁰ According to the City, “plummeting property values generate . . . significant shortfalls in critical needed revenue.”⁷¹ Therefore, the City “urges continued support for an exception to the 3.5 percent voter-approved rate and to consider increasing the current law three (3) year timeframe to five (5) years or when property values recover to pre-event levels, whichever occurs first.”⁷²

The City’s reasoning for requiring the S.B. 2 disaster exception is inaccurate because lower property values do not necessarily decrease property tax revenues. Instead, regardless of the S.B. 2 disaster exception, if the City’s property values decline (because of storm damage or any other reason), the City can adjust its tax rate to generate the same amount of revenue as the prior year (or up to 3.5% more revenue) without holding an election. The Committee recommends repealing this provision.

C. City of Georgetown testimony.

The City of Georgetown requested “that the Legislature provide clarification on Tax Code Chapter 26 regarding the requirements for notices for cities that are lowering the tax rate.”⁷³ The Tax Code already provides a notice for taxing units “that propose[] to adopt a tax rate that does not exceed the lower of the no-new-revenue tax rate or the voter-approval tax rate,” which would apply to the City’s 2020 tax rate.⁷⁴ The also City states that “the language in Section 26.05 is confusing as the subsections go back and forth between using the phrases tax rate, maintenance and operations rate, and debt rate.”⁷⁵ However, the City does not provide any specific statutory language that is confusing or vague.

D. City of Houston testimony.

The City of Houston raises a concern similar to TML’s second concern regarding the exclusion of property value under dispute when calculating “last year’s levy” for tax rate calculations.⁷⁶ Although, instead of arguing that the statutory language is unclear, the City argues CPA’s interpretation of the language is incorrect.⁷⁷ According to the City, the CPA Tax Rate Calculation Worksheet “includes new instructions for Line 1, Prior Year’s Total Taxable Value, specifically that it should ‘[e]xclude any property value subject to an appeal under Chapter 42 as of July 25.’”⁷⁸ The City contends that this interpretation conflicts with S.B. 2 because S.B. 2 only “expressly provide[s] that the value not in dispute should be *included*” and does not state whether the “disputed value of property subject to an appeal under Chapter 42 on July 25 must be *excluded*.”⁷⁹

As noted above, the Committee includes a clarification of this provision in its Recommendation section.

E. City of San Marcos testimony.

The City of San Marcos alleges that the tax-rate-setting timeline is too short, the 3.5% voter-approval tax rate multiplier is too low, and the City will “move currently cash funded expenditures to tax notes or other forms of debt issuance” if the Legislature does not increase the multiplier.⁸⁰

The City does not list any specific dates or deadlines to accompany its claims that: (1) “[t]he timing for the County’s appraisal process, and the City’s ability to determine the financial implications and budgetary impact in the current year is very difficult to coordinate” and (2) “[t]he timeline to seek voter approval for an increase to the property tax rate is also not feasible.”⁸¹ Therefore, the Committee cannot address the part of the timeline that is supposedly “not feasible.”

Additionally, the City did not use a 3.5% voter-approval tax rate multiplier in 2020 because the City voted 7–0 to:

direct[] the Interim Director of Finance of the City of San Marcos to calculate the voter-approval tax rate of the City of San Marcos in the manner provided for a special taxing unit by using an 8% threshold for new revenue instead of 3.5% as authorized by Texas Tax Code Section 26.04(C-1) due to the Governor’s State-Wide Declaration of Disaster in response to the COVID-19 Pandemic.⁸²

Subsequently, the City used this authorization to adopt a tax rate that would have exceeded the voter-approval tax rate with a 3.5% multiplier without holding the otherwise mandatory election.

Lastly, the City already funds its expenditures through significant certificate of obligation (“CO”) debt issuances, which do not require voter approval before issuance unless “at least five percent of the qualified voters of the issuer” submit a petition “protesting the issuance of the certificates.”⁸³ “COs are generally issued as tax-supported debt to pay for the construction of a public work; purchase of materials, supplies, equipment, machinery, buildings, land, and rights-of-way; and to pay for professional services such as engineers, architects, attorneys, and financial advisors.”⁸⁴ According to the Texas Bond Review Board, as of fiscal year (“FY”) 2019, the City had the 16th most CO debt outstanding (\$186.5 million) among all Texas taxing units.⁸⁵ Additionally, the City had the 12th most CO debt outstanding and the 4th highest CO debt outstanding per capita (\$2,937) among all Texas cities.⁸⁶

F. City of Coppell testimony.

The City of Coppell complains that “[o]verall, SB 2 ignores several other contingent deadlines imposed by other statutes, offers less opportunity for public involvement, and greatly

decreases the time staffs must complete deliverables.”⁸⁷ The City’s testimony generally ignores the thousands of taxing units, including the City, that were able to timely adopt tax rates in 2020.

In addition, after sharing a page of concerns regarding the “condensed deadlines” of S.B. 2, the City conflictingly argues that “[t]he change allowing record votes during the same meeting as the public hearings is not transparent and gives the perception that the governing body does not value public input.”⁸⁸ The purpose of this change was to give taxing units additional flexibility to meet S.B. 2’s deadlines.

However, the City does include a concern raised by multiple respondents that the Election Code contains a more restrictive timeline than the Tax Code to set an election to approve a tax rate.⁸⁹ A taxing unit only reviewing the Tax Code could understand that the taxing unit has until the “71st day before the next uniform election date” to “adopt a tax rate that exceeds the voter-approval tax rate.”⁹⁰ But, a taxing unit that waited until the 71st day before the election date would miss the opportunity to order an election to approve the tax rate by seven days under the Election Code requirement that “the election shall be ordered not later than the 78th day before election day.”⁹¹ The Committee addresses this discrepancy in its Recommendation below.

III. County Testimony

Three individual counties and two associations representing counties provided testimony to the Committee generally requesting additional expenditure carve-outs from the no-new-revenue or voter-approval tax rates. The Committee declines to make these recommendations.

A. CJCAT testimony.

“CJCAT is composed of the members of all 254 commissioners courts in Texas.”⁹² CJCAT made three recommendations to the Committee “to improve provisions of S.B. 2:” (1) “add[] expenditures associated with a Public Defender’s Office . . . to the definition of ‘indigent defense compensation expenditures’ in Section 26.0442 of the Tax Code;” (2) “reduc[e] the number of public tax rate notices, standardiz[e] the language across all notices, and simplify[] the school district tax rate notice;” and (3) schedule “the entire Property Tax Code . . . for sunset on January 1, 2024 and . . . creat[e] . . . a commission to study and recommend a complete revision.”⁹³

B. CUC testimony.

CUC is “composed of 34 member counties that represent nearly 80% of the state’s population.”⁹⁴ CUC testified that its “objections regarding S.B. 2 are documented and continue” before adding, identically to CJCAT, that the Legislature should “add[] expenditures associated with a Public Defender’s Office . . . to the definition of ‘indigent defense compensation expenditures’ in Section 26.0442 of the Tax Code.”⁹⁵ CUC adds that it “recommends amending the definition of debt rate to provide an option for taxing units to consider 10% of their last year’s tax rate as their debt rate under the no-new-revenue calculation for pay-as-you-go projects” because “[a]n unintended consequence of [S.B. 2’s debt] exception is that it incentivizes taxing units to only utilize debt for large capital expenses.”⁹⁶

C. Dallas County testimony.

Dallas County repeated CUC’s recommendations relating to pay-as-you-go financing and the definition of “indigent defense expenditures.”⁹⁷ Unrelated to S.B. 2, Dallas County also recommends that the Legislature “add[] a provision allowing the Budget Officer to make plans to appropriate all non-tax revenue for their intended purposes prior to setting a tax rate” and “provide counties with constitutional and statutory protection from State imposed property tax increases or a credit to the no-new-revenue-rate calculation for new costs as a result of State imposed property tax increases.”⁹⁸

D. El Paso County testimony.

El Paso County adds to the testimony of Dallas County and CUC that it is “strongly in support of exempting county public defenders offices (in addition to costs of private appointed attorneys) from [S.B. 2’s] revenue cap as a means to assist counties in meeting indigent defense’s unfunded mandate.”⁹⁹

E. Tarrant County testimony.

Tarrant County requested six changes to the post-S.B. 2 Tax Code: (1) amend the Property Tax Administration Advisory Board “to include the appointment of a county representative;” (2) clarify “whether the 71st [or] 78th day before the next uniform election should serve as the deadline for adoption” of a tax rate exceeding the voter-approval tax rate; (3) amend the tax rate hearing notice requirement “to require publishing of tax notices on either the taxing unit’s website or the local newspaper;” (4) amend the August 7 postcard notice requirement “to either be more prescriptive in the format of the information (e.g., the card must include a statement regarding this is an official government notification, must include the appraisal district logo at a certain size, or can be done through email) or . . . remove the requirement entirely;” (5) provide a new voter-approval tax rate adjustment for “any increased public health expenditures;” and (6) require CPA to publish all tax rate “forms and notices . . . in final form by July 1 of the tax year.”¹⁰⁰

IV. Property Tax Administrator Testimony

The Committee received testimony from TAAD and TACA as well as testimony from an individual tax assessor-collector. TAAD and TACA represent the majority of local CADs and tax assessor-collectors tasked with implementing S.B. 2.

A. TAAD testimony.

TAAD represents over “95 percent of the state’s 254 appraisal districts.”¹⁰¹ TAAD provided feedback on implementing the property tax database websites and the August 7 postcard notices about the websites.¹⁰² Regarding the websites, TAAD noted that its members “saw a very low volume of website visits compared to the number of notices mailed,” the tax website format and URL varied among vendor implementation, and “[t]axpayers find information on the website confusing.”¹⁰³ In response, TAAD recommends that the Legislature:

- “Implement a consistent statewide program to publicize the tax databases, their terminology, and how best to use them,” including “a central statewide website that would serve as a landing page for all property owners;”¹⁰⁴
- “Review the timing and enforcement of requirements for taxing entities to enter tax rate data on the website so that meaningful information is there when the taxpayer is notified to check it;”¹⁰⁵
- “Allow users to create an account on the website and provide an email address for alerts whenever the website is updated;”¹⁰⁶ and
- “Consider having the comptroller’s office develop a standardized format, including an educational component, for the websites.”¹⁰⁷

Regarding the August 7 notices, TAAD shared observations that CADs “are concerned about the cost of mailing the additional notice,”* “[s]ome taxpayers viewed the new notice with suspicion,” the statute does not “specify an official or office who can answer questions” about the notice, and “the timing of the notice (before August 7) may not match the actual availability of meaningful data.”¹⁰⁸ In response, TAAD recommends the Legislature improve the notice by including the postcard information on the appraisal notice and only sending the August 7 postcard “to those who do not receive the appraisal notice,” ensuring all tax rates notices and bills “contain information regarding the website,” requiring taxing units “to include links to the tax data website” on the taxing units’ websites, and “implement[ing] a statewide program to publicize the tax data website.”¹⁰⁹

B. TACA testimony.

TACA represents Texas’ 254 county tax assessor-collectors and provided testimony listing 13 “concerns or issues” with S.B. 2 and 19 “recommendations to remedy [the concerns and issues].”¹¹⁰ TACA’s concerns or issues and recommendations are listed in the table below:

TACA Concern or Issue:	TACA Recommendation:
Tax Rate Names (Tax Code § 26.012)	No recommendations, but “the new names, especially the Voter-Approval rate, have confused taxpayers.”
Value Subject to an Appeal (Tax Code § 26.012(13)(iii))	Consider repealing Tax Code § 26.012(13)(iii).
Submission of Rolls to the Taxing Units (Tax Code § 26.01)	Consider clarifying that the certified estimate must be provided in the same manner as required for the certified roll in Tax Code § 25.02.
No-New-Revenue and Voter-Approval Tax Rates (Tax Code § 26.04): does not accommodate a scenario when an assessor must use certified estimates.	Consider amending the language to accommodate the ability for the assessor to use values as shown in the certified estimates.
No-New-Revenue and Voter-Approval Tax Rates (Tax Code § 26.04): the code is silent about what can be done at a later date in the event certified estimates are	Consider adding language that indicates taxing units are to use the rates as calculated and certified by August 7, or consider amending language to allow a tax assessor to recalculate rates using a certified roll if the rates were previously calculated using certified estimates and the

* TAAD provided the Committee with each CAD’s cost to mail the August 7 postcards, which the Committee includes in Appendix A.

TACA Concern or Issue:	TACA Recommendation:
used to calculate rates.	calculations can be completed in a timely manner. Consider including language that clarifies whether or not the tax rates may be recalculated.
Excess Collections (Tax Code § 26.04(h-1))	Consider repealing Tax Code § 26.04(h-1).
Tax Rate Public Notices and Adoption (Tax Code § 26.05): delayed tax rate adoption	Consider amending language to allow tax rate adoptions based on the delivery of certified estimates of taxable values by the chief appraiser.
Tax Rate Public Notices and Adoption (Tax Code § 26.05): number of public hearing notices	Consider reducing the number of public tax rate notices, standardizing the language across all notices, and simplifying the school district tax rate notice.
Petition for Election (Tax Code § 26.075)	Consider amending Tax Code 26.075(b) with more precise language that more accurately reflects the intentions of the Legislature and ensure that a public notice is appropriately promulgated.
Posting Tax-Related Information on County Website (Tax Code § 26.16)	Consider repealing Tax Code 26.16 and amending Section 26.17 to incorporate any data from Section 26.16 not already included in Section 26.17.
Database of Property-Tax-Related Information & Notice (Tax Code § 26.04(e-2) and Tax Code § 26.17): August 7 postcard timing and notice language	Consider removing the tax assessor-collectors' contact information from the postcard required by Section 26.04(e-2) and revising the language to encourage taxpayers to contact the responsible taxing units with questions regarding proposed tax rates, as well as meeting times and date. Consider revising the language on the postcard to be more taxpayer-friendly. Consider adding to Tax Code 26.17 the requirement to provide a link to list taxing units' governing bodies and contact information posted so that Section 26.16 can be justifiably repealed. Consider requiring the website address and language from the postcard be incorporated into the notice of public hearing/tax rate adoption.
Database of Property-Tax-Related Information & Notice (Tax Code § 26.04(e-2) and Tax Code § 26.17): property tax database website updates	Consider amending Tax Code 26.17 to allow CADs to turn the website off or disable it after tax statements have been mailed. Or, consider requiring the property tax database website to reflect changes made to accounts throughout the year. Consider amending Tax Code 26.17 to allow a portion of the required website to be hidden from view as applicable. For example, allow the public comment form to be turned off or hidden after the adoption of the tax rate, or the estimated tax chart to be hidden after tax statements are mailed.
Water Districts (MUDs and WCIDs) (Water Code §§ 49.23601, .23602, .107(g))	Consider amending Chapter 49 to require a water district's governing body to certify to the designated officer and tax assessor-collector the type of district they are as defined in Chapter 49 of the Water Code. Consider amending Chapter 49 to clarify that water districts are required to comply with certain sections of the Property Tax Code, including Sections 26.17 and 26.18. Chapter v49 currently identifies sections of the Property Tax Code from which water districts are exempt. Consider amending Chapter 49 to require the tax assessor, designated

TACA Concern or Issue:	TACA Recommendation:
	person, or employee that calculates rates for the district to use the forms as promulgated by the Comptroller’s office, and require the data and worksheets be certified as accurate as described in the Property Tax Code 26.04 (d-1) and (d-2).

C. Galveston County Tax Assessor-Collector testimony.

The Galveston County Tax Assessor-Collector (Cheryl Johnson) echoed many of the same concerns as TACA and made many similar recommendations.¹¹¹ However, Ms. Johnson added that she believes the Property Tax Administration Advisory Board (“PTAAB”) “was not formed timely, did not have representation that included an advocate for property owners and did not accomplish that which was hoped for.”¹¹² Additionally, § 5.05 of the Tax Code allows CPA to “prepare and issue publications relating to the appraisal of property and the administration of taxes.”¹¹³ Ms. Johnson alleges that these appraisal manuals and other materials were “[n]ot completed. No such manuals exist. Standards are necessary to ensure consistency among counties. Perhaps a deadline needs to be established in order to ensure performance.”¹¹⁴ The Committee investigated these allegations and found that PTAAB was established timely, has a board that includes three individuals representing property owners and two CAD taxpayer liaison officers and met three times in 2020.¹¹⁵ Additionally, CPA “has published all manuals required by law to be prepared and issued by [CPA]. The manuals [its] office is required by law to prepare and publish overlaps with, but is not identical to, the list of manuals in Tax Code [§] 5.05(a).”¹¹⁶

Ms. Johnson also states that the deadline for taxing units to adopt a tax rate that exceeds the voter-approval tax rate (71 days before the next uniform election date) “needs to be revised to conform to the Election Code,” which Ms. Johnson states “requires calling an election no less than 78 days before the uniform election date.”¹¹⁷ Lastly, Ms. Johnson would like the Legislature to “specifically . . . provide[] [the public] the right to protest [property values] in person.”¹¹⁸

The Tax Code requires that a taxing unit “governing body must adopt a tax rate that exceeds the voter-approval tax rate not later than the 71st day before the next uniform election date.”¹¹⁹ “The order calling the election may not be issued later than the 71st day before the date of the election.”¹²⁰ On the other hand, the Election Code requires political subdivisions to order elections “not later than the 78th day before election day” if the election is “to be held on a uniform election day.”¹²¹ This requirement “supersedes a law outside [the Election Code] to the extent of any conflict.”¹²² Election orders “must state the date of the election and the offices or measures to be voted on at the election.”¹²³ However, the Election Code includes a different provision for elections to approve school districts’ tax rates. Those elections “shall be ordered not later than the 30th day before election day.”¹²⁴ The Election Code does not include a separate provision for elections to approve the tax rates of taxing units other than school districts. Therefore, the Committee recommends this change in its Recommendation section.

Additionally, the Tax Code already provides “property owners a right to appear in person at a protest hearing.”¹²⁵

V. Taxpayer Testimony

The Committee received testimony from five entities representing taxpayers across the State.

A. TTARA testimony.

TTARA is “a non-profit membership supported organization of businesses and individuals interested in state and local fiscal policies in Texas.”¹²⁶ TTARA suggested the following changes to the Tax Code that “would further improve accountability to the public.”¹²⁷

- Clarify that the H.B. 492 disaster exemption “only applies to property that has been physically damaged;”¹²⁸
- Change the S.B. 2 disaster exception to apply to either “[j]urisdictions subject to formal disaster declaration involving physical damage . . . subject to a separate vote of the governing body in a formal public hearing that has been posted with advance notice, or . . . if the Governor explicitly provides for the rate in the disaster declaration;”¹²⁹
- “Calculate a ‘true-up’ of prior year rate calculations based on the revenues with the final supplemental tax roll included;”¹³⁰
- Require taxing units to post the complete “[tax] [r]ate worksheets, rather than just an explanation” and create an “enforcement mechanism, such as injunctive relief for taxpayers;”¹³¹
- Improve the property tax database websites by implementing standardized graphical representations, allowing taxpayers to access “a ‘Support’ or ‘Do Not Support’ position toggle . . . in the feedback form,” requiring taxing units to post “all feedback . . . prominently . . . on the taxing jurisdiction’s website,” and listing accurate definitions of basic tax rate terminology on the website;¹³²
- Increase accessibility of the property tax database websites by “[s]tandardiz[ing] the URL for counties across the state or provid[ing] a single portal to access individual county sites” and allowing taxpayers “to opt for electronic notifications” instead of postcard notifications;¹³³
- “Eliminate the debt tax loophole” by either “[r]equir[ing] all debt issued by a jurisdiction for a period that extends beyond the current budget year to be subject to voter approval, or . . . [l]imit[ing] the debt service tax rate to apply only to voter approved debt.”¹³⁴

The Committee addresses the majority of TTARA’s suggestions in the Recommendation section. The Committee does not address the recommendation related to H.B. 492, which is outside this charge’s scope. Further, the Committee notes that effective January 1, 2021, S.B. 2 requires taxing units to “include as an appendix to the taxing unit’s budget for a fiscal year the tax rate calculation forms used by the designated officer or employee of the taxing unit to calculate the no-new-revenue tax rate and the voter-approval tax rate of the taxing unit.”¹³⁵

B. TAA testimony.

TAA “represents more than 12,000 members who own, manage and serve nearly 2.3 million rental housing units in Texas.”¹³⁶ TAA makes two requests to the Legislature: (1) “explore ways to provide future relief to properties impacted by economic disasters, similar to the legislation which allows property to be reappraised after a natural disaster” and (2) clarify state law “regarding the ability of local government entities to raise property taxes following a disaster” because “local governments have taken advantage of the situation to raise taxes up to 8 percent, instead of the 3.5 percent mandated by SB 2.”¹³⁷

Although post-disaster reappraisals or exemptions are not within the scope of Charge 1.1, a review of the S.B. 2 disaster exception is, and the Committee address that issue in the Recommendation section below.

C. TACO and Hatch RV Park testimony.

TACO, a trade association representing over 400 recreational vehicle (“RV”) parks and campgrounds, and Hatch RV Park, an RV park in Nueces County, both disagree with CADs using the income method of appraisal to value campgrounds and RV parks.¹³⁸ Hatch RV Park opposes the income approach because that appraisal method “never takes into consideration a bad year or major improvements needed on the property.”¹³⁹ Additionally, Hatch objected to the CAD requesting Hatch’s “profit and loss statement for 2019” because Hatch did “not want to be penalized for having revenues for the other innovative or proprietorial aspects of [its RV park] business.”¹⁴⁰

TACO raised concerns that the income method “leaves wide interpretations by each appraisal district,” includes “an arbitrary Capitalization Rate,” and “may not accurately reflect the value of a business.”¹⁴¹ TACO’s testimony also complained that the ARB process “[i]s confusing,” “complicated for the average person,” and the ARB is “unsympathetic to . . . appeal[s] and committed to the appraised value / increase.”¹⁴² TACO also requested that the Legislature cap annual tax increases “in the 10% range on commercial property tax bills.”¹⁴³

The income method of appraisal has been statutorily enumerated in the Tax Code since 1997 and was not changed by S.B. 2.¹⁴⁴ Further, chief appraisers are required to “consider the cost, *income*, and market data comparison methods of appraisal and use the most appropriate method.”¹⁴⁵ The Committee’s review of ARB survey responses indicates that the vast majority of ARB protest hearing participants have a positive impression of the ARB. Lastly, S.B. 2 did not modify the existing homestead appraisal increase cap or add any new appraisal caps.

D. HMWK Global testimony.

HMWK Global, a government and public affairs lobbying firm, briefly mentioned that S.B. 2 “is a key component in [the effort for a more efficient appraisal process], and . . . commend[ed] the Legislature for those efforts.”¹⁴⁶ That is the only time HMWK discusses S.B. 2 in its testimony other than to note that “SB 2 does not specifically address” the primary reason for its testimony, which is the appraisal of low-income housing tax credit program (“LIHTC”)

developments.¹⁴⁷ HMWK believes that “[t]he property tax appraisal process for LIHTC developments requires greater clarity, certainty, and guidance.”¹⁴⁸

This issue does not fall within the Committee’s authority under Charge 1.1 because it does not relate to the implementation of S.B. 2. Additionally, HMWK misstates the duties of CADs by stating that “[a]ppraisal districts are charged with maximizing property tax revenue and collections for our governmental bodies that rely on that revenue.”¹⁴⁹ Instead, the chief appraiser’s (and through the chief appraiser, the CAD’s) “primary duty is to discover, list, review and appraise all taxable property in the CAD using generally accepted appraisal techniques.”¹⁵⁰

VI. Other Testimony

The Committee received testimony from two other entities that did not fall into any of the above categories.

A. TPA testimony.

TPA, a newspaper trade association, raised alarming concerns that S.B. 2 “has jeopardized the ability for the press to perform its oversight function, effectively removing third-party accountability from the public-notice process” by “eliminate[ing] the requirement that government entities publish newspaper notices of certain changes to the no-new-revenue . . . tax rates, the voter-approval . . . tax rates, and an explanation of how those rates were calculated.”¹⁵¹ TPA argues that the information that taxing units traditionally publish in newspapers “is often difficult to access on individual government websites, where notice sections are neither *prominent* nor intuitive to access.”¹⁵²

Fortunately, S.B. 2 still requires taxing units to publish notice of a public hearing on a tax rate increase in a newspaper and, for the information posted online, requires taxing units to post information prominently and in an intuitive location (the website’s home page).

TPA is referencing a change in S.B. 2, which removed a requirement that taxing units “deliver by mail to each property owner in the unit or *publish in a newspaper* in the form prescribed by the comptroller” certain information regarding the calculation of the taxing units’ tax rates.¹⁵³ Instead, under S.B. 2, taxing units must now “post *prominently* on the *home page* of the taxing unit’s Internet website in the form prescribed by the comptroller” the same information previously required to be published in a newspaper or mailed to each property owner.¹⁵⁴

In addition, S.B. 2 retained the requirement that taxing units must provide all notices of a public hearing on a tax increase by mail or by publication in a newspaper.¹⁵⁵ If a taxing unit publishes its public hearing notice in a newspaper, the taxing unit may not publish the notice “in the part of the paper in which legal notices and classified advertisements appear,” may not make the notice “smaller than one-quarter page of a standard-size or tabloid-size newspaper,” and must print “the headline on the notice . . . in 24-point or larger type.”¹⁵⁶

B. THOT testimony.

THOT, an association of state, public, and non-profit hospitals and health systems, requested that “the Committee refrain from reducing the [rollback] rate for hospital districts” because “the rationale supporting the Legislature’s exemption [] during the last session is even more compelling today.”¹⁵⁷ THOT states that “the Legislature maintained a special taxing exemption for hospital districts as they are crucial to obtaining statewide health goals and have higher inflationary pressures.”¹⁵⁸ Further, “[h]ospital districts also use property taxes to support underfunded state health goals like Graduate Medical Education and Medical School Support, Trauma Care, and Care for the Uninsured and underinsured.”¹⁵⁹ Thus, THOT argues that “reducing hospitals districts’ property tax [rollback] rates would be enormously risky to the state’s healthcare infrastructure as well as to the patients served by that infrastructure.”¹⁶⁰

Hospital districts are one of the three types of taxing units that S.B. 2 listed as STUs, enabling the taxing units to use an 8% voter-approval tax rate multiplier instead of 3.5%.¹⁶¹ The Committee did not receive any testimony suggesting hospital districts should not be STUs.

Recommendation

The Committee makes the following nine recommendations to address S.B. 2 implementation issues:

I. Add an Additional Notice to the Tax Code to Address the Notice Gap for Certain Taxing Units Using the De Minimis Rate

Although the number of taxing units that will fall into the category of adopting a tax rate that exceeds the voter-approval tax rate but does not exceed an eight percent increase or the de minimis rate is small, the Tax Code notices should address all possible scenarios for clarity.

II. Standardize the Format, URL, and Feedback Mechanisms of the Property Tax Database Websites

Regardless of what CAD a taxpayer’s property is located in, taxpayers should have uniform access to transparent tax-rate information and intuitive feedback tools. Standardizing the property tax database websites will improve transparency and taxpayer understanding.

III. Implement a Statewide Website to List all Property Tax Database Website Links by County

Creating a central website to house links to all property tax database websites will ensure taxpayers can easily find the correct site to access their property tax information.

IV. Require all Tax Rate Notices and Tax Bills to Include a Property Tax Database Website Link

Increasing the communications that provide information about the property tax database websites will provide additional opportunities for taxpayers to access this resource without additional costs to CADs or tax assessor-collectors.

V. Allow Taxpayers to Create an Account on the Property Tax Database Websites and Receive Email Notifications

Allowing taxpayers to create accounts on the property tax database websites and receive electronic notifications will help ensure taxpayers view the sites when updated information is available and could reduce the costs of mailing the August 7 postcard notices.

VI. Eliminate or Restructure the S.B. 2 Disaster Exception

Although the S.B. 2 disaster exception was adopted with the admirable goal of providing communities facing property-damaging disasters with the ability to raise sufficient property tax revenues, the exception is unnecessary to achieve that goal. Additionally, over 40 taxing units used this exception during the COVID-19 disaster, which caused no physical property damage. This exception should either be eliminated or restructured to be limited to disasters causing physical property damage within the taxing unit that wants to use the exception.

VII. Limit the Debt Rate to Voter-Approved Debt

The voter-approval tax rate only limits the increase of the M&O portion of the tax rate, not the debt portion. Thus, taxing units might issue non-voter-approved debt such as COs to avoid submitting tax increases to voters. Limiting the debt rate to voter-approved debt will ensure that taxpayers always have a say on tax increases.

VIII. Amend the Election Code to Align the Time for Ordering an Election with the Deadline to Adopt a Tax Rate Exceeding the Voter-Approval Tax Rate

Taxing units could currently adopt a tax rate that exceeds the voter-approval tax rate in time to comply with the Tax Code but past the deadline in the Election Code. Adding a provision to the Election Code for elections to approve the tax rate of taxing units other than school districts could address this issue.

IX. Clarify Whether the Disputed Portion of Taxable Property Value Should be Included in Last Year's Levy

S.B. 2 included a provision requiring taxing units to include the portion of taxable value of property that is the subject of an appeal and not in dispute in the taxing units' "last year's levy" to standardize the "last year's levy" calculation across the State. Clarifying that the disputed portion should not be included and providing additional guidance for CADs to calculate the undisputed portion will standardize this process further and eliminate confusion.

IMPLEMENTATION MONITORING: H.B. 1525 AND H.B. 2153 (CHARGE 1.2)

Monitor the Comptroller of Public Accounts' rules regulating the collection of sales, use, and franchise tax to ensure compliance by marketplace providers and out-of-state businesses and monitor any revenue increases as a result of implementation of these bills.

Introduction

In the 86th Legislative Session, the Legislature passed two bills to facilitate efficient sales tax collections from marketplace participants (H.B. 1525) and remote sellers (H.B. 2153).¹⁶²

I. Marketplace Participant Legislation (H.B. 1525)

A marketplace is “a physical or electronic medium through which persons other than the owner or operator of the medium make sales of taxable items. The term includes a store, Internet website, software application, or catalog.”¹⁶³ Examples of marketplaces include Amazon, eBay, Etsy, and Walmart Marketplace.¹⁶⁴ Sales made through online marketplaces were generally taxable under existing law prior to H.B. 1525.¹⁶⁵ However, marketplace sellers and marketplace providers were unclear which party was responsible for collecting and remitting sales tax.¹⁶⁶ Therefore, the Legislature enacted H.B. 1525 to “clearly establish[] the responsibilities of persons involved in marketplace transactions.”¹⁶⁷

At the time the Legislature enacted H.B. 1525, CPA and the Legislative Budget Board (“LBB”) estimated a positive general revenue impact of \$550 million through the FY 2020–2021 biennium and an average annual revenue gain to local governments of \$85.4 million over FY 2020–2024.¹⁶⁸ The table below lists the LBB revenue estimates for FY 2020–2024.

Fiscal Year:	Probable Revenue Gain from General Revenue Fund:	Probable Revenue Gain from Cities:	Probable Revenue Gain from Transit Authorities:	Probable Revenue Gain from Counties & Special Districts:	Total Probable Revenue Gain from Local Governments:
2020	\$242,500,000	\$40,000,000	\$14,000,000	\$8,000,000	\$62,000,000
2021	\$307,500,000	\$57,000,000	\$20,000,000	\$11,000,000	\$88,000,000
2022	\$315,200,000	\$58,000,000	\$20,000,000	\$12,000,000	\$90,000,000
2023	\$323,100,000	\$60,000,000	\$21,000,000	\$12,000,000	\$93,000,000
2024	\$331,100,000	\$61,000,000	\$21,000,000	\$12,000,000	\$94,000,000
Total:	\$1,519,400,000	\$276,000,000	\$96,000,000	\$55,000,000	\$427,000,000

II. Remote Seller Legislation (H.B. 2153)

A remote seller is a seller located outside of Texas, whose only activity is the remote solicitation of sales in Texas.¹⁶⁹ Prior to 2018, the United States Supreme Court held that a state imposing sales and use tax responsibilities on sellers without a physical presence in that state would unconstitutionally burden interstate commerce.¹⁷⁰ In 2018, the Supreme Court overruled

the physical presence rule in its *South Dakota v. Wayfair, Inc.* decision.¹⁷¹ Additionally, the Court noted that “South Dakota’s tax system includes several features that appear designed to prevent discrimination against or undue burdens upon interstate commerce.”¹⁷² Those features included a safe harbor provision (no tax liability for sellers with annual sales of less than \$100,000 and less than 200 transactions), no retroactive tax burden, and a standardized tax system with “simplified tax rate structures.”¹⁷³

In Texas, following the *Wayfair* decision, CPA amended its rules concerning Seller’s and Purchaser’s Responsibilities to “restore[] the permit and collection requirements of the Tax Code that were unconstitutional prior to the *Wayfair* decision and establish[] a safe harbor for remote sellers.”¹⁷⁴ This rule amendment established a safe harbor threshold (i.e., exemption from sales tax permitting and collection obligations) for “remote seller[s] whose total Texas revenue in the preceding twelve calendar months is less than \$500,000.”¹⁷⁵ Additionally, this rule amendment provided a transition period to allow remote sellers until October 1, 2019, to “obtain a permit . . . and begin collecting use tax.”¹⁷⁶ To prevent this permitting and collection requirement from unduly burdening remote sellers, the Legislature enacted H.B. 2153 “to alleviate a remote seller’s burden in calculating the local use tax in Texas by giving these sellers the option to collect taxes using a single local use tax rate.”¹⁷⁷

Since the passage of H.B. 1525 and H.B. 2153, CPA has adopted rules to implement both bills and collected sales tax revenue for an entire year under the new requirements. The Committee reviewed the rules to ensure they implemented both bills and evaluated the revenue impact from marketplace and remote seller collections.

III. Interim Committee Testimony

The Committee held a public hearing on February 5, 2020, to take testimony on this charge.¹⁷⁸ Seventeen witnesses provided over four hours of testimony on this charge:

- (1) Honorable Glenn Hegar, Texas Comptroller of Public Accounts;
- (2) Karey Barton, Associate Deputy Comptroller for Tax, CPA;
- (3) Karen Selbo Hunt, Mayor, City of Coppell;
- (4) Mike Land, City Manager, City of Coppell;
- (5) Robert Camareno, City Manager, City of New Braunfels;
- (6) Jared Werner, Chief Financial Officer, City of New Braunfels;
- (7) Steve Sheets, City Attorney, City of Round Rock;
- (8) Cindy Olson Bourland, Contract Attorney, City of Round Rock;
- (9) Heather Hurlbert, Director of Finance, City of San Marcos;
- (10) Steve Presley, Mayor, City of Palestine;
- (11) Kenneth Welch, representing himself;
- (12) Andrew Fortune, Assistant to City Manager, City of Grand Prairie;
- (13) Keith Wright, City Manager, City of Lufkin;
- (14) Thomas “T.J.” Gilmore, Councilmember Place Three, City of Lewisville;
- (15) David Erb, Director of Finance, City of Lewisville;
- (16) John Kroll, Partner, HMWK Global; and
- (17) William Hamner, Special Counsel for Tax, CPA.¹⁷⁹

In addition, the Committee received written testimony from one individual representing an entity that did not testify at the hearing:

- (1) Jason Stuebe, City Manager, City of Humble.¹⁸⁰

CPA explained the rules to implement H.B. 1525 and H.B. 2153 and discussed the current revenues associated with marketplace participants and remote sellers. Generally, the other testimony expressed concerns regarding CPA rule proposals that CPA included in the proposed rule amendment to implement H.B. 1525 and H.B. 2153 but were unrelated to those two bills. Two cities (Palestine and Lufkin) supported those unrelated rule amendments, and the only individual representing himself at the hearing also supported those rule amendments. The testimony presented to the Committee is discussed throughout the Committee Review section below.

Committee Review

I. H.B. 1525 and H.B. 2153 Implementation Rules

CPA published and adopted two Texas Administrative Code (“TAC”) rule amendments in the Texas Register to implement H.B. 1525 and H.B. 2153.¹⁸¹

A. Amendments to seller’s and purchaser’s responsibilities rules.

First, CPA adopted amendments to 34 TAC § 3.286 (Seller’s and Purchaser’s Responsibilities) to implement the sections of H.B. 1525 that “establish[] tax responsibilities for marketplace providers and marketplace sellers.”¹⁸² CPA only received two comments suggesting changes to the proposed rule.¹⁸³ CPA declined to make both of the changes because CPA determined the suggestions were unnecessary.¹⁸⁴ The Committee reviewed the proposed changes and CPA’s responses and agrees with CPA’s determination.

B. Amendments to local sales and use taxes rules.

Second, CPA adopted amendments to 34 TAC § 3.334 (Local Sales and Use Taxes) to implement H.B. 2153, which “establishes a single local use tax rate that remote sellers may elect to use,” and the sections of H.B. 1525 that “establish[] local sales and use tax collection responsibilities on marketplace providers.”¹⁸⁵ Unrelated to the implementation of H.B. 1525 and H.B. 2153, “[t]he amendments also provide additional guidance on determining whether an order is received at a place of business of the seller, and clarify the rules for determining the consummation of sales.”¹⁸⁶

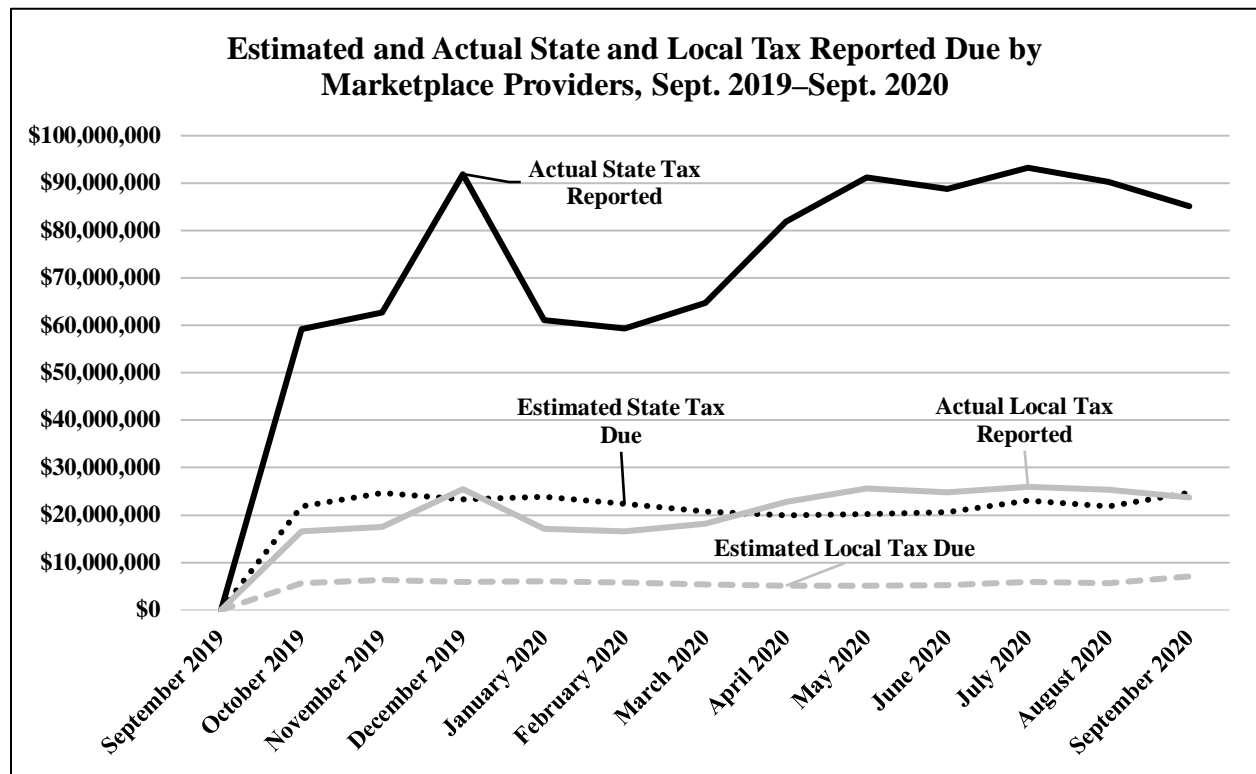
Unlike the amendments to 34 TAC § 3.286, these amendments generated significant interest, which led to CPA extending the comment period by “60 days, for a total of 90 days,” holding a public hearing on February 4, 2020, and receiving dozens of comments from interested parties.¹⁸⁷ However, these comments did not suggest that the parts of the amendment implementing H.B. 1525 and H.B. 2153 were incorrect. Instead, the comments addressed the portion of the amendment providing guidance to determine whether an order is received at a place of business and clarifying the sales consummation rules. At least 25 of the commenters

opposing the sections addressing sales consummation and where an order is received suggested that CPA should solely adopt the parts of the amendment implementing H.B. 1525 and H.B. 2153.¹⁸⁸ The 54 commenters supporting the sections addressing sales consummation and where an order is received also supported the language implementing H.B. 1525 and H.B. 2153.¹⁸⁹

II. H.B. 1525 and H.B. 2153 Implementation Results

As of December 13, 2020, 581 entities have registered as marketplace providers, and 4,102 remote sellers have elected to use the single local use tax rate.¹⁹⁰ Although some of these entities subsequently ended their marketplace provider registration or elected to collect each jurisdiction’s sales tax rate, the vast majority remain active.

Marketplace provider collections have exceeded prior estimates at both the state and local level. The graph below compares the estimated state and local tax revenue increases from marketplace providers as estimated in the H.B. 1525 fiscal note with the actual state and local tax reported due for all of FY 2020 and the first month of FY 2021.

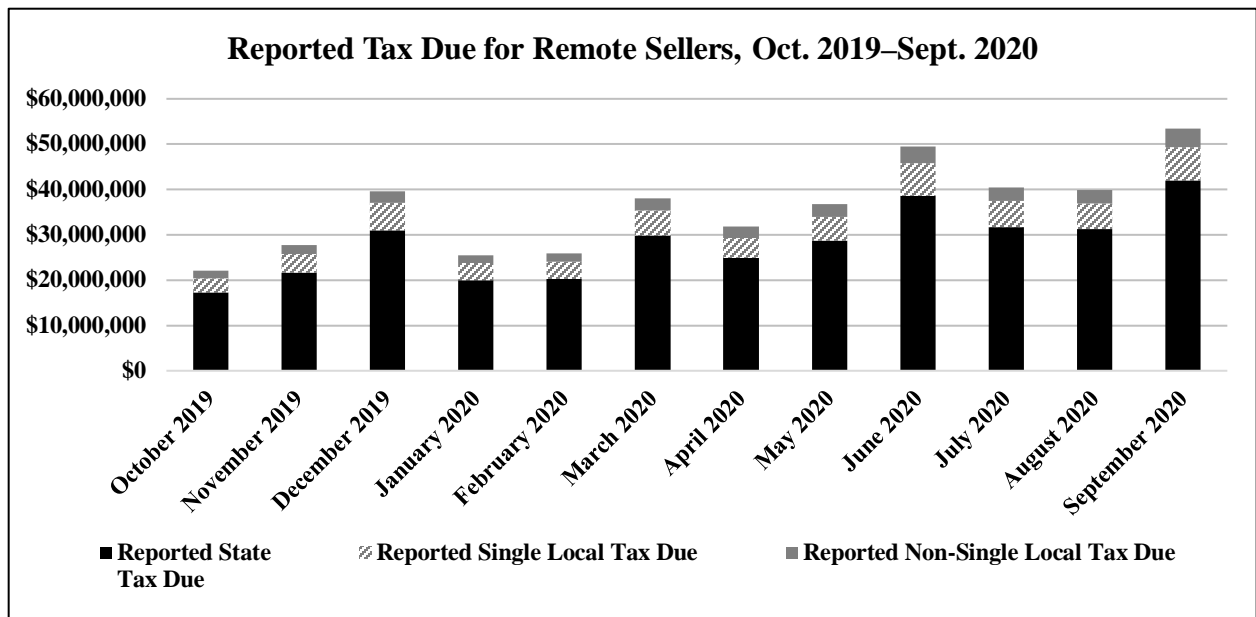


The reported tax due from marketplace providers has exceeded estimates by \$662.2 million at the state level and by \$190.6 million at the local level from October 2019 through September 2020.

Report Period:	Estimated State Tax Due:	Actual State Tax Reported Due:	Estimated Local Tax Due:	Actual Local Tax Reported Due:
September 2019	\$0.00	\$0.00	\$0.00	\$0.00

Report Period:	Estimated State Tax Due:	Actual State Tax Reported Due:	Estimated Local Tax Due:	Actual Local Tax Reported Due:
October 2019	\$21,818,180.33	\$59,206,164.74	\$5,578,256.41	\$16,571,341.99
November 2019	\$24,611,355.61	\$62,677,813.57	\$6,292,387.83	\$17,457,840.40
December 2019	\$23,295,094.74	\$91,909,703.83	\$5,955,859.27	\$25,477,326.62
January 2020	\$23,852,869.88	\$61,072,078.86	\$6,098,465.70	\$17,104,854.32
February 2020	\$22,377,942.86	\$59,300,706.79	\$5,721,370.96	\$16,629,292.20
March 2020	\$20,804,984.31	\$64,702,533.16	\$5,319,212.48	\$18,177,342.54
April 2020	\$19,981,680.39	\$81,845,895.82	\$5,108,718.29	\$22,804,904.56
May 2020	\$20,198,986.04	\$91,241,532.68	\$5,164,276.84	\$25,618,581.31
June 2020	\$20,679,160.31	\$88,763,084.74	\$5,287,043.05	\$24,747,792.85
July 2020	\$23,074,510.28	\$93,235,971.65	\$5,899,462.42	\$25,964,136.58
August 2020	\$21,805,235.25	\$90,312,908.59	\$5,574,946.74	\$25,399,545.76
September 2020	\$24,709,709.11	\$85,090,242.99	\$7,071,396.43	\$23,669,757.01
Total:	\$267,209,709.11	\$929,358,637.42	\$69,071,396.43	\$259,622,716.14

From October 2019 through September 2020, the reported tax due from remote sellers has provided an additional \$337.4 million in state sales tax due and \$93.4 million in local sales tax due, with 66.2% of the local sales tax due coming from remote sellers collecting the single local use tax.



At the November 30, 2020, LBB meeting, Comptroller Glenn Hegar noted that “the biggest gain [in Texas’ sales tax collections] has come in the form of collections from online retail . . . because we are now collecting a lot of revenue that we were not collecting in fiscal 2019” as a result of “the Supreme Court’s *Wayfair* decision and the passage of House Bill 1525.”¹⁹¹

III. February 5, 2020, Committee Testimony

Although the Committee received extensive testimony on Charge 1.2 at the February 5 interim hearing, nearly all of this testimony related to CPA’s proposed TAC rule amendments that CPA intended to “clarify provisions concerning fulfillment, temporary places of business of the seller, places of business of the seller receiving more than three orders, traveling salespersons, orders over the Internet, and orders placed in person.”¹⁹² The Comptroller noted that “most of the questions that [his] office has received [are] not directly related to the implementation of House Bill 1525 and House Bill 2153, rather they are regarding the reorganization of the rule as well as the sourcing of local taxes on internet orders.”¹⁹³

A. Witnesses opposing CPA’s local sales tax sourcing of internet orders rule amendments but supporting the H.B. 1525 and H.B 2153 implementation rule amendments.

Multiple witnesses testified that the entities represented by the witnesses did not oppose the portions of the rule amendment implementing H.B. 1525 and H.B. 2153 even though those entities opposed the parts of the rule amendment clarifying internet order sourcing. The City of Round Rock testified that “with respect to the, uh, rule as it applies to House Bill 1525 and 2153, the City is indeed neutral on . . . that rule.”¹⁹⁴ HMWK Global testified that “the portions of the rule that deal with 1525 and 2153 . . . track statute and track . . . the bills . . . considered during the session and are very, um, consistent with *Wayfair* . . . I think those are, are spot on.”¹⁹⁵ The City of Coppell testified that it “do[es] agree with the portion of the rule that actually implements the two, um, house bills.”¹⁹⁶ The City of New Braunfels testified that it “does fully support the passages in the proposed rule 3.334 as published on January 3rd of this year, necessary to implement House Bills 1525 and 2153, such as establishing the definition of a marketplace provider or the specification of a local single use rate.”¹⁹⁷

B. Witnesses supporting CPA’s local sales tax sourcing of internet orders rule amendments and the H.B. 1525 and H.B 2153 implementation rule amendments.

Additionally, two witnesses testified that the entities represented by the witnesses supported both the portions of the rule amendment clarifying the sourcing of internet orders and implementing H.B. 1525 and H.B. 2153. The City of Palestine testified that “H.B. 1525 and 2153, as well as the Controller’s proposed clarifications of title 34 of the Texas Administrative Code rule 3.334, are good steps in the right direction.”¹⁹⁸ The City of Lufkin added that “the case for the Texas Comptroller’s proposed rule has already been made in the analysis of the U.S. Supreme Court’s *Wayfair* decision and the passage of House Bill 2153 and House Bill 1525.”¹⁹⁹

C. CPA response to testimony opposing the local sales tax sourcing of internet orders rule amendments.

On May 22, 2020, adopted its amendments to 34 TAC § 3.334 (Local Sales and Use Taxes) to implement further remote seller requirements under *Wayfair*, administer provisions of H.B. 1525 and H.B. 2153, “provide additional guidance on determining whether an order is received

at a place of business of the seller, and clarify the rules for determining the consummation of sales.”²⁰⁰ Based on the comments received during CPA’s 90-day comment period, CPA’s public hearing on February 4, 2020, and the Committee hearing on February 5, 2020, CPA revised the portions of the rule amendment relating to the sourcing of internet sales and sales by traveling salespersons. These provisions will become effective on October 1, 2021, to give “interested parties time to seek a legislative change.”²⁰¹

Recommendation

CPA has successfully adopted rules to implement both H.B. 1525 and H.B. 2153. The growth in sales tax revenues from marketplace participants and remote sellers has exceeded expectations, in part, because of CPA’s success in drafting these rules. The concerns raised during the Committee’s February 5 hearing did not relate to the TAC rule amendments implementing these bills. Instead, the concerns are appropriately addressed in the Committee’s Charge 3, which relates to local option sales and use taxes. Therefore, the Committee makes no recommendations regarding Charge 1.2.

IMPLEMENTATION MONITORING: H.B. 4347 (CHARGE 1.3)

Examine the effectiveness and efficiency of the hotel projects, qualified hotel projects, and uses of local hotel occupancy tax revenue. Examine the negative fiscal impact to the state resulting from the dedication of the state portion of those taxes.

Introduction

I. Hotel Project Legislative History

Since 1993, Texas has provided municipalities with an economic development tool to incentivize development of convention center hotel projects.²⁰² This incentive allows certain municipalities to receive rebates of the state sales and use tax, state hotel occupancy tax, local sales and use tax, local hotel occupancy tax, and local mixed beverage tax “generated, paid, and collected by a qualified hotel, and each restaurant, bar, and retail establishment located in or connected to the hotel or the related qualified convention center facility, that is located in the municipality.”²⁰³ Municipalities authorized by the Legislature to obtain these rebates can receive the revenue “until the 10th anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy.”²⁰⁴

Prior to H.B. 4347, Texas statutes allowed for two types of projects: (1) hotel projects and (2) qualified hotel projects. The Legislature had authorized one city (Houston) to develop a qualified hotel project and 35 cities to develop hotel projects (listed in the Authorized Municipalities subsection below). Qualified hotel projects were limited to “a hotel proposed to be constructed by a municipality or a nonprofit municipally sponsored local government corporation . . . that is within 1,000 feet of a convention center owned by [the City of Houston], including shops, parking facilities, and any other facilities ancillary to the hotel.”²⁰⁵ Besides the rebates received by qualified hotel projects, hotel projects also received rebates from restaurants and convention center entertainment-related facilities.²⁰⁶

In 2019, the Legislature passed H.B. 4347 that added the new subchapter C to chapter 351 of the Texas Tax Code, which increased the types of projects from two to six. The six project types and a brief description of each (which CPA provided to the Committee²⁰⁷) are listed below:

1. **Hotel projects prior to H.B. 4347:** If a previously authorized municipality pledged bonds or entered into contracts to construct a project before September 1, 2019, the municipality can continue under previous law.
2. **Qualified hotel projects:** Unchanged under H.B. 4347.
3. **Hotel Projects under H.B. 4347:** HB 4347 created a new set of hotel projects that are owned by or located on land owned by a city within 1,000 feet of a city-owned qualified convention center facility, including facilities ancillary to the hotel, convention center entertainment-related facilities, restaurants, retail establishments, and parking facilities within 1,000 feet of the hotel or convention center facility.
 - **Eligible cities:** Arlington, Austin, Dallas, Fort Worth, Houston, Kemah.

-
- **Businesses eligible for rebates:** Hotel, facilities ancillary to the hotel, restaurants, retail establishments, convention center entertainment-related facilities, parking facilities, and water and sewer systems.

These cities are eligible to build multiple projects. Previously, the City of Houston was only eligible to have a qualified hotel project but now can also have a hotel project under HB 4347. Additionally, where no other city can receive state mixed beverage taxes and only has a 10-year rebate period, the City of Arlington is eligible to receive a 30-year rebate of state hotel occupancy taxes, state sales taxes, and state mixed beverage taxes.

4. **A multipurpose convention center facility project:** a hotel and a multipurpose convention center facility located in the City of Kemah within 2,500 feet of the hotel, including each business in the City within 2,500 feet of the multipurpose convention center facility or the hotel, a parking or shuttle transportation system, and any parking in the City within two miles of the multipurpose convention center facility. Unlike other projects, this convention center is not required to be primarily used to host conventions and meetings.
 - **Eligible cities:** Kemah.
 - **Businesses eligible for rebates:** Hotel, any business within 2,500 feet, parking shuttle or transportation system, and any parking structure or facility within two miles of the hotel or convention center.
5. **Qualified projects:** A qualified hotel designated by the city on city-owned land and a qualified city-owned convention center facility that are connected to or within 1,000 feet of one another, including restaurants, bars, and retail establishments within or connected to the qualified hotel or qualified convention center facility.
 - **Eligible cities:** Corpus Christi, Arlington, Irving, Round Rock, Midland, Lewisville, Roanoke, Kemah, Port Aransas, Alvin, Fredericksburg, Kerrville, Weatherford, Celina, The Colony, Nacogdoches, San Antonio, Amarillo, Odessa, Prosper, Frisco, Rowlett, Sugar Land, Pearland, Baytown, Hutto, Conroe, Richmond, Rio Grande City, Kyle, El Paso, Grand Prairie, Tyler, Abilene, Lubbock, Cedar Hill, League City, Katy, Seabrook, Webster, Cedar Park, San Benito, Commerce, Presidio.
 - **Businesses eligible for rebates:** Hotel, restaurants, bars, and retail establishments.
6. **Expanded qualified projects:** The same as qualified projects but also includes restaurants, bars, retail establishments, swimming pools, and swimming facilities connected to or within 1,000 feet of the qualified hotel or qualified convention center facility. The restaurants, bars, retail establishments, swimming pools, and swimming facilities must be on land owned by the municipality and built on or after the date the municipality commences the qualified project.
 - **Eligible cities:** El Paso, Irving, Cedar Hill, Seabrook, Weatherford, Celina, Grand Prairie, Round Rock, Katy, San Benito, Richmond.

- **Businesses eligible for rebates:** Hotel, restaurants, bars, retail establishments, and swimming pools and swimming facilities.

The eligible cities listed in categories five and six may only have one project except for the cities of Amarillo, Arlington, El Paso, Grand Prairie, Irving, Lubbock, and San Antonio, which may have multiple projects. For clarity throughout the Report, the Committee will refer to all projects as “qualified hotel projects” (“QHPs”) and the program as a whole as the “QHP Program.”

II. Authorized Municipalities

From 1993 to 2019, the Legislature authorized 55 municipalities to participate in the QHP Program. Prior to H.B. 4347, the Legislature authorized 36 municipalities to participate in the QHP Program. However, 7 of the 36 municipalities were inadvertently authorized because of drafting errors.* Therefore, these municipalities were not included in H.B. 4347. After 19 new municipalities were added by H.B. 4347, 48 municipalities are now qualified to participate in the QHP Program. The table below lists the municipalities the Legislature authorized to participate in the QHP Program from 1993 through 2019:

Municipality:	Population:	Year Authorized:	Bill Number:	Continued Under H.B. 4347:
City of Houston	2,320,268	1993	H.B. 2282	Yes
City of Fort Worth	909,585	2003	H.B. 2424	Yes
City of Dallas	1,343,573			Yes
City of San Antonio	1,547,253			Yes
City of Austin	978,908			Yes
City of Irving	239,798			Yes
City of Arlington	398,854	2009	S.B. 1257	Yes
City of Plano	287,677			No
City of Garland	239,928			No
City of Pasadena	151,227		No	
City of Amarillo	199,371		S.B. 1207	Yes
City of Grand Prairie	194,543	2011	S.B. 977	Yes
City of Corpus Christi	326,586			Yes
City of El Paso	681,728	2015	H.B. 1964	Yes
City of Frisco	200,490			Yes
City of Nacogdoches	32,877			Yes
City of Odessa	123,334			Yes
City of Round Rock	133,372			Yes
City of Tyler	106,985			Yes
City of Carrollton	139,248			No
City of Abilene	123,420			2017
City of Cedar Hill	47,930	Yes		
City of Denton	141,541	No		
City of Haslet	1,855	No		
City of Katy	21,729	Yes		
City of Kemah	2,024	Yes		
City of League City	107,536	Yes		
City of Lewisville	109,212	Yes		

* The Cities of Plano, Garland, Pasadena, Carrollton, Denton, and Haslet and the Town of Westlake.

Municipality:	Population:	Year Authorized:	Bill Number:	Continued Under H.B. 4347:
City of Lubbock	258,862			Yes
City of Midland	146,038			Yes
City of Port Aransas	4,167			Yes
Town of Prosper	24,579			Yes
City of Roanoke	9,388			Yes
City of Rowlett	67,339			Yes
City of Sugar Land	118,488			Yes
Town of Westlake	1,558			No
City of Alvin	26,723			2019
City of Baytown	77,192			
City of Cedar Park	79,462			
City of Celina	16,299			
City of Commerce	9,680			
City of Conroe	91,079			
City of Fredericksburg	11,496			
City of Hutto	27,947			
City of Kerrville	23,754			
City of Kyle	48,393			
City of Pearland	122,460			
City of Presidio	3,991			
City of Richmond	12,578			
City of Rio Grande City	14,511			
City of San Benito	24,243			
City of Seabrook	14,149			
City of The Colony	44,438			
City of Weatherford	33,547			
City of Webster	11,451			

In the Committee Review section below, the Committee evaluated each of these municipalities’ progress towards opening a hotel project and receiving the rebate.

III. Interim Committee Testimony

The Committee requested input on this charge in RFI 2. In response to RFI 2, the Committee received submissions from the following ten respondents:

- (1) Robert Camareno, City Manager, City of New Braunfels;
- (2) **Craig Morgan, Mayor, City of Round Rock;**
- (3) **Monty Wynn, Director – Grassroots and Legislative Services, TML;**
- (4) Kyle Kasner, Founder, TexasCityServices LLC;
- (5) **Honorable Glenn Hegar, Texas Comptroller of Public Accounts;**
- (6) John Kroll, Partner, HMWK Global;
- (7) Teclo J. Garcia, Director of Economic Development, City of Laredo;
- (8) **The Texas Hotel & Lodging Association (“THLA”);**
- (9) HD Supply Facilities Maintenance, Ltd. (“HD Supply”); and
- (10) Karen Selbo Hunt, Mayor, City of Coppell.²⁰⁸

The Committee reviewed the testimony and noted that the City of New Braunfels, TexasCityServices LLC, HMWK Global, the City of Laredo, HD Supply, and the City of Coppell failed to mention H.B. 4347, hotel projects, or the uses of local HOT revenue. Of the

testimony that related to the Committee’s interim charge (in bold above), TML and THLA applauded the statewide benefits of the QHP Program; the City of Round Rock highlighted the QHP Program’s direct success in the City; and the CPA provided an overview of the QHP Program, its fiscal impact, and specific implementation issues CPA has faced.

In addition to generally supporting the QHP Program, THLA provided the Committee with an in-depth, 27-page report (“THLA Report”) that covered the legislative history of the QHP Program and gathered responses from the cities the Legislature authorized to participate in the QHP Program.²⁰⁹ The THLA Report analyzed the job creation and capital investments from completed hotel projects and evaluated the progress that other cities have made to develop a hotel project and obtain the hotel project rebate.²¹⁰

The testimony and the THLA Report are discussed throughout the Committee Review section below.

Committee Review

I. Municipalities Supporting the QHP Program

The Committee received testimony from TML, “a non-profit association of 1,161 incorporated cities,” and the City of Round Rock supporting H.B. 4347 and the QHP Program.²¹¹ According to TML, “the qualified hotel and convention center program is a good example of a cooperative program that is well-positioned to help get the Texas economy get back on track.”²¹² Additionally, H.B. 4347 improved the QHP Program by enacting “much needed streamlining and transparency reforms . . . , including imposing parameters on use of state and local tax dollars.”²¹³

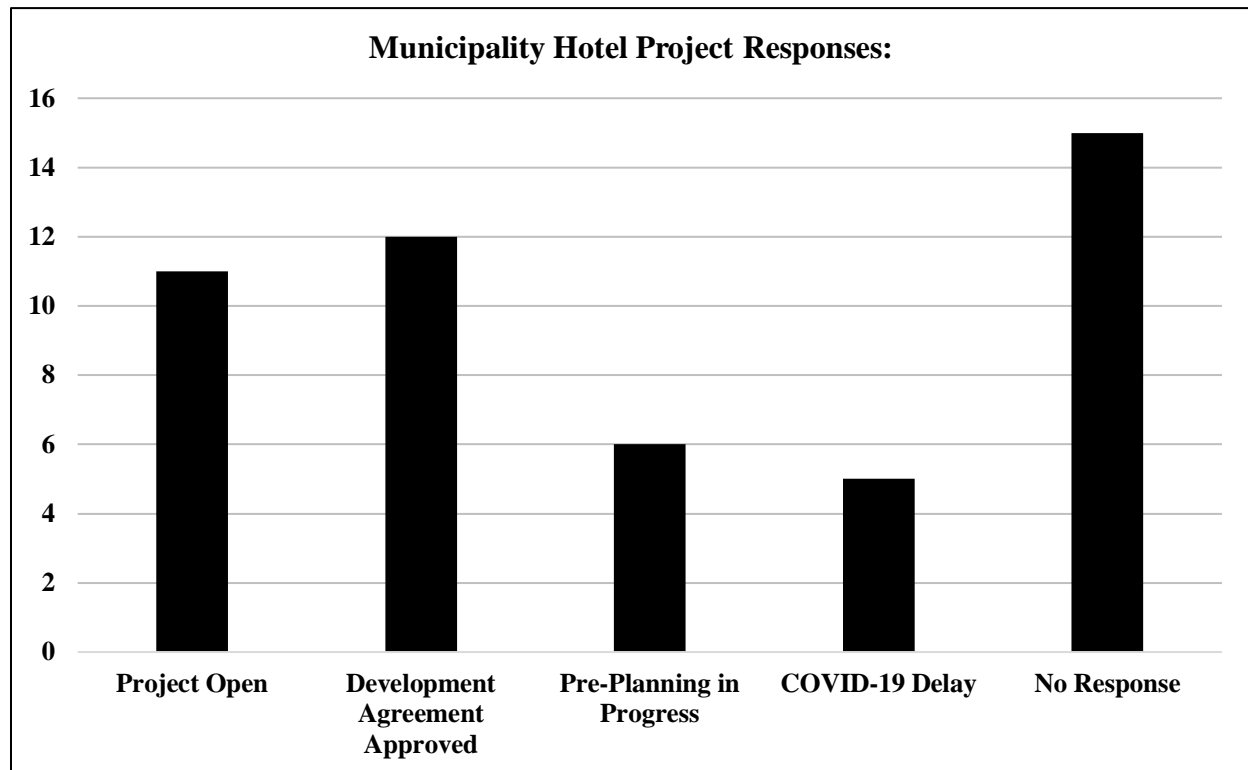
The Legislature authorized the City of Round Rock to participate in the QHP Program in 2015.²¹⁴ The City used this authorization to attract Kalahari Resorts to invest at least \$350 million to build “an authentically African-themed water-park resort and conference experience with 975 guest rooms, 200,000 square feet of meeting space, 223,000 square feet of water park, three acres of outdoor pools, 80,000 square feet of adventure park, 10,000 square feet of retail space, and five restaurants” in Round Rock.²¹⁵ The City testified that H.B. 4347 “helped solidify an economic development agreement with Kalahari.”²¹⁶ Kalahari Resorts opened the Round Rock resort on November 12, 2020.²¹⁷ According to the City, the QHP Program allows “cities such as Round Rock . . . to be competitive and to attract multimillion-dollar projects to the State of Texas, which will benefit the state and local economy for decades to come.”²¹⁸

Other cities that the Legislature authorized to participate in the QHP Program provided responses in the aggregated THLA Report, which the Committee addresses in the subsection below.

II. Hotel Project Progress

The THLA Report compiled the status of hotel projects within each of the 48 municipalities qualified to participate in the QHP Program.²¹⁹ The Committee evaluated these responses and

divided them into five categories: (1) project open, (2) development agreement approved, (3) pre-planning in progress, (4) COVID-19 delay, and (5) no response. The Committee found that 11 municipalities have opened a total of 15 hotel projects* as of December 1, 2020; 12 municipalities have approved development agreements; 6 municipalities are in the pre-planning stage; 5 municipalities' efforts have been delayed by COVID-19; and 15 municipalities did not respond to the THLA survey. The status of each municipality and a description of proposed or opened QHP Projects is available in Appendix A. The survey results are displayed in the chart below.



From February 2004 through July 2020, the 11 open hotel projects have received state HOT rebates of \$101.09 million, state sales tax rebates of \$68.08 million, and total state tax rebates of \$169.17 million. These hotel projects have also created 6,341 new jobs and attracted \$2.07 billion in capital investment. The table below lists the statistics for each open project.

Municipality:	Open Date:	Project:	Rebate Time Remaining:	State HOT Rebated:	State Sales Taxes Rebated:	Total State Taxes Rebated:	Jobs Created:	Capital Investment (millions):
City of Houston	2003	Hilton Americas Houston	0	\$23,231,843	\$16,973,076	\$40,204,919	700	\$190.00
City of San Antonio	2005	The Grand Hyatt San Antonio	0	\$23,379,775	\$11,276,350	\$34,656,125	502	\$280.84

* The Cities of Houston, Irving, and El Paso have opened multiple hotel projects. The City of Arlington has opened one hotel project and approved a development agreement for a second.

Municipality:	Open Date:	Project:	Rebate Time Remaining:	State HOT Rebated:	State Sales Taxes Rebated:	Total State Taxes Rebated:	Jobs Created:	Capital Investment (millions):
City of Fort Worth	2009	Omni Fort Worth Hotel	0	\$16,457,243	\$10,318,298	\$26,775,541	307	\$171.92
City of Dallas	2011	Omni Dallas Hotel	1 year, 1 month	\$24,719,659	\$18,003,308	\$42,722,967	501	\$346.00
City of Houston	2016	Marriott Marquis Houston	6 years, 2 months	\$10,013,341	\$8,467,763	\$18,481,104	650	\$330.00
City of Nacogdoches	2017	Fredonia Hotel	6 years, 8 months	\$411,990	\$427,908	\$839,898	150	\$9.80
City of Amarillo	2017	Amarillo Embassy Suites	6 years, 11 months	\$1,136,865	\$231,919	\$1,368,784	113	\$63.00
City of Irving	2018	Irving Texican Court	9 years, 6 months	\$272,961	\$89,921	\$362,882	76	\$42.56
City of Arlington	2019	Live! By Lowes	9 years, 7 months	\$505,990	\$875,642	\$1,381,632	3,000	\$550.00
City of Irving	2019	Irving Westin	9 years, 8 months	\$816,360	\$1,413,355	\$2,229,715	180	\$74.00
City of Odessa	2019	Odessa Marriott Hotel	9 years, 9 months	\$148,908	\$0	\$148,908	162	\$9.29
Totals:				\$101,094,934	\$68,077,539	\$169,172,473	6,341	\$2,067.41

Lastly, three open projects (the Hilton Americas Houston, The Grand Hyatt San Antonio, and the Omni Fort Worth Hotel) have concluded the ten-year rebate period, and the State now retains all state taxes generated by those projects. Over the ten-year rebate period for those projects, the State rebated \$101.64 million in state HOT and sales tax while receiving \$25.86 million in state mixed beverage taxes, which resulted in a net cost to the State of \$75.78 million. Based on the state tax collections from those projects since the rebate period ended, THLA forecasts that these projects will generate a combined \$119.55 million in state tax revenue in years 11 through 20, resulting in a projected net State gain of \$43.77 million. The table below lists the projections for each of the three projects.

Project:	State Taxes Rebated (Yrs. 1–10):	State Mixed Beverage Tax Received (Yrs. 1–10):	Net Position (Yrs. 1–10):	Projected State Tax Collections (Yrs. 11–20):	Project Net State Gain (Yrs. 1–20):
Hilton Americas Houston	(\$40,204,919)	\$13,404,910	(\$26,800,009)	\$52,310,009	\$25,510,000
The Grand Hyatt San Antonio	(\$34,656,125)	\$6,777,094	(\$27,879,031)	\$37,945,464	\$10,066,433
Omni Fort Worth Hotel	(\$26,775,541)	\$5,677,343	(\$21,098,198)	\$29,290,885	\$8,192,687
Totals:	(\$101,636,585)	\$25,859,347	(\$75,777,238)	\$119,546,358	\$43,769,120

III. CPA Implementation Issues

In its testimony, CPA identified eight implementation issues relating to H.B. 4347 in the following four categories: (1) undefined terms, (2) land ownership, (3) financing, and (4) request for rebates.²²⁰

A. Undefined terms.

CPA noted that two statutory terms are undefined and potentially ambiguous: (1) “connected to” and (2) “restaurant.”²²¹ First, municipalities “can receive rebates from eligible businesses ‘connected to’ the hotel or convention center.”²²² However, the statute does not define “connected to,” so the term could “go beyond the legislative intent” and include businesses “connected by sidewalks, parking garages, or covered walkways.”²²³

Second, because the statute does not define “restaurant,” the term “could mean anything from a business that contains a kitchen on-site that prepares meals to a business that sells pre-packaged chips and candy.”²²⁴ The Committee notes that “restaurant” is not defined in the relevant TAC section either.²²⁵ Therefore, CPA “has received rebate requests for businesses that provide some food, but their primary function is to provide amusement services, such as a movie theater or performance venue.”²²⁶

B. Land ownership.

The statute requires that a qualified hotel “must be located on land owned by the . . . municipality.”²²⁷ CPA has received multiple inquiries with various hypothetical land ownership scenarios, including (1) the developer owning the land, conveying it to the municipality, and retaining an option for the land to be returned to the developer after the rebate period and (2) the municipality granting “a developer options to purchase the land during or immediately following the rebate period.”²²⁸ CPA notes that “[i]t is unclear if a city truly owns the land if there are options for the developer to purchase the land.”²²⁹ CPA also raised concerns that CPA will need to audit hotel projects more frequently over the rebate period “to ensure that all the ownership requirements are still met.”²³⁰

Additionally, the statute allows a municipality to “authorize a nonprofit corporation to act on behalf of the municipality for any purpose under [the municipal hotel and convention center projects] subchapter.”²³¹ Thus, CPA has “received questions on whether this meant that a nonprofit can own the convention center on behalf of the city.”²³² In response to CPA inquiry, “[t]he bill’s sponsor replied that this was not the intent of this section and that the city must own the qualified convention center facility and the land beneath the qualified hotel.”²³³ CPA plans to clarify this provision in its amendments to 34 TAC § 3.12.²³⁴

Although Texas courts “will generally uphold an agency’s interpretation of a statute it is charged by the Legislature with enforcing, so long as the construction is reasonable and does not contradict the plain language of the statute,” courts will not uphold an agency’s interpretation if the language is unambiguous and the agency’s opinion changes plain language.²³⁵ Additionally, courts are permitted to consider a statute’s legislative history (such as the bill sponsor’s

statement that the city must own the facility) “whether or not the statute is considered ambiguous on its face.”²³⁶ However, courts “do not consider legislative history or other extrinsic aides to interpret an unambiguous statute because the statute’s plain language most reliably reveals the legislature’s intent.”²³⁷ Therefore, the Legislature should clarify the statute to align with the desired legislative intent and CPA’s clarification.

C. Financing.

CPA raised two implementation issues regarding hotel project financing. First, municipalities often send written preapproval requests to CPA for potential projects, but CPA is limited to stating whether the project qualifies under the statutory and regulatory requirements.²³⁸ CPA cannot guarantee rebates until the project is complete, and CPA verifies that the completed project is eligible for rebates.²³⁹

Second, under the statute:

[a] municipality is not entitled to receive [rebates] unless the municipality has pledged or committed *a portion* of the revenue derived from the [hotel occupancy tax] and collected by the qualified hotel for the payment of bonds, other obligations, or contractual obligations . . . issued or incurred for the qualified project.²⁴⁰

However, “a portion” is not defined in the statute. Therefore, CPA has “received numerous inquiries as to how much would satisfy a ‘portion.’”²⁴¹ Because the term is undefined, “a portion could be less than 1 percent.”²⁴² Additionally, the statute does not contain any penalty if a municipality fails to ever pay the pledged or committed portion.²⁴³

D. Request for rebates.

Finally, CPA identified an administrative issue relating to the process for a municipality to request a rebate. Currently, municipalities request rebates based on a business’ Taxpayer Identification Number (“TIN”).²⁴⁴ However, the statute provides that rebates are “based on the type of eligible business,” not the TIN, because a single TIN could cover multiple types of businesses such as “a hotel, restaurant, and a spa.”²⁴⁵ In that example, the hotel and restaurant taxes “are eligible for rebates, but the receipts from the spa would not be eligible.”²⁴⁶ CPA “does not receive a breakout of the receipts from these different operations under a single Taxpayer Identification Number.”²⁴⁷

Recommendation

The Committee concludes that the QHP Program has benefited the State by attracting large-scale capital investments to build hotel projects that support Texas’ municipally-owned convention centers and increase tourism. Additionally, the incentive amount is directly tied to the success of the hotel project because municipalities only receive rebates of the tax dollars generated by the project. Therefore, the State bears little risk of funding an unsuccessful hotel project. The Committee’s review of the three hotel projects that have completed the ten-year

rebate period indicates that the hotel projects are likely to create a net gain to the State within 20 years of opening.

H.B. 4347 improved the QHP Program by creating additional transparency and clarifying the eligible municipalities and project types. However, the Committee recommends that the Legislature further improve the QHP Program by taking the following actions to address the implementation issues noted by CPA:

I. Clarify Certain Definitions

In subchapter 351 of the Tax Code, the Legislature should clarify the following terms and phrases to ensure that only hotel projects and rebates the Legislature intended to authorize are permitted by CPA: (1) “connected to,” (2) “restaurant,” (3) “land owned by the municipality,” and (4) “a portion of the revenue.”

II. Create Project Preapproval Process

The Legislature should authorize CPA to implement an optional hotel project preapproval process, including allowing CPA to specify the type of information required and the timeline for CPA to make a preapproval determination.

III. Provide CPA Additional Rebate Review Authority

The Legislature should provide CPA with additional authority to require that hotel project rebate requests include detailed information regarding the receipts from each type of business operation if the TIN provided includes any business operations that do not qualify for the CPA to rebate the taxes.

PROPERTY TAX RELIEF (CHARGE 2)

Study and consider possible methods of providing property tax relief, including potential sources of revenue that may be used to reduce or eliminate school district maintenance and operations property tax rates.

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 11th best overall state business tax climate but ranks 36th on property taxes.²⁴⁸ According to WalletHub, Texas has the 19th lowest overall tax burden as a percentage of personal income but the 9th highest property tax burden.²⁴⁹ Lastly, according to the American Legislative Exchange Council, Texas has the 15th best economic outlook based on a review of 15 state policy variables, including 11 taxation metrics, but ranks 42nd on property tax burden.²⁵⁰

In the 86th Legislative Session, the Legislature passed H.B. 3, which provided property tax relief by appropriating additional state funding to increase school funding per student while compressing the local school district M&O tax rates.²⁵¹ Additionally, the Legislature passed S.B. 2, which slows the growth of property taxes in other taxing units unless the taxing units obtain voter approval for property tax increases above 3.5% on existing properties.²⁵²

Two recent reports from the LBB and CPA include methods of providing additional property tax relief and potential sources of revenue that the Legislature could use to reduce school district M&O taxes. H.B. 3 required the LBB to “study possible methods of providing property tax relief through the reduction of school district maintenance and operations taxes.”²⁵³ The LBB published this study in September 2020. Additionally, the Government Code requires CPA to “report to the legislature and the governor on the effect . . . of exemptions, discounts, exclusions, special valuations, special accounting treatments, special rates, and special methods of reporting” for various state taxes.²⁵⁴ CPA published the 2020 edition of this report in December 2020. The Committee analyzed both in the Committee Review section below.

I. Interim Committee Testimony

The Committee requested input on this charge in RFI 2. In response to RFI 2, the Committee received submissions from the following 15 respondents:

- (1) Dick Lavine, Senior Fiscal Analyst, Every Texan;
- (2) Ann Boonn, Research Director, Campaign for Tobacco-Free Kids, Frank J. Chaloupka, Founder and Director, Tobacconomics, and Katie McMahon, Principle – Policy Development, American Cancer Society Cancer Action Network;
- (3) Bob Popinski, Director of Policy, Raise Your Hand Texas;
- (4) Colby Nichols, Associate, Underwood Law Firm, P.C. on behalf of the Texas Association of School Administrators (“TASA”);
- (5) Vance Ginn, Chief Economist, Texas Public Policy Foundation (“TPPF”);
- (6) Adam Haynes, Policy Director, CUC;

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- (7) Charlie Gagen, Advocacy Director, American Lung Association in Texas on behalf of Texas Tobacco Control Partners;
 - (8) Dale Craymer, President, and John Kennedy, Senior Analyst, TTARA;
 - (9) Monty Wynn, Director – Grassroots and Legislative Services, TML;
 - (10) James P. Allison, General Counsel, CJCAT;
 - (11) Maureen Milligan, President and CEO, THOT;
 - (12) Texas Conservative Coalition Research Institute (“TCCRI”);
 - (13) Chandra Kring Villanueva, Program Director – Economic Opportunity Team, Every Texan;
 - (14) Nicole Holt, CEO, Texans for Safe and Drug-Free Youth;
 - (15) Cheryl E. Johnson, Tax Assessor-Collector, Galveston County.²⁵⁵

The Committee divided these respondents into three categories: (1) local taxing units (six responses), (2) excise tax increase advocates (three responses), and (3) public policy advocacy groups (six responses). The testimony is discussed throughout the Committee Review section along with the LBB’s 2020 *Study on District Property Tax Compression* and CPA’s 2020 *Tax Exemptions & Tax Incidence* report (“Exemption Report”).

Committee Review

The Committee analyzed the LBB *Study on District Property Tax Compression* and the CPA Exemption Report and reviewed the recommendations provided in RFI respondents’ testimony.

I. LBB Study on District Property Tax Compression

The LBB’s *Study on District Property Tax Compression* evaluated 104 potential sources of revenue that the Legislature could use to reduce school district M&O taxes.²⁵⁶ The LBB organized these revenue sources into four categories: (1) dedicate existing non-dedicated revenue sources, (2) increase rates of existing revenue sources, (3) expand the base of existing revenue sources, and (4) establish new revenue sources.²⁵⁷

For the dedication of existing non-dedicated revenue sources, the LBB assumed a 7% dedication of the revenue not already dedicated for each existing tax.²⁵⁸ The LBB assumed a 16% rate increase for each existing rate for increased rates of existing revenue sources.²⁵⁹ The LBB used CPA’s Exemption Report to estimate revenues from expanding the tax base for existing revenue sources. Lastly, the LBB estimated the revenues from establishing new taxes in Texas that are currently “used by at least one other state” by calculating the average “amount of revenue raised by each state as a percentage of that state’s personal income” and applying that average “to Texas state personal income.”²⁶⁰

The LBB assigned each potential revenue source to one of three tiers “based on the amount of school district M&O tax rate compression that the source could provide in a revenue neutral fashion.”²⁶¹ Tier I sources would provide more than \$0.05 of rate compression, Tier II sources would provide \$0.01–\$0.05 of rate compression, and Tier III sources would provide less than \$0.01 of rate compression.²⁶² For the 2022–23 biennium, \$0.01 of school district rate compression “would cost approximately \$520.0 million” (approximately \$260.0 million per year).²⁶³ In November 2020, the average home sales price in Texas was \$333,455.²⁶⁴ For this

average home, \$0.05 of rate compression would result in an annual property tax reduction of \$166.73, and \$0.01 of compression would save the property owner \$33.35.* For large commercial or industrial property owners, \$0.05 of rate compressions would save \$500 for every \$1 million of property value, and \$0.01 would save \$100 per \$1 million of property value.

The LBB found that 12 revenue sources would generate sufficient revenue to provide Tier I rate compression of more than \$0.05. These 12 sources are listed below.

Revenue Source:	Description:	Notes:	Amount of Property Tax Relief:
Dedicate Existing Source	Limited Sales and Use Tax	Dedicate 7% of the 92% of non-dedicated sales tax revenue	Tier I
Dedicate Existing Source	All Non-dedicated Revenue	Dedicate 7% of the 38.6% of non-dedicated state revenue	Tier I
Increase Existing Rates	Sales and Use Tax	Increase the sale tax rate by 16% from 6.25% to 7.25%	Tier I
Expand Taxable Base	Repeal Sales Tax Exemption for Gas and Electricity	Enacted in 1961 to reduce the regressivity of the sales tax	Tier I
Expand Taxable Base	Repeal Sales Tax Exemption for Food	Enacted in 1961 to reduce the regressivity of the sales tax	Tier I
Expand Taxable Base	Repeal Sales Tax Exemption for Property Used in Manufacturing	Enacted in 1961 to avoid double taxation. The exempt items are used in the commercial production of goods	Tier I
Expand Taxable Base	Add Advertising Media Services to Taxable Services	Never included in the Texas sales tax base	Tier I
Expand Taxable Base	Add Healthcare Services to Taxable Services	Never included in the Texas sales tax base	Tier I
Establish New Tax	Personal Income Tax	Levied by 43 states	Tier I
Establish New Tax	Value Added Tax	Levied by 1 state	Tier I
Establish New Tax	Corporate Income Tax	Levied by 46 states	Tier I
Establish New Tax	Commercial Casino/Racino Tax	Levied by 25 states	Tier I

Although these Tier I potential sources could generate noticeable property tax relief, the Committee notes that some of these options could be less popular than Texas' current property tax structure. As an example, 74.4% of Texas voters recently approved an amendment to the Texas Constitution prohibiting "a tax on the net incomes of individuals, including an individual's share of partnership and unincorporated association income."²⁶⁵

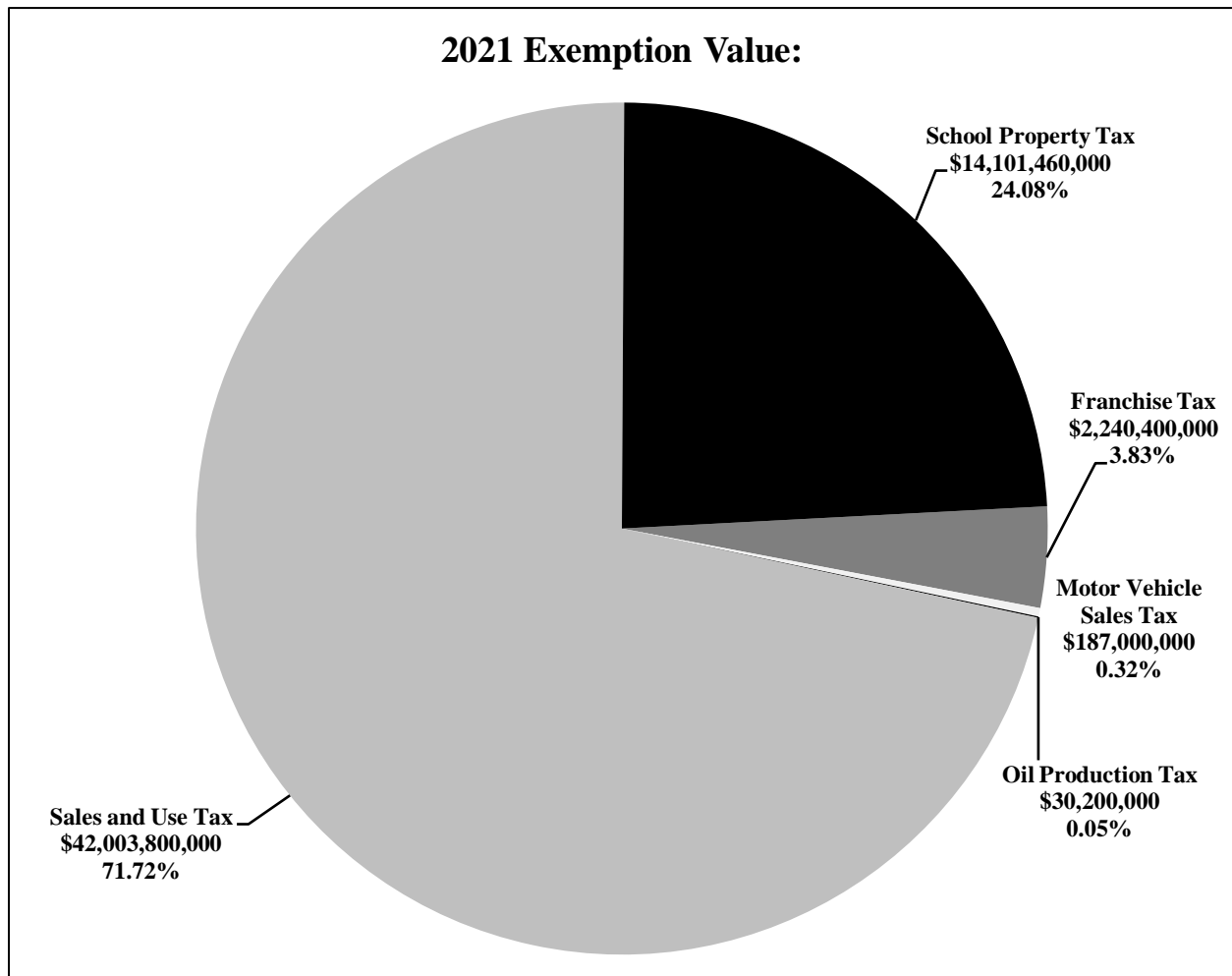
Additionally, the LBB found that 28 revenue sources could provide Tier II compression, and 64 sources could provide Tier III compression. All 104 potential sources are listed in Appendix C.

* This calculation does not consider homestead exemptions or tax ceilings.

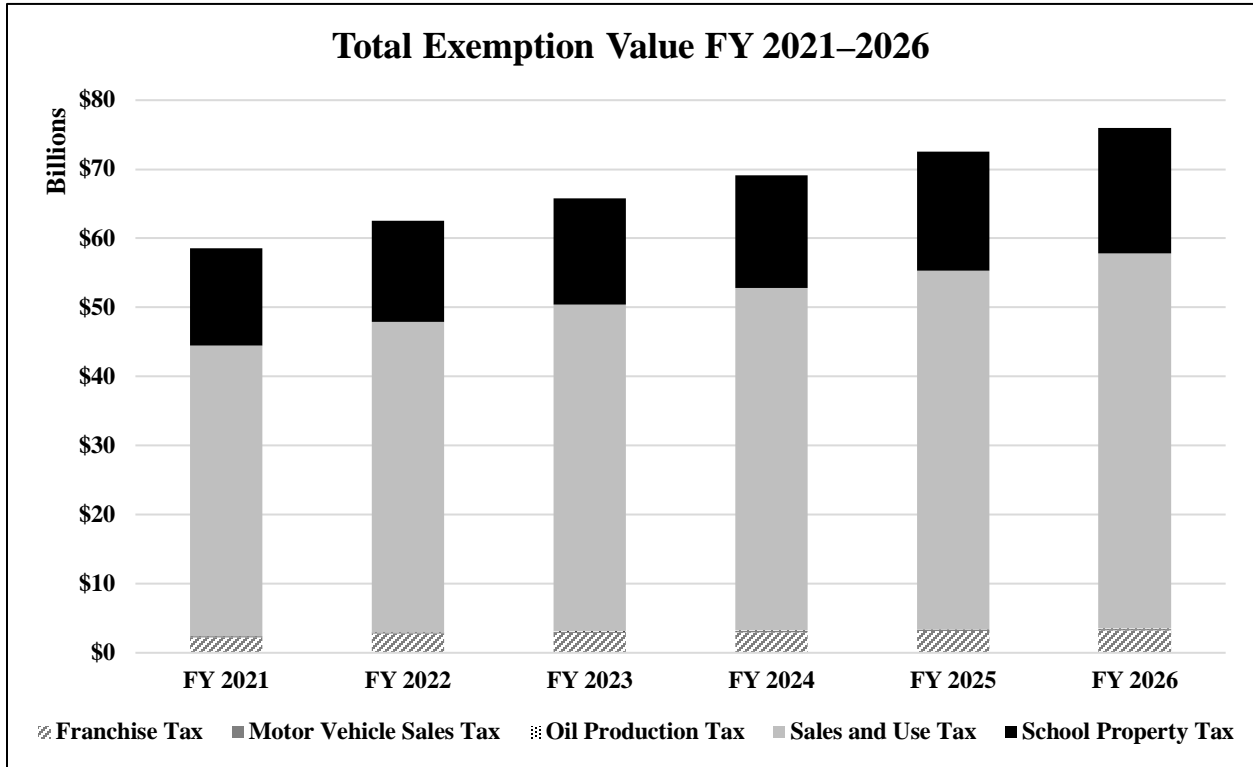
II. CPA Tax Exemptions & Tax Incidence Report

CPA’s 2020 Exemption Report “estimates the value of each exemption, exclusion, discount, deduction, special accounting method, credit, refund and special appraisal available to payers of Texas’ sales, motor vehicle sales, franchise and oil production taxes, as well as property taxes levied by Texas school district.”²⁶⁶ In the Exemption Report, CPA uses the term “exemptions” to include “exemptions, exclusions, discounts, deductions, special accounting methods, credits, refunds and special appraisals.”²⁶⁷ CPA finds that exemptions will total \$58.6 billion in FY 2021, with over 71% resulting from \$42 billion of sales tax exemptions.²⁶⁸

As the LBB’s *Study on District Property Tax Compression* notes, the Legislature could use the revenue savings from reducing or eliminating these exemptions to provide additional property tax relief.



CPA estimates that these exemptions’ value will grow to nearly \$76 billion by FY 2026, primarily driven by the sales and use tax and school property tax exemptions.



Of the total value of exemptions, \$14.29 billion (24.4%) is from sales tax exemptions of items taxed by other law (insurance premiums, motor vehicles, motor fuels, mixed beverages, aviation fuel, oil well servicing, crude oil, and cement).²⁶⁹ Thus, removing the sales tax exemption for these items would subject them to double taxation. Additionally, \$8.45 billion (14.4%) is from sales tax exemptions of manufacturing materials, machinery, and packaging supplies. The remaining top 15 highest value sales tax exemptions that cost \$13 billion (22.2%) are listed below.

Exemption:	2021 Value (millions):
Food for home consumption: Cereals, milk, meat, poultry, fish, eggs, vegetables, fruit, spices, salt, sugar, coffee, and tea. Does not include meals sold in restaurants, vitamins, over-the-counter medicines, soft drinks, ice, and candy	\$3,314.7
Physician services	\$1,377.1
Residential utilities: Sales of gas and electricity in residences including apartments, nursing homes, and dormitories	\$1,029.1
Other health care services	\$928.2
Computer systems design and custom programming services	\$854.1
Prescription medicine and devices: Prescription drugs; corrective lenses and therapeutic devices prescribed by a doctor; insulin; hospital beds; hypodermic syringes or needles; braces; hearing aids; orthopedic, dental, or prosthetic devices; blood glucose monitoring test strips; and certain devices used by people who are blind or deaf	\$740.1
Automotive maintenance and repair services	\$728.1
Dental services	\$572.7

Exemption:	2021 Value (millions):
Legal services	\$540.1
Temporary labor supply services	\$532.9
Manufacturing utilities: Sales of gas and electricity when used in processing or manufacturing a product for sale	\$524.6
New nonresidential construction services	\$505.6
Architectural and engineering services	\$465.0
Management consulting and public relations services	\$460.7
Governmental entities: Items sold, leased, or rented to governmental entities	\$425.3

The LBB noted that the Legislature initially enacted the exemptions for food, utilities, and healthcare supplies to reduce the regressivity of the sales tax.²⁷⁰ The service exemptions listed are services that the Legislature has never included in the Texas sales tax base.²⁷¹

III. Committee Testimony Property Tax Relief Recommendations

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

A. Recommendations from local taxing units.

The Committee received testimony from respondents representing cities, counties, hospital districts, and school superintendents. The Committee also received testimony from one tax assessor-collector.

(1) TASA recommendation for property tax relief.

“TASA represents over 3,000 superintendents and central office school administrators across the state.”²⁷² TASA “request[s] that the Committee and the Legislature explore and identify stable revenue sources which are diverse in nature” because the State “cannot afford to become dependent on one revenue source or a compilation of sources which are not stable in nature.”²⁷³ TASA does not provide recommended revenue sources or suggestions for how additional revenue would be used to provide property tax relief.

(2) TML recommendation for property tax relief.

TML suggests that “[i]ncreased local option homestead exemption flexibility is one option that would provide additional relief to homeowners.”²⁷⁴ TML correctly notes that cities are currently limited to offering an additional homestead exemption of up to 20% with a minimum exemption for any homestead of \$5,000.²⁷⁵ However, cities are not restricted from adopting tax rates below the no-new-revenue tax rate, which would provide property tax relief to all taxpayers, not just homeowners.

(3) *THOT recommendation for property tax relief.*

THOT does not provide any recommendations that would provide additional property tax relief. Instead, THOT asks that “the Committee . . . refrain from reducing the roll back rate for hospital districts to achieve this goal.”²⁷⁶ THOT testifies that even reducing the amount that hospital districts can increase property taxes without voter approval “would be enormously risky to the state’s healthcare infrastructure as well as to the patients served by that infrastructure.”²⁷⁷

(4) *CJCAT recommendations for property tax relief.*

CJCAT testifies that its membership supports five policy positions to provide property tax relief: (1) “Fund State-Mandated Programs,” (2) “Support Local Decision-Making,” (3) “Expand Local Option Revenue Sources,” (4) “Authorize Dollar Amount Homestead Exemptions,” and (5) “Restore equity in the Appraisal System.”²⁷⁸

For its first two recommendations, CJCAT implies that counties could provide property tax relief if counties were not “required to meet state-mandated services” and if the Legislature only passed “legislation that says ‘county may’ instead of ‘county shall.’”²⁷⁹ According to CJCAT, even if the “[state-mandated] services may be needed, local taxpayers should not be required to fund them through mandated property taxes.”²⁸⁰ The Committee notes that the Legislature does not mandate property taxes, and CJCAT does not explain how this recommendation would provide property tax relief.

In its third recommendation, CJCAT states that “counties are totally dependent upon the property tax to fund their essential services.”²⁸¹ However, 124 (48.8%) of 254 counties already impose a county sales and use tax.²⁸² Additionally, CJCAT suggests that “voters should have the local option to adopt sales tax, severance tax, motor fuel tax, vehicle registration fees, and other revenue sources to lower property taxes.”²⁸³ Counties can already adopt a sales tax to lower property taxes²⁸⁴ and adopt an additional \$10 vehicle registration fee for the road and bridge fund.²⁸⁵ Allowing counties to adopt additional severance and motor fuel tax rates could result in a confusing patchwork of rates across the State for these taxes.

Fourth, CJCAT requests that the Legislature allow counties to grant dollar-amount homestead exemptions in addition to percentage exemptions to “provide equitable relief to homeowners.”²⁸⁶ Dollar-amount exemptions do not vary based on property value. Thus, dollar-amount exemptions provide a higher percentage benefit to property owners with low-value properties than property owners with high-value properties. Again, taxing units can already adopt tax rates below the no-new-revenue tax rate to provide additional property tax relief for all taxpayers.

Lastly, CJCAT argues that the appraisal system is under “state controls” and “deviate[s] from an ‘equal and uniform’ appraisal to a process that shifts an increasing burden on homeowners.”²⁸⁷ CJCAT adds that commercial and industrial property owners have “an inequitable ability to reduce their appraised values.”²⁸⁸ CJCAT does not explain how Texas’ appraisal system shifts the tax burden on to homeowners, how commercial and industrial

property owners are unfairly advantaged, or how fixing these alleged failures would provide additional property tax relief.

(5) *CUC recommendations for property tax relief.*

Similar to CJCAT, CUC recommends authorizing flat-dollar homestead exemptions, ending “State-Mandated Property Tax Increases,” and ensuring “Property [is] Taxed in an Equal and Uniform Manner.” Additionally, CUC makes three recommendations that are unrelated to providing additional property tax relief: (1) “add[] expenditures associated with a Public Defender’s Office . . . to the definition of ‘indigent defense compensation expenditures’” for the purposes of adjusting the no-new-revenue maintenance and operations rate, (2) require sales price disclosure for real estate transactions, and (3) “amend[] the definition of debt rate to provide an option for taxing units to consider 10% of their last year’s tax rate as their debt rate under the no-new-revenue calculation for pay-as-you-go projects.”²⁸⁹

CUC also recommends that the Legislature “mandate [the Texas Department of Criminal Justice] TDCJ retrieve state prisoners within 21 days of confinement in a county facility . . . [and] provide psychotropic medications needed to stabilize and treat state prisoners while confined in county facilities.”²⁹⁰ If TDCJ does not transfer the prisoner within 21 days, “TDCJ should use state appropriations to reimburse counties for each prisoner held longer than 21 days.”²⁹¹ Although this change could reduce a county’s cost of housing prisoners, it would not provide additional property tax relief unless the county also reduced its tax rate below the no-new-revenue tax rate by an amount equal to the jail savings.

CUC misreads the changes in S.B. 2 by stating that “SB 2 limited the increase in county revenues to 3.5% year over year.”²⁹² The changes in S.B. 2 that CUC references only apply to property tax revenues from existing properties, not all revenues or even all property tax revenues.²⁹³ Additionally, S.B. 2 does not limit the increase in property tax revenues from existing properties to 3.5% year over year. Instead, S.B. 2 simply requires taxing units to receive voter approval for increases over 3.5%.²⁹⁴ Based on that misunderstanding, “CUC calls for a 3.5% cap on the increase in sales tax revenues used as general revenue for state expenses.”²⁹⁵ CUC suggested that any sales tax revenue over a 3.5% increase “should be set aside in a newly created Sunshine Fund . . . to fund increased state aid for public education and for property tax relief for Texas homeowners.”²⁹⁶

Finally, CUC suggests that “counties could greatly reduce property tax rates for property owners through imposing up to two percent (2%) sales and use tax in lieu of Maintenance and Operations property taxes.”²⁹⁷ Presumably, this new sales tax would be in addition to the current 6.25% state sales tax and up to 2% local option sales tax. If a county adopted this new sales tax in addition to the existing state and local sales taxes, the county would have a sales tax rate higher than the average combined sales tax rate of any other state.²⁹⁸

(6) Galveston County Tax Assessor-Collector recommendations for property tax relief.

The Galveston County Tax Assessor-Collector recommends that the Legislature “redefine market value as price paid as it pertains to . . . single family residential and small income producing properties” because this change “would result in a progressive taxation system in which purchasers as well as current property owners would have a firm expectation of their tax burden.”²⁹⁹

The Lincoln Institute of Land Policy is a nonprofit foundation that “seeks to improve quality of life through the effective use, taxation, and stewardship of land.”³⁰⁰ According to the Lincoln Institute, “limits on assessed values, while favored by many homeowners, are a deeply flawed means to counter rising property taxes.”³⁰¹ Although such limits are intended to “reduc[e] tax bills and slow[] the shift in tax burdens to residential property,” assessed value limits “impose widely differing tax obligations on owners of identical properties, reduce economic growth by distorting taxpayer decision making, and greatly reduce the transparency and accountability of the property tax system as a whole.”³⁰²

B. Recommendations from excise tax increase advocates.

Texas levies six excise taxes on alcohol and tobacco products: (1) the distilled spirits tax, (2) the wine tax, (3) the ale and malt liquor tax, (4) the beer tax, (5) the cigarette tax, and (6) the cigar and tobacco products tax.³⁰³ Effective September 1, 2021, the ale and malt liquor tax and the beer tax are combined into the malt beverages tax as a part of the 2019 Texas Sunset Act review of the Texas Alcoholic Beverage Commission.³⁰⁴ The tax rates, FY 2019 collections, and FY 2020 collections for the six taxes are below.

Tax:	Rate:	FY 2019 Collections:	FY 2020 Collections:
Cigarette Tax	Per 1,000 weight <= 3 lbs.: \$70.50 per 1,000 (\$1.41 per pack of 20) Per 1,000 weight > 3 lbs.: \$72.60 per 1,000	\$1,183,181,552.27	\$1,061,042,541.10
Cigar and Tobacco Products Tax	Per 1,000 weight <= 3 lbs.: \$0.01 per 10 Per 1,000 weight > 3 lbs.: \$7.50–\$15.00 per 1,000 Other tobacco products: \$1.22 per ounce	\$227,209,402.89	\$237,971,091.46
Distilled Spirits Tax	\$2.40 per gallon	\$99,283,683.90	\$217,747,248.36
Beer Tax	\$0.194 per gallon	\$102,769,407.97	\$216,717,722.38
Wine Tax	Alcoholic volume <= 14%: \$0.204 per gallon Alcoholic volume > 14%: \$0.408 per gallon Sparkling wine: \$0.516 per gallon	\$16,707,606.15	\$34,510,311.94
Malt Liquor (Ale) Tax	\$0.198 per gallon*	\$14,857,760.28	\$29,633,887.20
Total:		\$1,644,009,413.46	\$1,797,622,802.44

The Committee received testimony from three organizations suggesting that Texas increase its tax rates on these excise taxes to address budgetary shortfalls or provide property tax relief.

* Effective September 1, 2021, the ale and malt liquor tax rate will be the same as the beer tax rate.

-
- (1) *Campaign for Tobacco-Free Kids, Tobacconomics, American Cancer Society Cancer Action Network, and Texas Tobacco Control Partners recommend increasing the cigarette and cigar and tobacco products taxes.*

Four anti-smoking advocacy organizations (Campaign for Tobacco-Free Kids, Tobacconomics, American Cancer Society Cancer Action Network, and Texas Tobacco Control Partners) recommend that the Legislature more than double the cigarette tax from \$1.41 per pack to \$2.91 per pack.³⁰⁵ These organizations estimate this increase would generate new annual revenue of \$624.34 million, prevent 81,600 children from becoming smokers, and cause 139,800 current smokers to quit smoking.³⁰⁶

Campaign for Tobacco-Free Kids, Tobacconomics, and American Cancer Society Cancer Action Network also recommend setting the cigar and tobacco products tax at “60% of the wholesale price with minimum tax rates for each major [other tobacco products] category linked to the state cigarette tax rate on a per-package or per-dose basis.”³⁰⁷

- (2) *Texans for Safe and Drug-Free Youth recommends increasing all alcohol excise taxes.*

Texans for Safe and Drug-Free Youth asks the Legislature to raise all four alcohol excise taxes by an amount that would be equal to “[a] ten-cent increase in the tax on a drink.”³⁰⁸ The organization does not specify the tax rates it would prefer. The organization estimates this increase would generate \$708 million in new tax revenue, which would be 142% of the revenue generated from all alcohol excise taxes in 2020.³⁰⁹ The organization claims this tax increase is needed in part because Texas’ alcohol excise taxes have “not been raised since 1984,” and the distilled spirits tax “is the 46th lowest in the nation. The wine excise tax is 44th in the nation and the beer excise tax is 31st.”³¹⁰

C. Recommendations from public policy advocacy organizations.

The Committee received testimony from five public policy advocacy organizations ranging across the ideological spectrum from TPPF to Every Texan making recommendations on how the Legislature could provide additional property tax relief.

- (1) *TPPF recommends eliminating school district M&O taxes either immediately with a sales tax swap or over time with a surplus-state-funds buy down.*

TPPF’s position is that “property taxes should be eliminated, with the first step being to eliminate school districts’ maintenance and operations (M&O) property taxes.”³¹¹ TPPF proposes achieving this goal by either broadening the sales tax base by including items from CPA’s Exemption Report and raising the state sales tax rate from 6.25% to 7.88% or limiting “the increase of general revenue-related funds per biennium” to 4% and “us[ing] 90% of the resulting surplus to buy down school district’s M&O property taxes over time until they are eliminated.”³¹²

(2) *Every Texan recommends both implementing a property tax circuit breaker program and abandoning H.B. 3's school district rate compression.*

Every Texan submitted two separate RFI responses. Every Texan first recommends that the Legislature enact a “property-tax circuit breaker,” which “reduces property taxes that exceed a certain percentage of someone’s income.”³¹³ Every Texan advocates for a circuit breaker program because such programs “cost far less than across-the-board rate reductions or increases in exemptions.”³¹⁴ According to Every Texan, “[m]ost states offer some form of circuit breaker” with half of those states “administer[ing] them as part of their income tax or property tax systems” and “the other half operat[ing] a separate, stand-alone rebate process.”³¹⁵ If the Legislature desired to implement a property-tax circuit breaker, it must decide what percentage of household income triggers the circuit breaker, how much of the property tax excess is absorbed, the maximum income level, the maximum credit amount, whether to include renters, and the percentage of total tax collections returned.³¹⁶

Second, Every Texan recommends that “the Legislature should abandon the problematic individual school district tax rate compression and freeze the Tier I M&O property tax rate for all districts at the current level.”³¹⁷ The Committee notes that this recommendation would not provide any additional property tax relief. Instead, it would undo the property tax relief provided by H.B. 3.

(3) *TCCRI recommends reducing property taxes by either increasing the state sales tax rate or eliminating certain sales tax exemptions.*

Generally, TCCRI prefers sales taxes to property taxes because consumption taxes “encourage saving and capital formation,” promote tax transparency, and have “a well-established and straightforward compliance regime.”³¹⁸ In response to the argument that sales taxes are regressive, TCCRI counters that property taxes also “tend to be regressive,” the regressivity “can be mitigated by granting exemptions for certain items,” and “consumers have the ability to decrease their sales tax burden by refraining from making purchases with their discretionary income, or by purchasing cheaper substitute goods.”³¹⁹

Therefore, TCCRI provides two options that could reduce property taxes by increasing sales tax collections. First, the Legislature could raise the state sales tax rate from 6.25% to 7.25%, which would make Texas’ average combined state and local sales tax rate 9.19% with a maximum of 9.25%.³²⁰ TCCRI notes this would place Texas in the middle of its neighbor states, which have average combined rates of 7.82% (New Mexico), 8.94% (Oklahoma), 9.47% (Arkansas), and 9.52% (Louisiana).³²¹

Second, the Legislature could raise sales tax revenue for property tax relief through targeted elimination of certain sales tax exemptions and exclusions.³²² Specifically, TCCRI suggests applying the sales tax to “legal, accounting, audit, architectural, engineering, management consulting, public relations, contract computer programming, and research and development services.”³²³ Additionally, TCCRI proposes “[r]epealing the exemptions for sales of water, agricultural feed, items, and machinery, and over-the-counter drugs.”³²⁴ According to CPA’s Exemption Report, for FY 2021, taxing the services TCCRI suggests would generate \$2.95

billion and repealing the exemptions TCCRI proposes would raise another \$1.07 billion. The combined value of these changes could provide \$0.15 of school district rate compression.

(4) *Raise Your Hand Texas recommends avoiding consideration of reductions in school district property taxes until the Legislature finds a method to finance H.B. 3's rate compression.*

Similar to Every Texan's second response, Raise Your Hand Texas' testimony objects to H.B. 3's ongoing property tax compression.³²⁵ According to Raise Your Hand Texas, H.B. 3's automatic compression "makes an open-ended commitment that poses a threat to the state's long-term financial stability."³²⁶ Raise Your Hand Texas does not make any suggestions for additional property tax relief; instead, it pleads that the Legislature "first must discuss the additional state revenue needed to pay for the tax relief already granted under House Bill 3 and it should not ignore the additional investments needed to meet our public schools' needs due to COVID-19."³²⁷

(5) *TTARA recommends evaluating the tradeoffs between reducing property taxes and increasing another tax to provide revenue-neutral tax reform.*

TTARA does not make specific recommendations to reduce property taxes. Instead, it concludes that "Texas' high property taxes are most certainly a sore thumb; however, trading that sore thumb for another may not achieve the positive policy result desired."³²⁸ Throughout its testimony, TTARA notes potential issues with proposals to provide property tax relief by either increasing the sales tax rate or expanding the sales tax base. If the Legislature decides to reduce school district property taxes through revenue from an increased sales tax rate or expanded sales tax base, TTARA encourages the Legislature to set a target that would "provide enough [revenue] for meaningful property tax relief."³²⁹ TTARA suggests this target could be a certain number of cents of school district tax rate compression or a percentage reduction that moves Texas' tax burden closer to the 50-state average.³³⁰

TTARA notes that a moderate (21.6%) increase in Texas' state sales tax rate could give Texas the highest combined average state and local sales tax rate.³³¹ According to Tax Foundation data, increasing Texas' state sales tax rate by 1.35% from 6.25% to 7.60% would give Texas the highest average combined state and local rate of 9.54% (ahead of Tennessee at 9.53%).³³² TTARA raises concerns that a large increase placing Texas far ahead of Tennessee would be "clearly not a desirable outcome."³³³

TTARA analyzed the 2018 CPA Exemption Report and found that 94.3% of the total cost of exemptions falls into four categories: (1) "items used in the manufacturing process . . . which are essential to protecting economic competitiveness;" (2) "items already taxed by a separate tax . . . to avoid paying a tax on a tax;" (3) "basic consumer items . . . to moderate the tax burden on those of lower income;" and (4) "agricultural items."³³⁴ Additionally, regarding untaxed services, TTARA noted that "[o]nly three small states – South Dakota, Hawaii and New Mexico – tax services generally" and Texas already "ranks 8th highest among all states in the number of services taxed."³³⁵ Although TTARA finds that "swapping a higher sales tax rate for lower property tax rates would generally benefit businesses modestly more than individuals," it adds

that eliminating certain large exemptions “could substantially increase the overall tax burden on the business community.”³³⁶

Recommendation

At the time of this Report, CPA had not published the FY 2022–2023 Biennial Revenue Estimate (“BRE”).³³⁷ Without the BRE’s estimates of available cash and anticipated revenue, the Committee does not make any specific recommendations to provide additional property tax relief at this time.

However, based on the materials and testimony the Committee reviewed, a tax swap that combines meaningful school district tax rate compression (at least \$0.10) with targeted sales tax base expansion and a modest state sales tax rate increase (no greater than 1.00%) could be a successful approach to provide additional property tax relief. The Committee encourages the Legislature to further review the LBB’s *Study on District Property Tax Compression* and CPA’s Exemption Report when evaluating potential property tax relief options.

LOCAL OPTION SALES AND USE TAXES (CHARGE 3)

Study the role of the local option sales and use tax, including: an analysis of the available uses for those taxes, specifically economic development agreements; the statewide distribution of local tax rates; the proportion of the local government budget supported by sales and use taxes; the application of consistent sales sourcing rules; and the impact of shifting from origin to destination sourcing.

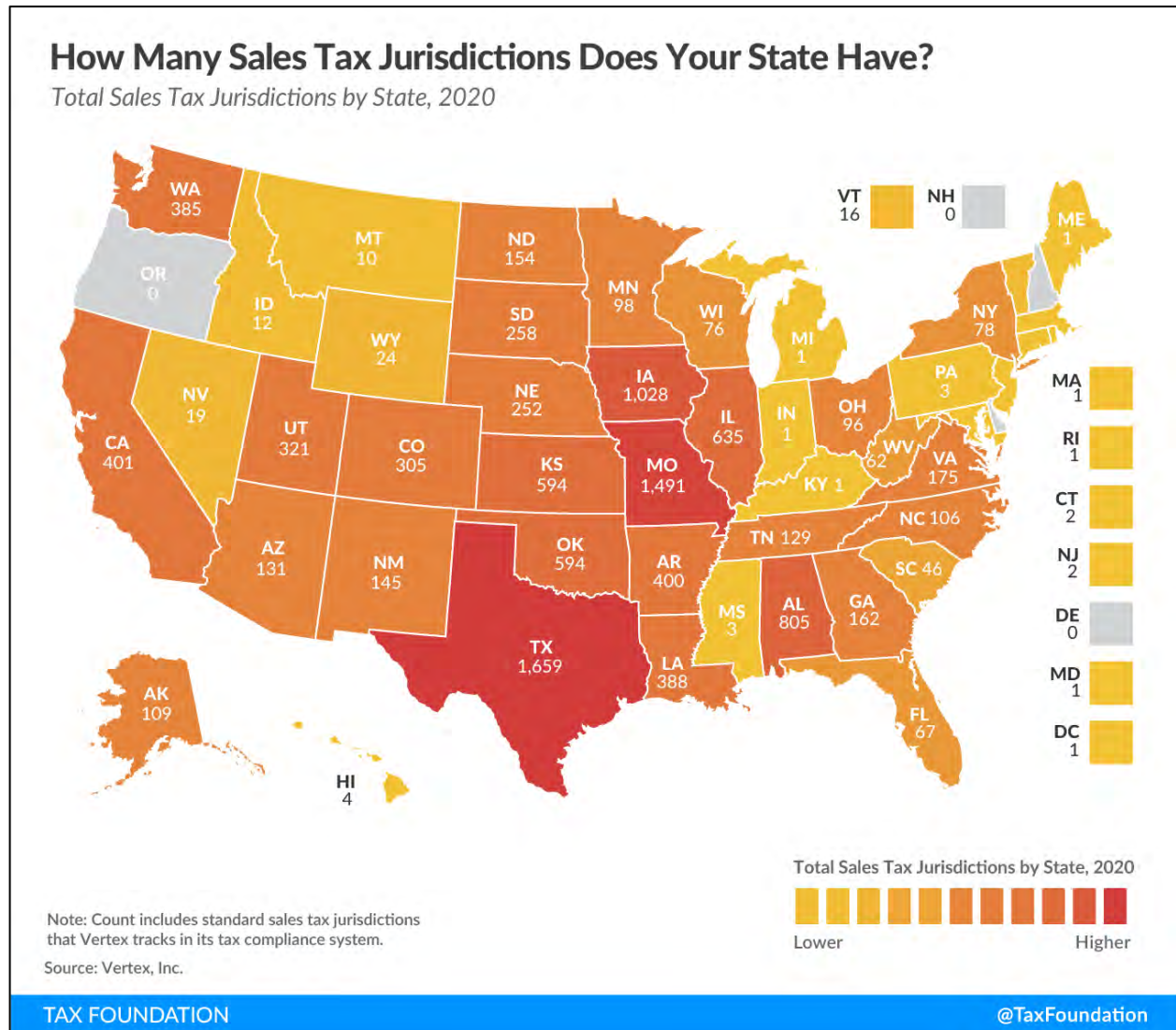
Introduction

In addition to the state sales tax of 6.25%, Texas allows local government taxing units to impose up to an additional 2.00% sales tax with voter approval.³³⁸ These taxing units can use the sales tax proceeds for 21 different purposes, depending on the type of taxing unit. The various options are listed below.

Local Sales Tax:	Eligible Taxing Units:	Statute Reference:
General sales and use tax	Cities and certain special purpose districts	Tex. Tax Code ch. 321; Tex. Spec. Dist. Code
Sales tax for economic development (Type A)*	Cities	Tex. Loc. Gov't Code § 504.251
Sales tax for economic development (Type B)*	Cities	Tex. Loc. Gov't Code § 505.251
Street maintenance sales tax	Cities	Tex. Tax Code § 327.003
Municipal development corporation*	Cities	Tex. Loc. Gov't Code § 379A.081
Municipal development district*	Cities	Tex. Loc. Gov't Code § 377.101
Municipal management district*	Cities	Tex. Loc. Gov't Code § 375.311
Fire control, prevention, and emergency services district*	Cities	Tex. Loc. Gov't Code ch. 344; Tex. Tax Code § 321.106
Municipal sales tax for property tax relief	Cities	Tex. Tax Code ch. 321
Crime control and prevention district*	Cities and counties	Tex. Loc. Gov't Code ch. 363; Tex. Tax Code §§ 321.108, 323.105
Venue sales tax	Cities and counties	Tex. Loc. Gov't Code § 334.081
Metropolitan and rapid transit authority/municipal transit department*	Cities and counties	Tex. Tax Code ch. 322; Tex. Transp. Code chs. 451–453, 457, 460
County sales tax for property tax relief	Counties	Tex. Tax Code ch. 323
County health services sales tax	Counties	Tex. Tax Code § 324.021
County landfill and criminal detention center sales tax	Counties	Tex. Tax Code § 325.021
County development district*	Counties	Tex. Loc. Gov't Code § 383.101
County assistance district*	Counties	Tex. Loc. Gov't Code § 387.007
County improvement district*	Counties	Tex. Loc. Gov't Code § 382.156
Emergency services district (“ESD”)*	Counties	Tex. Health & Safety Code § 775.0751
Hospital district sales tax for property tax relief*	Counties	Tex. Health & Safety Code § 285.061
Library district*	Counties	Tex. Loc. Gov't Code § 326.091

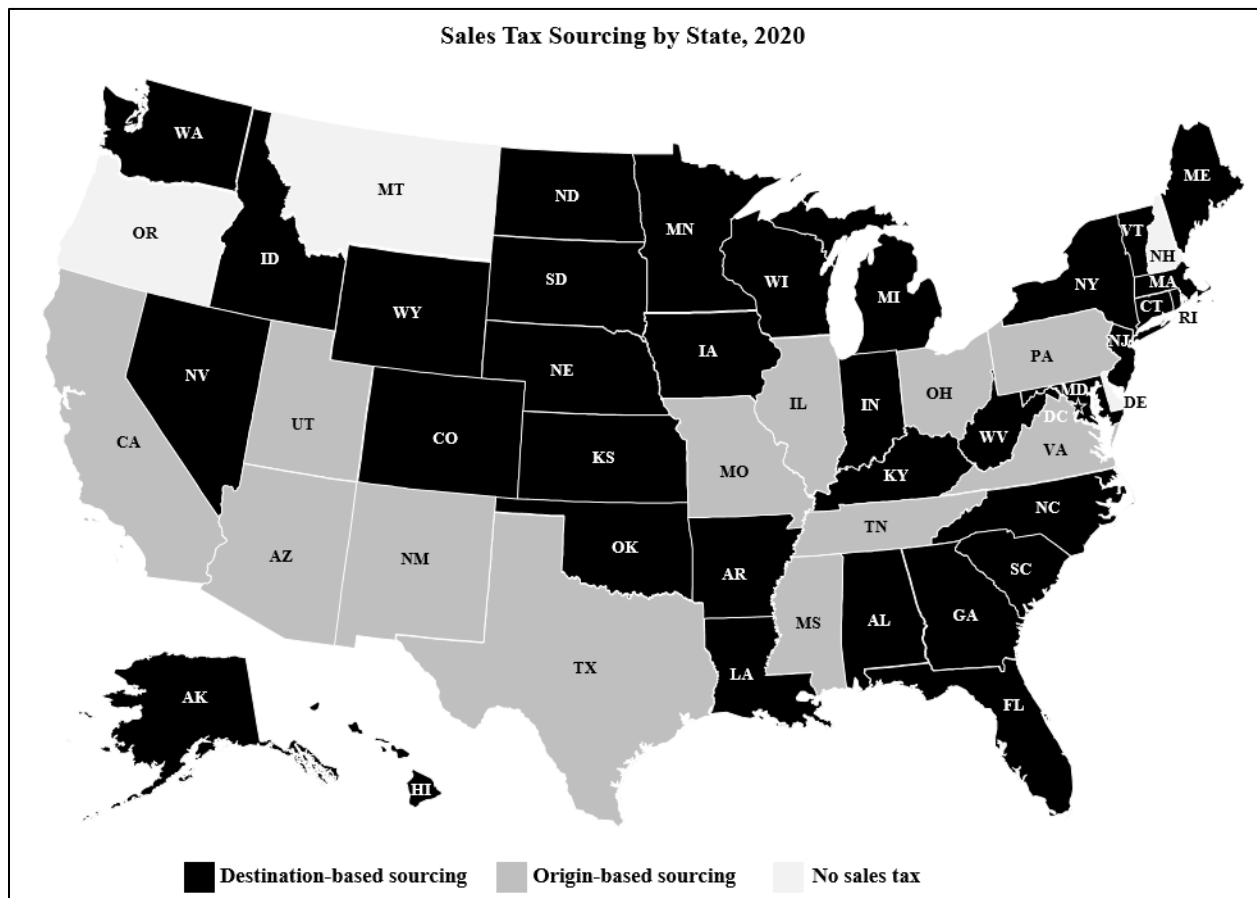
* This local sales tax is imposed by a board, district, or authority created by and for the benefit of a city or county.

As of September 14, 2020, 1,165 cities have adopted a local sales tax along with 124 counties, 358 SPDs, and 10 transit authorities.³³⁹ Texas has more sales tax jurisdictions (1,659) than any other state and more than its four neighboring states combined (1,527).³⁴⁰ The graphic below, provided by the Tax Foundation, lists the total sales tax jurisdictions for each state.



States follow one of two sales tax sourcing methods: (1) origin-based sourcing or (2) destination-based sourcing. Under origin-based sourcing, sellers charge customers the sales tax rate based on the location of the seller. Under destination-based sourcing, sellers charge customers the sales tax rate “based on the location of the purchaser at the point of sale.”³⁴¹ Texas uses origin-based sourcing for most intrastate sales,³⁴² but destination-based sourcing for sales from remote sellers or sales through a marketplace.³⁴³

Nationally, 12 states (including Texas) use origin-based sourcing for intrastate sales, 34 states and the District of Columbia use destination-based sourcing, and 4 states do not have a sales tax (Oregon, Montana, Delaware, and New Hampshire).³⁴⁴



Among the 12 states using origin-based sourcing for intrastate sales, 2 (Arizona and New Mexico) use it for remote sellers as well; 9 (Illinois, Mississippi, Missouri, Ohio, Pennsylvania, Tennessee, Texas, Utah, and Virginia) use origin-based sourcing for intrastate sales and destination-based sourcing for interstate transactions; and 1 (California) “uses origin sourcing for state and municipal sales taxes on both intrastate and interstate commerce, but destination sourcing for sales taxes imposed by special districts.”³⁴⁵

The Tax Foundation concluded in a recent report that “[t]hese [12] states should take the opportunity afforded by their newfound post-*Wayfair* authority to better align their sales tax codes, moving to destination sourcing for all sales.”³⁴⁶ The Tax Foundation added that even the two states that use origin-based sourcing for all sales “should prioritize adopting destination sourcing for all sales.”³⁴⁷

I. Economic Development Agreements

Texas provides cities and counties with similar authority to offer incentives to private entities to encourage state or local economic development.³⁴⁸ These economic development agreements are authorized in chapters 380 (cities) and 381 (counties) of the Texas Local Government Code. Thus, they are referred to as 380/381 agreements. These 380/381 agreements can include a variety of incentives based on the statute’s broad authorization for cities and counties to “mak[e] loans and grants of public money and provid[e] personnel and services.”³⁴⁹

Specific to this charge, these agreements can include rebates of the local sales tax generated by a business located in a city or county. According to CPA these “rebate[s] may be as high as 75 percent.”³⁵⁰ Although 380/381 agreements are public information, the State does not have a central database of all 380/381 agreements.³⁵¹ Therefore, the Committee was unable to assess the full scope of 380/381 agreements. The Committee recommends that the Legislature implement a database of agreements and a reporting requirement for local governments using 380/381 agreements.

II. Interim Committee Testimony

The Committee requested input on this charge in RFI 2. In response to RFI 2, the Committee received submissions from the following 19 respondents:

- (1) Iain Vasey, President & CEO, Corpus Christi Regional Economic Development Corporation (“CCREDC”);
- (2) Brian Pannell, Director – U.S. Transaction Tax, Dell Technologies;
- (3) Jason Ball, President & CEO, and Amy Mizcles, Vice President of Community Engagement, Round Rock Chamber;
- (4) Chris Hillman, City Manager, City of Irving;
- (5) Karen Selbo Hunt, Mayor, City of Coppell;
- (6) Craig Morgan, Mayor, City of Round Rock;
- (7) Susan L. Morgan, Chief Financial Officer, City of Round Rock;
- (8) Monty Wynn, Director – Grassroots and Legislative Services, TML;
- (9) Kyle Kasner, Founder, TexasCityServices LLC;
- (10) Honorable Glenn Hegar, Texas Comptroller of Public Accounts;
- (11) Hilary J. Shine, Executive Director of Communications and Legislative Affairs, City of Killeen;
- (12) Heather Hurlbert, Director of Finance and Business Analysis, City of Corpus Christi;
- (13) Robert B. Scott, Assistant City Manager, City of Carrollton;
- (14) John Kroll, Partner, HMWK Global;
- (15) Dale Craymer, President, and John Kennedy, Senior Analyst, TTARA;
- (16) Cathy Stein, Place Three Alderman, City of Dalworthington Gardens;
- (17) HD Supply;
- (18) TCCRI; and
- (19) John Christian, Director – Controversy Resolution, Ryan, LLC.³⁵²

The majority of the testimony focused on the portion of the Committee’s charge relating to “the impact of shifting from origin to destination sourcing.” Unsurprisingly, cities, businesses, and consultants that currently benefit from origin-based sourcing and 380 agreements supported maintaining Texas’ current sourcing scheme, whereas cities that would benefit from destination-based sourcing support a change to destination-based sourcing for all sales. CPA addressed issues of municipalities abusing origin-based sourcing and 380 agreements. TML, CCREDC, Susan Morgan from the City of Round Rock, and the City of Irving generally testified regarding the benefits of local option sales taxes, including the Type A and Type B economic development sales taxes. TCCRI provided a helpful overview of the role of local sales taxes in the budgets of

large cities. Lastly, TTARA addressed the public policy concerns associated with a change from origin-based sourcing to destination-based sourcing.

Committee Review

The Committee analyzed the current local sales tax rates of all cities, counties, transit authorities, and other SPDs. Additionally, the Committee reviewed the written testimony provided in response to RFI 2.

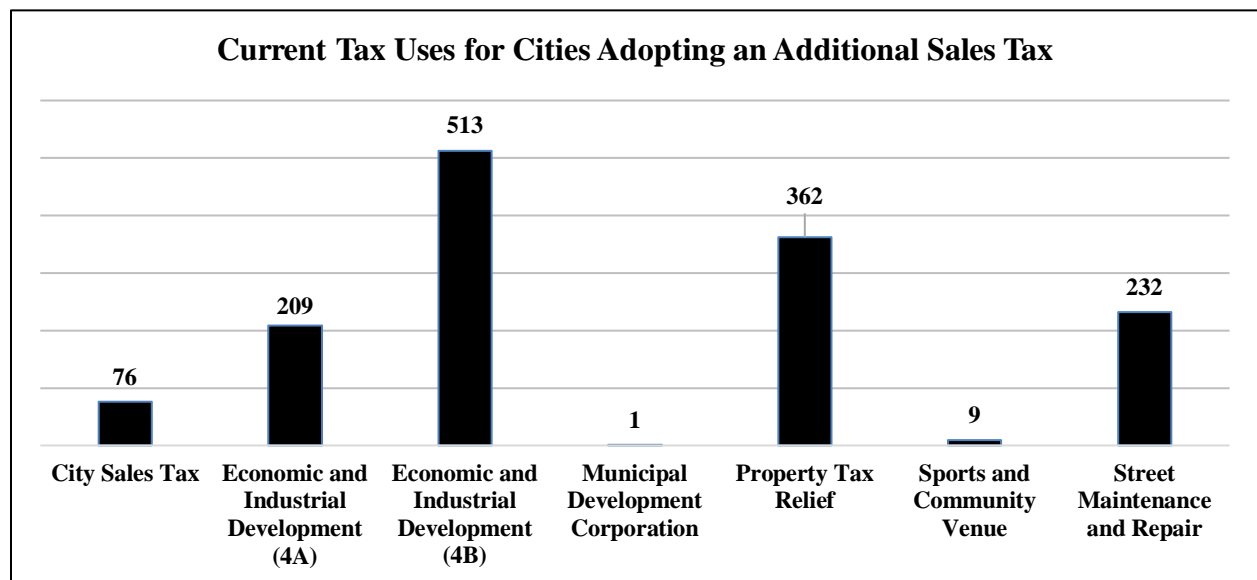
I. Local Sales Tax Rate Analysis

The Committee obtained and analyzed CPA data on the local sales tax rates for cities, counties, transit authorities, and SPDs.

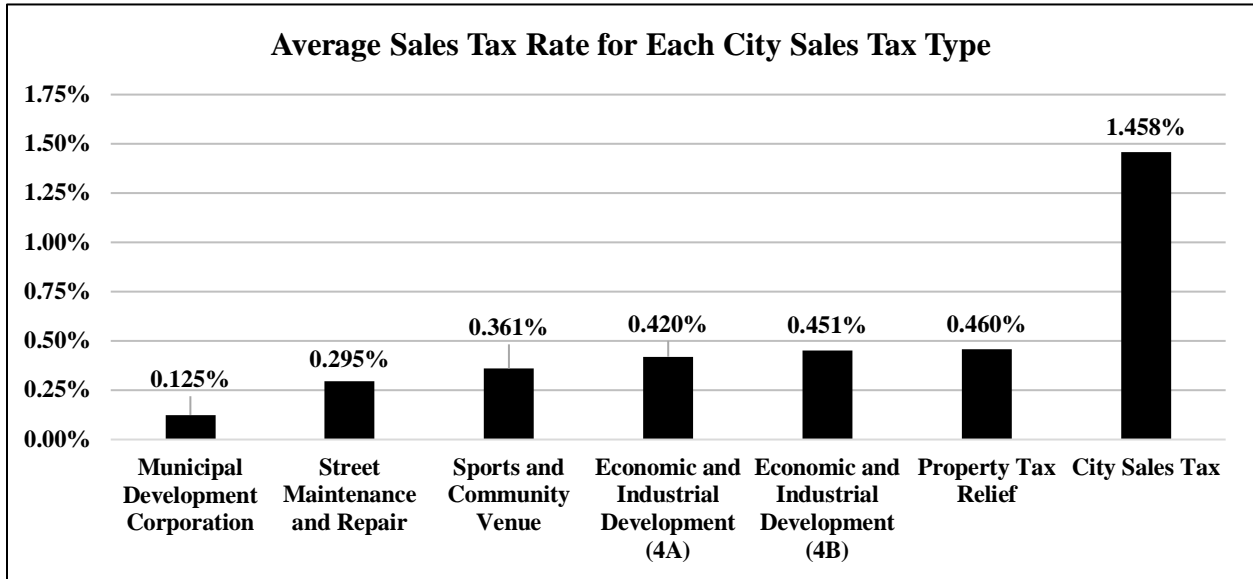
A. City local sales tax rates.

Among the 1,165 cities with a local sales tax, the average tax rate is 1.50%, the highest rate is 2.00%, and the lowest rate is 0.25%.³⁵³ Additionally, 11 cities (Bartonville, Bee Cave, Bulverde, Cleveland, Dripping Springs, Hutto, Manor, Niederwald, Oak Ridge, Pflugerville, and Reno) have varying rates in different parts of the city.³⁵⁴

Around 74% of these cities (862) currently have an additional sales tax in addition to their general revenue sales tax.³⁵⁵ The rates adopted for these additional sales taxes are a part of the average rate listed above. The chart below lists the number of cities with each type of additional sales tax. These uses total more than 862 because cities can adopt additional sales taxes for multiple purposes as long as the combined rate does not exceed 2.00%.



The average current rates for each of these additional sale tax uses are listed in the chart below.



(1) Type A and Type B economic development corporations.

The Committee also reviewed data on the local sales tax revenues from the 752 Type A and Type B economic development corporations (“EDCs”) in Texas. Texas originally authorized EDCs in 1979³⁵⁶ then authorized cities to adopt a local sales tax to fund the EDCs in 1989 and 1991.³⁵⁷ Prior to 2009, these EDCs were known as 4A or 4B EDCs, but the 80th Legislature recodified the Development Corporation Act to chapters 501–505 of the Texas Local Government Code and renamed the EDCs as Type A or Type B EDCs.³⁵⁸

Generally, Type A EDCs can fund “industrial and manufacturing facilities, research and development facilities, recycling facilities, distribution centers, small warehouse facilities, military facilities, job training, targeted infrastructure, regional or national headquarters facilities, business airport facilities and port-related facilities.”³⁵⁹ Type B EDCs can fund the same projects as Type A EDCs plus “projects that contribute to the quality of life in the community, such as park-related facilities, professional and amateur sports and athletic facilities, tourism and entertainment facilities, affordable housing or other improvements that promote new or expanded business enterprises that create or retain primary jobs.”³⁶⁰

EDCs are located in 611 cities, and 723 EDCs received local sales tax revenue in FY 2019.³⁶¹ In FY 2019, the 209 Type A EDCs with a local sales tax received \$316,668,914 of sales tax revenue, which made up 72.89% of the EDCs’ revenues. The 514 Type B EDCs with a local sales tax received \$548,406,641 of sales tax revenue, which made up 74.67% of the EDCs’ revenues. The largest EDCs by revenue are listed in the table below.

Category:	EDC Name:	FY 2019 Revenue:
Type A Total Revenue	Frisco Economic Development Corporation	\$42,990,488
Type A Sales Tax Revenue	Frisco Economic Development Corporation	\$22,323,660
Type B Total Revenue	Round Rock Transportation System Development Corp.	\$58,869,814

Category:	EDC Name:	FY 2019 Revenue:
Type B Sales Tax Revenue	Frisco Community Development Corporation	\$22,323,660

B. County local sales tax rates.

County local sales taxes are more straightforward than city local sales taxes. Generally, a county can adopt “a one-half percent county sales and use tax within the county to be used to reduce the county property tax rate” or, “in a county that includes no territory within the limits of a municipality, . . . a one percent county sales and use tax within the county to be used to reduce the county property tax rate.”³⁶² Other than the county venue sales tax, other local sales taxes a county could adopt become a part of a separate SPD, such as an ESD or library district.

Of the 124 counties that have adopted the local sales tax for property tax relief, 122 have a rate of 0.50%, 1 (Jim Hogg County) has a rate of 1.00%, and 1 (Terrell County) has a rate of 1.50% with 1.00% for property tax relief and 0.50% for a sports and community venue.

C. Transit authority local sales tax rates.

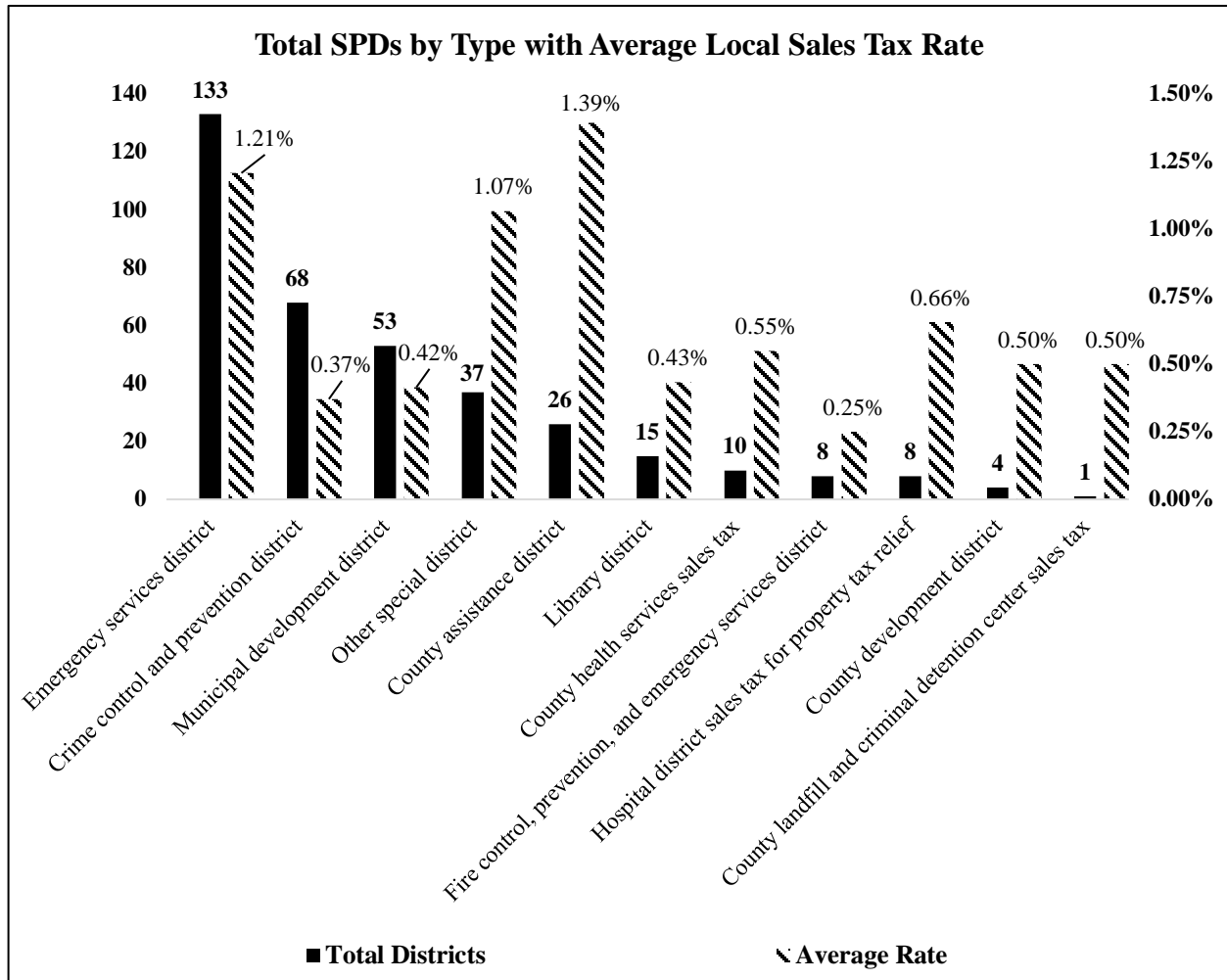
Texas has ten transit authorities that impose local sales tax ranging from 0.25% to 1.00%. Those transit authorities are listed below.

Type:	Transit District Name:	Effective Date:	Tax Rate:
Metropolitan Transit Authority (“MTA”)	Austin MTA	7/1/1985	1.00%
	Corpus Christi MTA	1/1/1986	0.50%
	Dallas MTA	1/1/1984	1.00%
	Fort Worth MTA	4/1/1984	0.50%
	Houston MTA	10/1/1978	1.00%
	San Antonio MTA	1/1/1978	0.50%
City Transit Department (“CTD”)	El Paso CTD	4/1/1988	0.50%
	Laredo CTD	7/1/1991	0.25%
County Transit Authority (“CTA”)	Denton County CTA	1/1/2004	0.50%
Advanced Transportation District (“ATD”)	San Antonio ATD	4/1/2005	0.25%

D. SPD local sales tax rates.

Since CPA’s September 2020 report of 358 SPDs with a local sales tax, 5 additional SPDs had a local sales tax take effect October 1, 2020.* Across all 363 SPDs, the average sales tax rate is 0.84%, and these taxes have been in effect for an average of 11 years. The chart below lists the number of SPDs by SPD type and the average local sales tax rate for each SPD type.

* Fort Bend County Assistance District No. 19, Fort Bend County Assistance District No. 22, Montgomery County Management District No. 1, Westside 211 Special Improvement District, and Wood Trace Management District.



II. Testimony

The Committee received testimony from: (1) entities supporting Texas’ current sales tax sourcing statutes; (2) entities supporting a change to destination sourcing for all sales; (3) CPA “concern[ing] the application of consistent sales sourcing rules, economic development agreements, and the impact of shifting from origin to destination sourcing;”³⁶³ (4) respondents supporting local option sales taxes generally; (5) TCCRI addressing the proportion of local government budgets supported by sales taxes; and (6) TTARA presenting the policy considerations associated with changing from origin-based to destination-based sourcing.

A. Testimony supporting Texas’ current sales tax sourcing statutes.

Numerous respondents testified regarding their support for Texas’ current sales tax sourcing scheme and opposition to a shift to destination-based sourcing for all sales. Many of these entities characterized Texas’ use of origin-based sourcing as a contributing factor to the “Texas Miracle.”³⁶⁴ Three of the respondents condensed their argument for Texas remaining a destination-based sourcing state to the proverb “if it ain’t broke don’t fix it.”³⁶⁵

Three cities and a chamber of commerce oppose a change to destination-based sourcing. The City of Carrollton opposes destination-based sourcing because “[a] huge shift in sales tax from one city to another often . . . [results in] a relatively small number of large losers and a very large number of small winners.”³⁶⁶ However, the City also notes that “[t]here is no doubt that origin-based sourcing is more subject to manipulation and abuse than destination-based sourcing” and raises concerns that “abusive [380 agreement] arrangements” could be “a substantial revenue threat to all Texas cities.”³⁶⁷ The City of Coppell alleges that a change to destination-based sourcing “will ultimately hurt consumers in the state” and “is a Robin Hood for sales tax plan.”³⁶⁸ The City of Round Rock testified that “reaffirming Texas as an origination state, ultimately preserv[es] our miraculous economic model.”³⁶⁹ But, the City states that “there will always be those that seek to game the spirit of the taxation philosophy for undue benefit,” and such efforts “should be quickly curtailed.”³⁷⁰ Lastly, the Round Rock Chamber “strongly oppose[s] changing local sales tax sourcing from being origin-based to destination-based.”³⁷¹

Dell Technologies, a party to a 380 agreement with the City of Round Rock, argued that “a shift from origin to destination sourcing could mean a net decrease in sales tax collections for all but the largest metropolitan areas” and “[m]any cities, having already made infrastructure investments to support business locations, would not be able to overcome the loss of tax revenues.”³⁷² Dell claims that a shift to destination-based sourcing will lead to “increased property taxes . . . or decreased government services.”³⁷³

HD Supply, a party to a 380 agreement with the City of New Braunfels, contends that switching to destination-based sourcing will “destroy the credibility state of Texas has earned as a business-friendly state” and “cause companies to re-evaluate their investments in Texas.”³⁷⁴ HD Supply recommends that, at most, the Legislature should make “minor changes to prevent any abuse of these types of [380] agreements.”³⁷⁵

Tax consultants HMWK Global, TexasCityServices LLC, and Ryan, LLC recommend that Texas maintain its origin-based sourcing statutes for various reasons, including ease of business compliance with origin-based sourcing, impact to existing 380 agreements from a shift to destination-based sourcing, and potential revenue loss to certain local governments.³⁷⁶

B. Testimony supporting a change to destination sourcing for all sales.

Two cities and an individual city alderman support a shift to destination sourcing for all sales in Texas. The City of Corpus Christi testified that “the shift from point of origin versus destination is very important to the City” because the City believes it “is not receiving the full amount of revenue that the City is entitled for the purchases made by [its] citizens.”³⁷⁷ The City adds that “the creation of the large distribution centers for the purpose of consolidating sales tax collections” has led to “revenue generated by the purchases made by . . . citizens [of the City] . . . not reaching the City.”³⁷⁸ The City requests that the Legislature “leav[e] the local option percentage and uses unchanged, but . . . move from origination to destination for sales tax sourcing.”³⁷⁹

The City of Killeen stated that “[t]he shift from origin to destination would have a significant positive financial impact in our community and would be a major step in reducing the reliance on

property tax and easing the disproportionate impact of veterans exemptions.”³⁸⁰ The City notes that it “does not have a large sales tax generator like Dell in Round Rock or Best Buy in San Marcos” and does not “have Chapter 380 economic development agreements rebating millions of dollars in sales tax collections to private businesses.”³⁸¹ The City argues that “[t]he purpose of a local sales tax is to generate revenue to provide services to the population in a local jurisdiction.”³⁸² The City adds that “[t]rue property tax relief depends on sourcing sales taxes to destinations.”³⁸³

The place three alderman for the City of Dalworthington Gardens (Cathy Stein) suggests that Texas move to destination-based sourcing except for small intrastate sellers “whose in state sales [do] not meet the economic nexus threshold for remote sellers.”³⁸⁴ For those small sellers, Ms. Stein recommends the sellers be allowed to use origin-based sourcing until their sales exceed the economic nexus threshold of \$500,000 in sales.³⁸⁵ Ms. Stein concludes that “a shift from origin to destination sourcing will simplify current Texas sales tax laws . . . and be good for businesses, especially if a threshold is developed for destination sourcing.”³⁸⁶

C. CPA testimony on sales sourcing rules, economic development agreements, and the impacts of shifting from origin to destination sourcing.

CPA testified that its changes to 34 TAC § 3.334 (Local Sales and Use Taxes), which provided clarifications on sourcing of orders placed through the internet, raised concerns from cities that “had entered into economic development agreements [380 agreements] to share their local sales tax revenue.”³⁸⁷ CPA observed that in some cases “these agreements have been structured by consultants so that businesses can argue that orders placed through the internet should be sourced to an ‘ecommerce center,’ holding that orders are received at these centers and that the orders received through the internet make them a ‘place of business.’”³⁸⁸ CPA clarifies that sales tax revenue “is *not* business revenue of the e-commerce centers; it is tax paid by purchasers. In return for the privilege of doing business in Texas, businesses agree to collect sales tax and hold it in trust for state and local governments.”³⁸⁹

CPA also addressed five arguments that it has heard frequently from stakeholders opposed to the 34 TAC § 3.334 rule amendments: (1) CPA overstepped its rulemaking authority, (2) the rule amendments will put cities at a competitive disadvantage with other states, (3) the cities will raise property taxes if the internet sourcing rule takes effect, (4) cities are not using sales tax revenue to subsidize economic development corporations, and (5) “neither the Legislature nor the Comptroller can change the way sales tax revenues are treated due to bonds and contracts associated with that revenue.”³⁹⁰

In response, CPA notes that: (1) it “has broad rulemaking authority assigned to it by state law,” (2) Texas “[c]ities with these centers aren’t competing with other states, they’re competing with other Texas communities,” (3) cities are “using fulfillment or e-commerce center revenue to subsidize their own property tax, at the expense of neighboring communities that may have to raise taxes,” (4) “rebating taxpayer dollars back to businesses when it was never their money to begin with is giving them cash,” and (5) “[t]o suggest the Legislature cannot change the way sales tax revenues are treated is specious. . . . These arguments are also tenuous because, in many

instances, these agreements allow businesses to terminate the agreement with a 90-day notice.”³⁹¹

CPA “implore[s] the Legislature to look carefully at how [380 agreement] deals are defined and regulated, to ensure their transparency and accountability.”³⁹²

D. Testimony supporting local option sales taxes generally.

TML, the City of Round Rock’s chief financial officer, CCREDC, and the City of Irving submitted testimony supporting local option sales taxes. TML noted that “[t]he importance of local sales and use taxes . . . cannot be overstated,” and these “taxes are a prime example of the strong bond that exists between citizens and their local governments.”³⁹³ TML added that its “member survey data shows that city sales taxes, on average, make up nearly 30 percent of cities’ general funds.”³⁹⁴

The City of Round Rock’s chief financial officer (Susan Morgan) stated that “local option sales taxes have enabled Round Rock to contribute to the ‘Texas miracle’ and benefit our citizens and business,” and the City’s “core services such as police, fire, and transportation receive 40% of their funding from sales tax.”³⁹⁵ Ms. Morgan noted that the City has a 1.00% general sales tax, a 0.50% sales tax for property tax relief, and a 0.50% sales tax to fund its Type B EDC.³⁹⁶ Ms. Morgan added that the additional property tax relief sales tax has saved the City’s “businesses and citizens over \$350 million in property taxes since its adoption,” and the Type B EDC sales tax has “helped continue Round Rock’s success in providing a strong commercial tax base and vibrant community.”³⁹⁷

The City of Irving imposes a 1.00% general sales tax and participates in the Dallas MTA with its 1.00% sales tax rate.³⁹⁸ In the City of Irving, “[s]ales tax revenue funds 30 percent of the Irving’s proposed fiscal year 2020-21 General Fund budget” and “is more vital for providing basic city services than it has ever been.”³⁹⁹ The City also requests that the Legislature allow the City to impose an additional 0.25% sales tax (above the current 2.00% cap) to its street repair plan.⁴⁰⁰ The Committee declines to make this recommendation.

Lastly, CCREDC testified specifically about the Type A and Type B EDC sales taxes, which the City of Corpus Christi collects, and describes these taxes as “vital to our success of growing our tax base by providing incentives to companies that otherwise would not locate [to Corpus Christi].”⁴⁰¹ CCREDC administers Type A and Type B programs for the City.⁴⁰² CCREDC noted programs have issued “grants of \$10,534,254 to 16 different projects[,] . . . created 800+ jobs and retained another 2,000[, and] . . . added \$74 million to the City’s property tax rolls.”⁴⁰³ CCREDC added that the City recently “leveraged \$3.14 million in Type A/B funds to create a COVID-19 zero-interest small business loan program.”⁴⁰⁴

E. TCCRI testimony on the proportion of local government budgets supported by sales taxes.

TCCRI provided its research to the Committee finding that “the statewide ratio of city property tax revenue to city sales tax revenue for FY 2017 was approximately 1.78.”⁴⁰⁵ TCCRI

analyzed the role of sales tax in the budgets of Texas’ six largest cities, and its results are listed in the table below.

City:	Sales Tax Revenue (in Millions):	Property Tax Revenue (in millions):	Ratio between Property Tax Revenue and Sales Tax Revenue:
Houston	\$694.6	\$1,200.0	1.73
Dallas	\$325.6	\$1,100.0	3.38
San Antonio	\$313.0	\$381.0	1.22
Fort Worth	\$254.1	\$548.3	2.16
Austin	\$251.8	\$531.3	2.11
El Paso	\$97.1	\$214.4	2.21

F. TTARA testimony on the policy considerations to evaluate when considering shifting from origin-based sourcing to destination-based sourcing.

TTARA testifies that origin-based sourcing administration “is generally *less* complex than destination sourcing” because “[t]he sales tax will generally be the same for each item the business sells, regardless of where the customers are from.”⁴⁰⁶ Additionally, with origin-based sourcing, “sales tax dollars stay in the community in which the seller is located,” which can allow local governments to use the revenues to defray the costs of supporting the sellers.⁴⁰⁷

In contrast, with destination-based sourcing, sales “tax dollars [stay] in the community in which the payer of the tax resides – the community in which the purchaser places demands on local services and infrastructure.”⁴⁰⁸ TTARA adds that Texas’ system of using origin-based sourcing for intrastate sales and destination-based sourcing for interstate or marketplace sales “invites confusion for both sellers and consumers alike.”⁴⁰⁹

TTARA concludes that “[t]here are reasonable public policy considerations that can lead the legislature to either destination or origin-based sourcing of local sales taxes.”⁴¹⁰ TTARA provides two suggestions to the Legislature: (1) “require 380 and 381 agreements to meet certain economic criteria” to ensure only agreements “creating positive economic growth for their communities . . . continue” and (2) “allow[] for a more gradual transition to allow local communities and businesses to adapt” if the Legislature switches to destination-based sourcing.⁴¹¹

Recommendation

The Committee makes the following recommendations relating to local option sales and use taxes:

I. Create a Database of 380 and 381 Economic Development Agreements

The Legislature should require CPA to maintain a publicly accessible database of 380 and 381 economic development agreements. The Legislature should require cities and counties using 380 or 381 agreements to provide those agreements to CPA for publication in the database.

II. Require CPA to Provide a Tool for Businesses to Access Current Sales Tax Rates for Local Sales Tax Jurisdictions.

The Legislature should require CPA to develop a readily accessible tool for businesses to rapidly identify the current sales tax rate at any Texas customer's address. CPA should ensure this tool contains updated information whenever a local sales tax jurisdiction changes its rate or jurisdiction boundaries.

III. Consider Shifting from Origin-Based Sourcing to Destination-Based Sourcing

The Legislature should consider requiring all sales to be sourced at the destination in the same manner as remote sales and marketplace sales. The Legislature should provide a threshold for certain small sellers to continue using origin-based sourcing or collect a single local tax rate. The Legislature should provide a sufficient transition period for businesses and consumers to prepare for the change.

PRODUCED WATER RECYCLING AND REUSE (CHARGE 4)

Evaluate the status of water recycling and reuse efforts in the oil and gas industry in Texas and elsewhere. Evaluate options for tax credits, deductions, or discounts to encourage recycling, treatment, or reuse of produced water from oil and gas production activities. Make recommendations on statutory or regulatory changes needed to promote recycling and reuse strategies for produced water. (Joint charge with the House Committee on Energy Resources)

Introduction

Produced water is a byproduct of oil and gas production that includes groundwater naturally occurring within oil and gas reservoirs, water injected into formations as a part of well treatment or secondary recovery operations (e.g., water flooding or steam flooding), and flowback water from hydraulic fracturing.⁴¹² Typically, “produced water is highly saline and may contain a mix of mineral salts; organic compounds; hydrocarbons, organic acids, waxes, and oils; inorganic metals and other inorganic constituents; naturally-occurring radioactive material; chemical additives; and other constituents and byproducts.”⁴¹³ When oil and gas operators generate produced water, the operators can dispose of the water in multiple ways, including injection into oil and gas formations for enhanced recovery, injection into disposal wells, drilling or hydraulic fracturing reuse, non-oil and gas reuse (e.g., agricultural use), evaporation, or surface discharge.⁴¹⁴

In 2018, Texas produced over 10.7 billion barrels of water from oil and gas production.⁴¹⁵ According to the Texas Railroad Commission (“RRC”), “approximately 46% of the state’s produced water is beneficially reused for enhanced recovery, well drilling, and hydraulic fracturing operations. The remaining 54% is injected underground for disposal in permitted injection wells.”⁴¹⁶ According to the Ground Water Protection Council, “about 45 percent of produced water generated from onshore activities in the United States is reused within conventional oil and gas operations.”⁴¹⁷

Other than the brief overview of produced water provided above, the Committee did not evaluate the environmental impacts of produced water or Texas’ produced water regulatory scheme because those areas are outside of the Committee’s jurisdiction. Instead, the Committee focused its review on tax incentive options for recycling and reuse of produced water.

During the 86th Legislative Session, the Committee heard three bills relating to tax credits, deductions, or discounts to encourage recycling, treatment, or reuse of produced water from oil and gas production activities.⁴¹⁸ Additionally, the Committee received information from four interested parties on this charge in response to RFI 2.

I. 86th Session Produced Water Ways & Means Legislation

Current Texas law does not provide any specific tax incentives for produced water treatment, recycling, or reuse. In 2019, the Committee heard three bills that would have created tax incentives for entities that treated produced water for recycling:

-
- (1) **H.B. 2545:** Relating to franchise tax, oil production tax, and gas production tax incentives for certain desalination facility operations;⁴¹⁹
 - (2) **H.B. 3067:** Relating to an oil and gas production tax credit for oil and gas producers that provide produced water for recycling;⁴²⁰ and
 - (3) **H.B. 3717:** Relating to an oil and gas production tax credit for oil and gas producers that provide treated produced water to aquifer storage and recovery project operators.⁴²¹

However, the Legislature did not pass any of these bills.

A. H.B. 2545 (desalination tax credit).

H.B. 2545 would have created a franchise tax credit for desalination facility operators that treat source water with high total dissolved solids concentrations.⁴²² Additionally, desalination facility operators would have been able to exclude from “total revenue any amount received by the entity from the sale of minerals or materials extracted from water by the desalination facility during the desalination process.”⁴²³ In the engrossed version of the bill, the credit would have been equal to:

- (1) \$0.50 for each 1,000 gallons of source water treated that has a total dissolved solids of more than 5,000 milligrams per liter;
- (2) \$1 for each 1,000 gallons where at least 50 percent of the source water treated has a total dissolved solids of more than 30,000 milligrams per liter;
- and (3) \$5 for each 1,000 gallons where at least 50 percent of the source water treated has a total dissolved solids of more than 50,000 milligrams per liter;
- and (4) \$17 for each 1,000 gallons where at least 50 percent of the source water treated has a total dissolved solids of more than 90,000 milligrams per liter.⁴²⁴

The credit would have been transferrable, and an entity purchasing or receiving the credit could apply it to its franchise tax, gas production tax, or oil production tax liabilities.⁴²⁵ The engrossed version of the bill only applied to desalination facilities beginning operations on or after January 1, 2020.⁴²⁶ The credit did not become available until January 1, 2021, and expired on December 31, 2024.⁴²⁷ The LBB was unable to determine the fiscal implications of the bill’s engrossed version because the LBB could not predict whether any qualifying desalination facilities would begin operating between January 1, 2020, and December 31, 2024, and be eligible to receive the tax credit.⁴²⁸

However, in the introduced version of the bill, which applied to all desalination facilities and became effective on January 1, 2020, the LBB estimated a five-year general revenue loss of \$9.55 million and a five-year all funds loss of \$42.06 million.⁴²⁹ The LBB noted that eight desalination facilities were operational in Texas when the Committee considered the bill, and one additional facility was projected to begin operating by 2021.⁴³⁰ Additionally, the LBB stated that “it is not economically feasible in the state to treat water with total dissolved solids concentrations above 70,000 milligrams per liter, and none of the desalination facilities in operation are treating water with such concentrations.”⁴³¹

H.B. 2545 passed in the Committee with eight ayes, zero nays, and three absences.⁴³² The bill passed in the House with 116 ayes, 26 nays, and 2 present, not voting.⁴³³ H.B. 2545 was referred to the Senate Finance Committee and left pending on May 17, 2019.⁴³⁴

B. H.B. 3067 (recycling for discharge tax credit).

H.B. 3067 would have created a gas production tax and oil production tax credit for recycling produced water with a total dissolved solids concentration of more than 90,000 milligrams per liter so that the water may be discharged into or adjacent to water under the federal National Pollutant Discharge Elimination System standards.⁴³⁵ The tax credit’s total annual amount could not exceed \$25 million across all tax credit applications.⁴³⁶

The LBB estimated that implementing the tax credit in H.B. 3067 would require initial setup costs of \$3.55 million between CPA and RRC.⁴³⁷ The LBB noted that “it is not economically feasible in the state to recycle produced water with total dissolved solids concentrations above 90,000 milligrams per liter into fresh water.”⁴³⁸ However, the LBB estimated that this tax credit could incentivize such a recycling facility, and the facility could be operational by 2024.⁴³⁹ Once a produced water recycling facility is operational, the LBB estimated an annual general revenue-related funds loss of \$6.25 million and an annual all funds loss of \$25 million (i.e., the maximum credit amount allowed by the bill).⁴⁴⁰

H.B. 3067 was heard and left pending in the Committee on April 17, 2019.⁴⁴¹

C. H.B. 3717 (treatment for aquifer storage and recovery projects tax credit).

H.B. 3717 would have created a gas production tax and oil production tax credit for treating produced water with a total dissolved solids concentration of more than 90,000 milligrams per liter “for injection into an aquifer for storage and recovery.”⁴⁴² The total annual amount of the tax credit could not exceed \$25 million across all tax credit applications.⁴⁴³

Identically to H.B. 3067, H.B. 3717 would require initial setup costs of \$3.55 million between CPA and RRC.⁴⁴⁴ Again, the LBB noted that “it is not economically feasible in the state to recycle produced water with total dissolved solids concentrations above 90,000 milligrams per liter into fresh water.”⁴⁴⁵ However, the LBB estimated this tax credit could incentivize the establishment of a facility capable of “recycling such produced water into fresh water for storage in an aquifer,” and the facility could be operational by 2024.⁴⁴⁶ Once a produced water recycling facility is operational, the LBB estimated an annual general revenue-related funds loss of \$6.25 million and an annual all funds loss of \$25 million (i.e., the maximum credit amount allowed by the bill).⁴⁴⁷

H.B. 3717 was heard and left pending in the Committee on April 17, 2019.⁴⁴⁸

II. Interim Committee Testimony

The Committee requested input on this charge in RFI 2. In response to RFI 2, the Committee received testimony from the following four individuals:

-
- (1) Todd Staples, President, Texas Oil & Gas Association (“TXOGA”);
 - (2) Jason Modglin, President, Texas Alliance of Energy Producers (“the Alliance”);
 - (3) Colin Leyden, Director – Legislative & Regulatory Affairs - Energy, Environmental Defense Fund (“EDF”); and
 - (4) Ed Longanecker, President, Texas Independent Producers and Royalty Owners Association (“TIPRO”).⁴⁴⁹

Although the testimony was aligned in agreement with the goal of increasing the beneficial use of produced water, the testimony split on whether the Legislature should create tax incentives to encourage produced water recycling and reuse. The testimony presented to the Committee is discussed throughout the Committee Review section below.

In addition to the responses to RFI 2 that the Committee received, the Committee also reviewed the Ground Water Protection Council’s *Produced Water Report: Regulations, Current Practice, and Research Needs* (“GWPC Report”); the *Sustainable Produced Water Policy, Regulatory Framework, and Management in the Texas Oil and Natural Gas Industry: 2019 and Beyond* report from Blythe Lyons, John Tintera, and Kylie Wright; the *U.S. Produced Water Volumes and Management Practices in 2017* report by John Veil; and documents from the Oklahoma Water Resources Board Produced Water Working Group.

Committee Review

As the Committee noted above, the four entities providing testimony on this charge (TXOGA, the Alliance, EDF, and TIPRO) disagree on what the correct legislative action is to incentivize produced water recycling. TXOGA prefers relying on a market-driven approach instead of economic incentives. The Alliance believes incentives, like those proposed in H.B. 2545, should be investigated further and developed. EDF opposes any incentives for produced water recycling or reuse outside of the oilfield. Lastly, TIPRO supports all policies that encourage produced water recycling or reuse.

I. TXOGA Testimony

TXOGA is an oil and gas trade association whose membership “produces in excess of 80 percent of Texas’ crude oil and natural gas, operates over 80 percent of the state’s refining capacity, and is responsible for the vast majority of the state’s pipelines.”⁴⁵⁰ TXOGA believes that improving produced water recycling technology will eventually lead to produced water being “recycled and treated into new drought-proof sources of water for beneficial purposes beyond the oil patch.”⁴⁵¹

TXOGA incorporated multiple points from the GWPC Report into its testimony, including noting that “[l]ogistical and transportation costs may limit the potential reuse of produced water,” “[t]he economic attractiveness of beneficial reuse depends on . . . how the cost compares to other available sources of water after factoring in the costs of its treatment and transportation as well as the disposal of treatment residuals,” and the economics of produced water recycling may improve from “co-benefits . . . such as recovery of saleable products like salt, heavy brine, iodine, or lithium.”⁴⁵²

Although “TXOGA does not oppose state economic incentives to encourage water recycling and reuse,” it “believes that allowing market-driven forces to advance the technology and business of water recycling and reuse is the best way forward in the current environment.”⁴⁵³ Even without tax incentives, TXOGA is optimistic that “recent developments in technology and in business practices . . . are moving [produced water recycling and reuse] toward economic feasibility.”⁴⁵⁴

II. The Alliance Testimony

The Alliance is the largest state oil and gas trade association by membership count (over 2,600 members), and its “members are oil and gas operators/producers, service and drilling companies, royalty owners, and a host of affiliated companies.”⁴⁵⁵

The Alliance notes that previous changes to Texas’ produced water regulatory framework have led to “more and more oil and gas producers shift[ing] to recycling of their fluids and produced water for reuse in hydraulic fracturing operations as opposed to disposing of all of the fluids.”⁴⁵⁶ However, the Alliance asserts that “the cost of these technologies used in recycling and reuse in the oilfield have limited wider and faster adoption of these technologies for end uses outside of the oilfield.”⁴⁵⁷ Thus, the Alliance believes the Legislature should continue investigating and studying potential legislation to create tax incentives for produced water recycling.⁴⁵⁸

In 2019, the Alliance worked with the Independent Petroleum Association of America to publish a white paper on produced water policy in Texas.⁴⁵⁹ The Alliance’s 2019 whitepaper included ten recommendations relating to produced water, including “[d]evelop[ing] incentive mechanisms to help lower the costs of treating [produced water].”⁴⁶⁰ The white paper added that “incentives for water recycling should be considered and studied” but did not provide any specific incentive structure proposals.⁴⁶¹

III. EDF Testimony

EDF is an environmental advocacy organization “with over 2,000,000 members and activists worldwide with over 100,000 in Texas, many of whom care deeply about the potential health and environmental impacts of oil and gas development.”⁴⁶² Generally, EDF’s position is that “significant expansion of management options for produced water . . . should not occur until further science is completed addressing the significant knowledge gaps in the chemical composition, toxicological characteristics, and robust treatment capabilities.”⁴⁶³

Specifically regarding tax incentives, “EDF strongly opposes incentivizing any active treatment and release of produced water outside of the oilfield at this time.”⁴⁶⁴ EDF believes “the science is too poorly understood to implement a tax incentive for produced water reuse and recycling.”⁴⁶⁵ Therefore, EDF concluded that “it would be irresponsible . . . to incentivize action without first identifying and assessing risks to human health and safety and environmental integrity.”⁴⁶⁶

EDF suggested that the Committee should “focus [its] attention towards developing a better

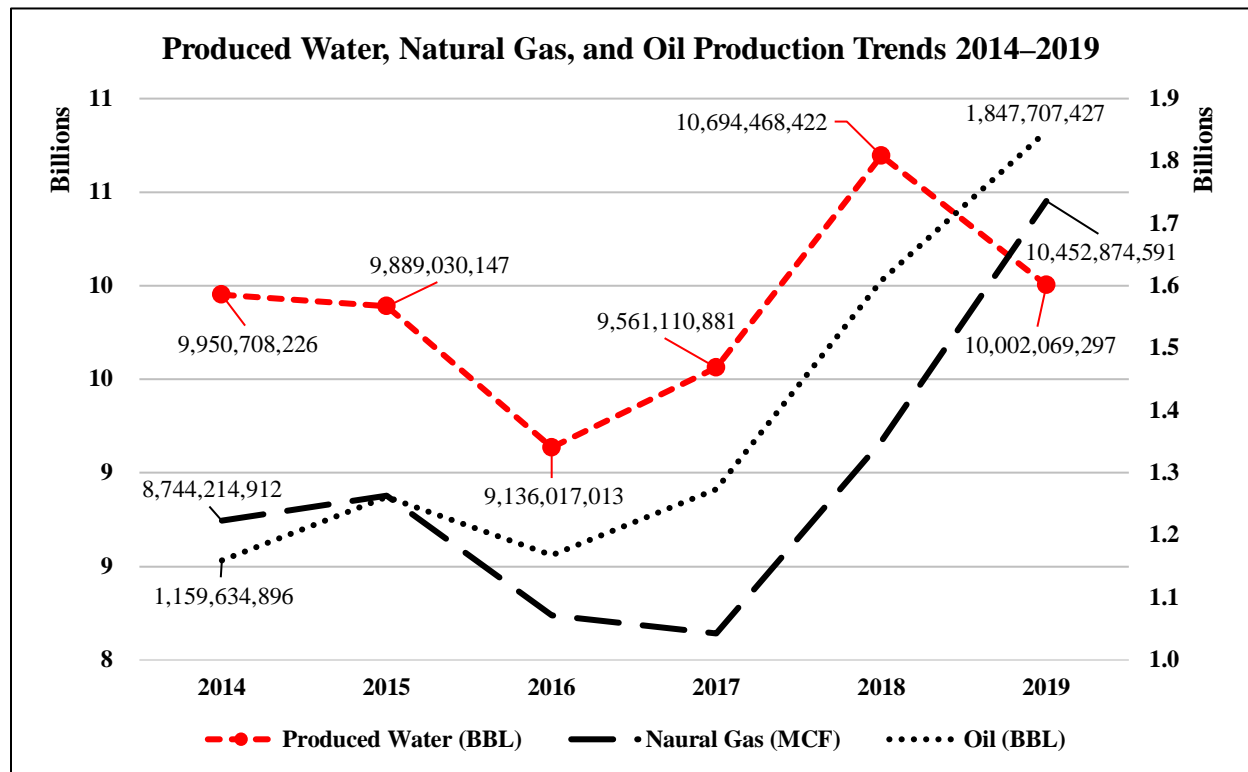
understanding of the science involved with produced water, and ensuring that any water reuse incentives provide real volume and resource solutions for citizens.”⁴⁶⁷

IV. TIPRO Testimony

TIPRO is an oil and gas trade association representing oil and gas producers and royalty owners who “produce approximately 90 percent of the oil and natural gas in Texas and own mineral interests in millions of acres across the state.”⁴⁶⁸ According to TIPRO, “Texas [oil and gas wells] produced over 9.1 billion barrels of water” in 2019.⁴⁶⁹ TIPRO believes that “[e]ncouraging the recycling and reuse of water in the oil and gas industry is a prudent and responsible step towards preserving a necessary natural resource for all Texans.”⁴⁷⁰ Thus, TIPRO is supportive of any “efforts to encourage and promote water recycling and reuse strategies for produced water in Texas.”⁴⁷¹

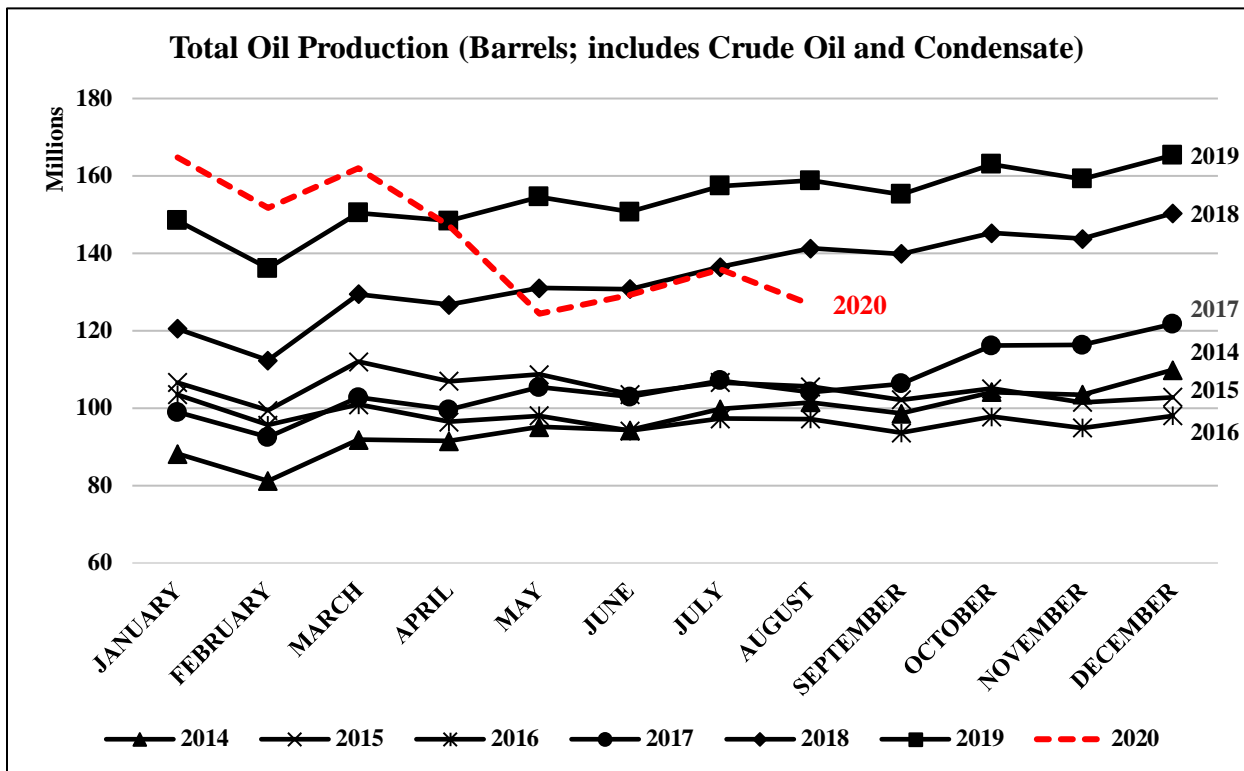
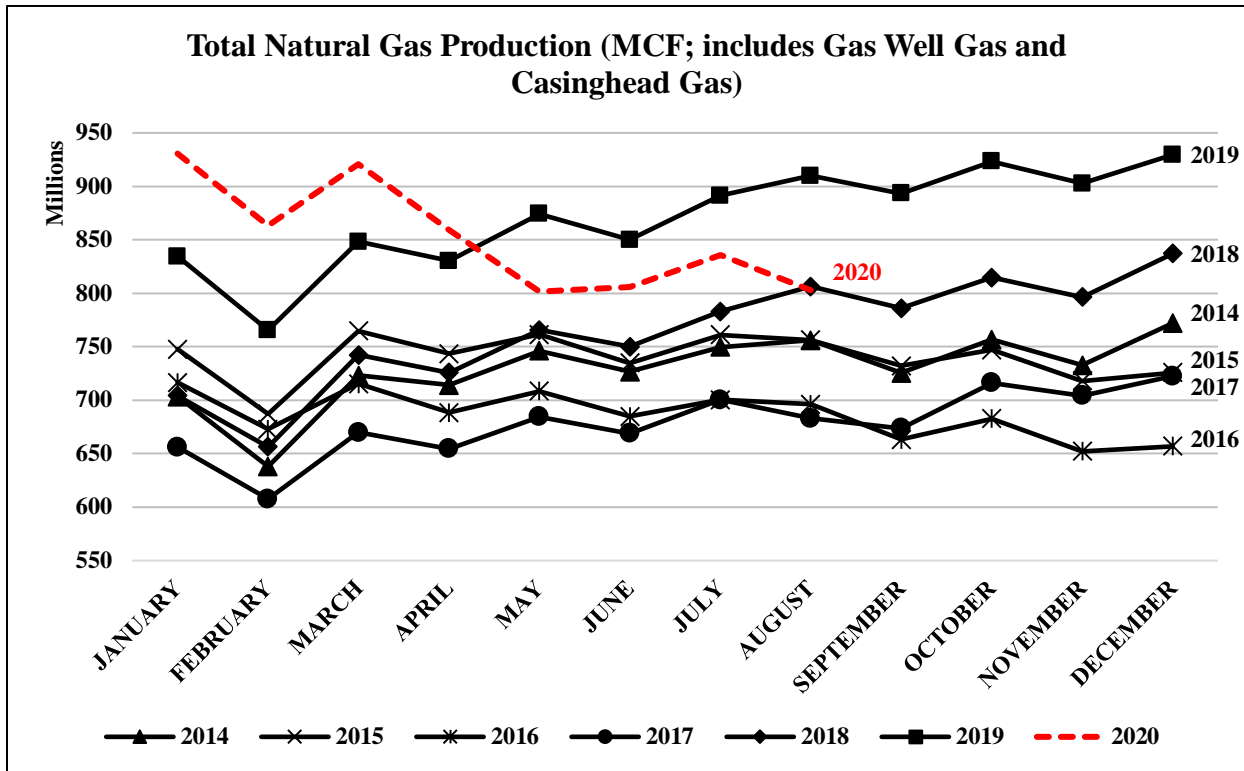
V. Produced Water Trends

Produced water volumes typically track oil and gas production volumes. The chart below shows the total estimated volumes of produced water, natural gas, and oil from 2014 to 2019.*



* The 2019 produced water volume is an estimate based on reported volumes as of November 30, 2020. RRC will continue revising this number through February 2021 as it receives additional data.

Additionally, the Committee includes the following charts displaying total monthly natural gas and oil production from January 2014 to August 2020.



The decline in oil and gas production volumes to below 2018 volumes will likely lead to a continued decline in produced water volumes as well. This decline could slow advances in produced water recycling and reuse technology. However, the combination of reduced produced water volumes and low hydrocarbon prices could lead oil and gas operators to increase the beneficial reuse of produced water without any tax credits to decrease the expense of transporting and disposing of produced water.

Recommendation

Although oil and gas production has fallen in Texas over the last year, produced water volumes continue to present both an ongoing concern and an opportunity to bolster the State's water supply through effective treatment, recycling, and reuse. Texas oil and gas operators already reuse nearly 50% of all produced water for further oilfield operations. This percentage will likely increase as operators work to cut production costs.

The Committee did not receive testimony that advocated strongly for produced water tax credits or provided specifics for an incentive structure. Additionally, prior tax credit legislative proposals would have cost the State millions of dollars per year. Therefore, the Committee does not recommend implementing any tax incentives to promote recycling or reuse of produced water. If the Legislature decides to create such an incentive, the Legislature should include a cap on the total amount of the incentive to allow for further review after an initial pilot period while minimizing state revenue loss.

THIRD-PARTY TAX COLLECTION FIRMS (CHARGE 5)

Review the use of third-party tax collection firms, including law firms and tax specialty firms, by governmental units. Evaluate what methods other states use to collect taxes. Determine whether the use of those firms is cost-effective for the taxing jurisdiction or if the tax collection efforts should be performed by the taxing units directly.

Introduction

I. Current Statutes

In Texas, aside from limited exceptions,⁴⁷² “[property] taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed.”⁴⁷³ If property taxes become delinquent, taxing units are statutorily entitled to the following penalties:

A delinquent tax incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of twelve percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent.⁴⁷⁴

In addition, “[a] delinquent tax accrues interest at a rate of one percent for each month or portion of a month the tax remains unpaid.”⁴⁷⁵

Taxing units have multiple options for legal representation to enforce the collection of delinquent property taxes.⁴⁷⁶ A county can either be represented by its “county attorney or, if there is no county attorney, the district attorney” or it can “contract with any competent attorney to represent the unit to enforce the collection of delinquent taxes.”⁴⁷⁷ All other taxing units “may determine who represents the unit to enforce the collection of delinquent taxes.”⁴⁷⁸ Thus, taxing units other than counties can choose to be represented by another taxing unit, the taxing unit’s in-house attorneys, or “any competent attorney” (e.g., a third-party law firm) through a contract “to enforce the collection of delinquent taxes.”⁴⁷⁹ Taxing units have two mutually exclusive means of recovering attorney’s fees: (1) the “additional penalty for collection costs” under §§ 33.07 and 33.08 of the Tax Code and (2) “attorney’s fees in the amount of 15 percent” under § 33.48 of the Tax Code.⁴⁸⁰

A. Additional penalty for collection costs.

If a taxing unit elects to contract with a third-party law firm to enforce the collection of delinquent taxes, the third-party law firm’s “compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected.”⁴⁸¹ Taxing units can offset the compensation paid to third-party law firms by imposing an “additional penalty for collection costs.”⁴⁸² A taxing unit can only impose this additional penalty if the taxing unit has entered into a contract with a third-party

attorney to enforce the collection of delinquent taxes.⁴⁸³ The additional “penalty may not exceed the amount of the compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes.”⁴⁸⁴ Notably, a taxing unit cannot collect both this additional penalty and the attorney’s fees discussed below.⁴⁸⁵

B. Fifteen percent attorney’s fees.

In a suit to collect delinquent taxes, taxing units are entitled to recover costs and expenses, including court costs, filing costs, foreclosure sale expenses, and “attorney’s fees in the amount of 15 percent of the total amount of taxes, penalties, and interest due the unit.”⁴⁸⁶ As noted above, a taxing unit cannot collect both these attorney’s fees and the additional penalty for collection costs.⁴⁸⁷ Collecting both “would permit a double recovery of costs” involved in collecting delinquent taxes.⁴⁸⁸

II. Interim Committee Testimony

The Committee held a public hearing on February 5, 2020, to take testimony on this charge.⁴⁸⁹ Nine witnesses testified on this charge:

- (1) Amy Samples, Assistant County Attorney, Harris County Attorney’s Office;
- (2) Mimi Han, Managing Attorney – Compliance Practice Group, Harris County Attorney’s Office;
- (3) Larry Gaddes, Vice-Chair – Legislative Committee, TACA;
- (4) Donald Postell, representing himself;
- (5) Robert Mott, Of Counsel, Perdue Brandon Fielder Collins & Mott, LLP (“Perdue”);
- (6) Edward Lopez Jr., Senior Partner, Linebarger Goggan Blair & Sampson, LLP (“Linebarger”);
- (7) Matthew Tepper, Shareholder, McCreary, Veselka, Bragg & Allen, P.C. Attorneys at Law (“McCreary”).
- (8) David Patterson, President, Assessments of the Southwest, Inc.; and
- (9) Chad Timmons, Shareholder, Abernathy, Roeder, Boyd & Hullett P.C. (“Abernathy”).⁴⁹⁰

In addition, the Committee received written testimony from individuals representing three entities that did not testify at the hearing:

- (1) Joseph R. Crawford, Assistant City Attorney, City of Houston;
- (2) Ricardo A. Samaniego, County Judge, El Paso County; and
- (3) Betsy Price, Mayor, City of Fort Worth.⁴⁹¹

TACA, Perdue, and Linebarger provided additional written documents to the Committee. Generally, the testimony supported Texas’ current system of delinquent property tax collections. However, the Harris County Attorney’s Office advocated for a Tax Code change to allow a taxing unit to collect an additional penalty for collection costs even if the taxing unit does not enter a contract with a third-party attorney or file a suit to collect a delinquent tax. The testimony presented to the Committee is discussed throughout the Committee Review section below.

Committee Review

The majority of testimony provided to the Committee fell into three categories: (1) taxing units supporting the current statutory framework for third-party tax collections; (2) third-party tax collection firms promoting the services provided by the firms and highlighting the firms' tax-collection successes; and (3) a taxing unit requesting a statutory change to allow taxing units to collect an additional delinquency penalty without engaging a third-party tax collection firm.

Outside of those three categories, David Patterson testified on the services provided by registered Texas assessor collectors ("RTAs"), which are tax assessor-collectors that provide tax assessment and collection services on a contract basis for special purpose districts instead of the county tax assessor-collector.⁴⁹² Mr. Patterson noted that RTAs do not serve as delinquent tax attorneys but engage in frequent, personalized pre-delinquency collection efforts to ensure small special purpose districts (e.g., municipal utility districts or public improvement districts) have adequate tax collections to fund operations.⁴⁹³

I. Taxing Units Supporting the Current Third-Party Tax Collection System

Three taxing units provided written testimony (the City of Houston, the City of Fort Worth, and El Paso County) fully supporting taxing units' current flexibility to contract with third-party tax collection firms. TACA, which represents the tax assessor-collectors for all 254 counties, testified that "[t]he current method of local government[s] collecting delinquent taxes works well."⁴⁹⁴ Lastly, an individual representing himself, but who had previously served as the city attorney for the City of Grand Prairie and worked for the City of Dallas, testified that contracting with third-party firms to collect delinquent taxes "greatly increased the efficiency of the process by eliminating unnecessary duplication and thereby reducing costs to taxpayers."⁴⁹⁵

A. City of Houston testimony.

The City of Houston currently uses both Linebarger and Perdue to collect its delinquent taxes.⁴⁹⁶ The City engages multiple vendors to compete for additional tax accounts based on the percentage of delinquent taxes the firms are able to collect.⁴⁹⁷ In 2019, Linebarger and Perdue collected over \$11.3 million in delinquent taxes and over \$3.3 million in penalties and interest for the City of Houston.⁴⁹⁸ According to the City, because of "the managed, multivendor process, the City's collections have remained consistent even through its delinquent account balance has consistently decreased."⁴⁹⁹ Further, the statutorily allowed "contingent compensation incentives the [third-party collection] firms to run their businesses efficiently."⁵⁰⁰ Because the "City could not create . . . value through in-house collections with its current funding and non-existent infrastructure. . . . the City supports the use of third-party collection firms as a cost-effective method of collecting taxes."⁵⁰¹

B. City of Fort Worth testimony.

The City of Fort Worth contracts with Linebarger to collect its delinquent taxes.⁵⁰² The City recently renewed its contract with Linebarger in part based on finding that "the [tax collection] legal services cannot be adequately performed by the City's attorneys and supporting

personnel.”⁵⁰³ According to Mayor Betsy Price, the City’s “partnership with a third-party collection agency allows [the City] to successfully run the business of providing critical city services without the concern over delinquent taxes.”⁵⁰⁴ Mayor Price added that third-party collection firms allow the City to “enjoy a ninety-nine percent collection rate.”⁵⁰⁵ Lastly, the current statutory framework “allows . . . governmental entities access to a variety of different third-party collection agencies without unnecessary duplication.”⁵⁰⁶

C. El Paso County testimony.

El Paso County, and 38 other taxing units in the El Paso area, entered into an interlocal agreement with the City of El Paso for property tax collections, and the City of El Paso contracted with a law firm to collect delinquent property taxes for all 40 taxing units.⁵⁰⁷ El Paso County Judge Ricardo Samaniego testified that “the consolidated tax collection program absolutely works in El Paso County and should be preserved, leaving the taxing entities to decide what options serve their communities best.”⁵⁰⁸

D. TACA testimony.

Larry Gaddis, Williamson County Tax Assessor-Collector, provided testimony to the Committee on behalf of TACA and Williamson County. Mr. Gaddis testified that “the current method of delinquent tax collections . . . works very well.”⁵⁰⁹ He noted that 253 of 254 counties (all counties except for Travis County*) employ third-party tax collection firms because that collection method “is efficient and effective.”⁵¹⁰ The current process is cost-effective for taxpayers because only delinquent taxpayers “are responsible for the cost of collections.”⁵¹¹ TACA believes “any changes to the two [delinquent tax collection] options that are currently available would . . . come at . . . an additional cost to local government and taxpayers.”⁵¹²

In response to Committee questions regarding the competition between third-party tax collection firms, Mr. Gaddis testified that there is competition among the different companies and the firms compete on “the level of service . . . provide[d] to . . . taxing entities, and quite frankly, our taxpayers.”⁵¹³

II. Third-Party Tax Collection Firms

At the February 5, 2020, hearing, four law firms (Linebarger, Perdue, McCreary, and Abernathy) representing the majority of Texas taxing units in delinquent tax collections testified before the Committee. Although these firms are competitive to win contracts with taxing units,⁵¹⁴ the firms presented unified testimony about the firms’ benefits to local taxing units.

Linebarger noted that, in 2019, it “[m]anaged the collection of over \$2.2 billion in current taxes” for its over 1,700 clients.⁵¹⁵ Linebarger also highlighted that in multiple taxing units, “[c]ollection rates increased significantly after moving from in-house collections to the Linebarger firm.”⁵¹⁶ In each taxing unit, the increase was over 130% (Bexar County – 134% increase, Dallas/Dallas ISD – 159% increase, San Antonio ISD – 136% increase, and Tarrant

* The Committee contacted the Travis County Attorney’s Office and requested input on this charge. However, the Travis County Attorney’s Office declined to provide testimony.

County – 136% increase).⁵¹⁷ On behalf of Linebarger, Edward Lopez testified that “collection firms . . . are not paid until they do their job and they are incentivized to go out and do that job and do it efficiently and effectively.”⁵¹⁸

On behalf of Purdue, Robert Mott testified that the third-party tax collection “system is inherently efficient, there is predictable enforcement, and additional collection costs are borne by delinquent account holders as opposed to property holders generally.”⁵¹⁹ Mr. Mott added that third-party firms help taxing units reduce unnecessary duplication and increase the collection rate.⁵²⁰

Matthew Tepper, an attorney and shareholder at McCreary, followed Mr. Mott and Mr. Lopez, adding that he agreed with everything they said in their testimony.⁵²¹ Lastly, Chad Timmons shared that his firm, Abernathy, Roeder, Boyd & Hullett P.C., “represent[s] about 35 different school districts and community colleges in the Collin County area regarding delinquent ad valorem property tax collection.”⁵²² Similar to Mr. Tepper, Mr. Timmons “echo[ed] the same sentiments that have been stated earlier from Mr. Mott, Mr. Lopez, et cetera” and added that he thinks taxing units will “lose a lot of goodwill” by bringing delinquent tax collection services in-house.⁵²³

III. Taxing Unit Requesting a Statutory Change

At the February 5 hearing, two representatives for the Harris County Attorney’s Office testified that Harris County supports a statutory change to allow a taxing unit to collect the “additional penalty for collection costs” under §§ 33.07 and 33.08 of the Tax Code without hiring a third-party tax collection firm.⁵²⁴ The Harris County Commissioners Court authorized this testimony at its January 28, 2020, meeting.⁵²⁵

Amy Samples, Assistant Harris County Attorney, testified that taxing units that want to collect delinquent taxes without the help of third-party firms are limited to recovering collection costs through the 15% attorney’s fees allowed in § 33.48 of the Tax Code.⁵²⁶ According to Ms. Samples, Harris County is “only able to recover expenses under § 33.48, and that requires [Harris County] to file a lawsuit.”⁵²⁷ Ms. Samples responded affirmatively to a Committee member’s question that “there’s no penalty for a government to collect prior to a lawsuit?”⁵²⁸

However, all taxing units are already entitled to penalties of 6% in the first delinquent month plus 1% for each additional month prior to July 1 or, if the tax is delinquent past July 1, a 12% penalty.⁵²⁹ Additionally, taxing units receive interest of one percent per month on delinquent taxes.⁵³⁰ These penalties and interest apply regardless of whether a taxing unit contracts with a third-party firm or files a lawsuit.

Multiple Committee members questioned how Travis County (the only county to collect delinquent taxes in-house) can afford to manage those collections under the current statute without the additional penalty Harris County requested. Mimi Han replied that “what [Harris County] need[s] is actually a little bit to defray [Harris County’s] startup costs.”⁵³¹ Ms. Han added that, unlike Travis County, Harris County “would be starting fresh . . . creating a whole new database or system or . . . looking out for new resources.”⁵³²

The Committee noted that the Legislature has previously considered multiple bills to allow a taxing unit to collect the additional penalty Harris County requested.⁵³³ The Legislature has consistently declined to make this statutory change.

Recommendation

The Committee received testimony that consistently confirmed that taxing units are satisfied with third-party law firms' delinquent property tax collection services. Taxing units view these services as a cost-effective way to obtain increased expertise. Multiple third-party tax collection firms compete to win collection contracts with taxing units, preventing any firm from establishing a monopoly on delinquent tax collections. Taxing units have substantial flexibility regarding the contingency fee percentage in third-party law firm collection contracts. Additionally, taxing units are not required to enter into contracts with third-party law firms. Instead, taxing units are free to perform all property tax collection activities in-house while still collecting delinquency penalties of up to 12%, interest of 1% per month, and up to 15% attorney's fees for any delinquency collection that requires litigation.

The current statutory framework provides multiple paths for local taxing units to successfully collect delinquent and non-delinquent property taxes. Current law equitably ensures only delinquent taxpayers are responsible for funding delinquent collection services. Regarding third-party tax collection firms, based on the testimony the Committee received and the Committee's independent research, the Committee does not recommend changes to Texas' delinquent property tax collection statute.

STATE AUDIT REVIEW (CHARGE 6)

Monitor the State Auditor's review of agencies and programs under the Committee's jurisdiction. The Chair shall seek input and periodic briefings on completed audits for the 2019 and 2020 fiscal years and bring forth pertinent issues for full committee consideration.

Introduction

The Texas State Auditor has the authority to “conduct audits of all departments, including institutions of higher education” and to “conduct an audit or investigation of any entity receiving funds from the state.”⁵³⁴ State Auditor audits include financial audits, compliance audits, economy and efficiency audits, effectiveness audits, and special audits.⁵³⁵ The State Auditor may also conduct investigations and “issue other types of informational reports not subjected to the same tests and conditions that would be performed in an audit.”⁵³⁶

Of the 34 standing House committees, all except for six* have jurisdiction over at least one agency.⁵³⁷ The Ways & Means Committee has jurisdiction over “the Office of Multistate Tax Compact Commissioner for Texas and the Comptroller of Public Accounts.”⁵³⁸ The Legislature merged the Office of Multistate Tax Compact Commissioner into CPA through Texas Sunset Act review in 1989.⁵³⁹ Therefore, the Committee reviewed audits of CPA that the Texas State Auditor's Office completed in FY 2019 or 2020 (September 1, 2018, through August 31, 2020).

In addition to reviewing the State Auditor's reports, the Committee held a public hearing on February 5, 2020, to take testimony on this charge.⁵⁴⁰ Two witnesses testified on this charge:

- (1) Lisa Collier, First Assistant State Auditor, Texas State Auditor's Office; and
- (2) Robert Wood, Associate Deputy Comptroller for Operations & Support, CPA.⁵⁴¹

Currently, the State Auditor position is vacant.⁵⁴² Therefore, Lisa Collier, the First Assistant State Auditor, “act[s] as the State Auditor.”⁵⁴³ Ms. Collier provided an overview of the State Auditor's work relating to CPA during the time period under review by the Committee.⁵⁴⁴ She did not raise any additional issues outside of the audit findings contained in the State Auditor's published reports, and she noted that “Texas was only one of two states where the financial statements were prepared and audited within six months of the fiscal year.”⁵⁴⁵ Ms. Collier added that “most states are at a year and a half behind” on preparing and auditing financial statements.⁵⁴⁶

Robert Wood testified as a resource witness “to respond to any questions that [the Committee had] about the presentation from [the CPA] side.”⁵⁴⁷

Committee Review

During that period, the Committee reviewed, the State Auditor released nine reports relating to CPA.⁵⁴⁸ The table below lists those reports:

*The Appropriations, Calendars, General Investigating, Local and Consent Calendars, Redistricting, and Resolutions Calendars Committees.

Release Date:	Report Number:	Report Title:	Audit Findings:
02/28/2020	20-555	State of Texas Financial Portion of the Statewide Single Audit Report for the Year Ended August 31, 2019	0
02/28/2020	20-317	State of Texas Federal Portion of the Statewide Single Audit Report for the Year Ended August 31, 2019	0
07/31/2019	19-046	An Audit Report on Selected Major Agreements Under the Texas Economic Development Act	2
07/18/2019	19-042	An Audit Report on the Vendor Performance Tracking System at the Office of the Comptroller of Public Accounts and Its Use by the Texas Workforce Commission and the Parks and Wildlife Department	3
02/28/2019	19-555	State of Texas Financial Portion of the Statewide Single Audit Report for the Year Ended August 31, 2018	0
02/28/2019	19-315	State of Texas Federal Portion of the Statewide Single Audit Report for the Year Ended August 31, 2018	1
02/06/2019	19-027	A Report on the Implementation Status of Prior State Auditor's Office Recommendations	0
01/18/2019	19-022	A Report on the Delegation of Authority to State Entities to Contract for External Audit Services	N/A
11/09/2018	19-007	A Report on Analysis of Quality Assurance Team Projects	N/A

Of the nine reports, three are non-audit reports (19-007, 19-022, and 19-027), four are the financial and federal portions of the Statewide Single Audit Report for FY 2018 and 2019 (19-315, 19-555, 20-317, and 20-555), and two are audit reports on the operations of CPA (19-042 and 19-046). An analysis of each report and any audit findings is below.

I. Non-Audit Reports

A. Report No. 19-007: A Report on Analysis of Quality Assurance Team Projects.

In Report No. 19-007, the State Auditor analyzed CPA's implementation of a replacement for the unclaimed property system.⁵⁴⁹ The State Auditor noted that the actual project completion date (May 31, 2018) was five months later than the originally scheduled completion date (December 31, 2017) because of "a delay in the implementation of a Texas Treasury Safekeeping Trust Company system that interfaces with the Comptroller's Office's new unclaimed property system."⁵⁵⁰

However, CPA completed the project with an actual project cost (\$4,766,947) nearly \$1 million under the original budget (\$5,683,337).⁵⁵¹ The State Auditor also noted that CPA submitted 4 (36%) of 11 quarterly monitoring reports between 3 and 29 days later than the deadline. CPA updated and revised its review process "to ensure timely submission of all . . . documentation."⁵⁵²

B. Report No. 19-022: A Report on the Delegation of Authority to State Entities to Contract for External Audit Services.

In Report No. 19-022, the State Auditor compiled an informational report “on delegations of authority to contract for audit services.”⁵⁵³ The State Auditor noted that CPA requested one delegation of authority to outsource a “Readiness Assessment for a Statement on Standards for Attestation Engagements Audit of the Centralized Accounting and Payroll/Personnel System” to KPMG LLP at an estimated cost of \$200,000.⁵⁵⁴

C. Report No. 19-027: A Report on the Implementation Status of Prior State Auditor’s Office Recommendations.

In Report No. 19-027, the State Auditor verified the implementation status of prior audit recommendations, including six recommendations made to CPA.⁵⁵⁵ The State Auditor determined that CPA had fully implemented each of the six recommendations the State Auditor selected for review.⁵⁵⁶

Additionally, CPA self-reported that it had fully implemented all 14 recommendations the State Auditor had made in audit reports from September 1, 2014, through June 30, 2018.⁵⁵⁷

II. Financial and Federal Portions of the Statewide Single Audit Report

A. Report No. 19-315: State of Texas Federal Portion of the Statewide Single Audit Report for the Year Ended August 31, 2018.

In Report No. 19-315, KPMG LLP (the independent auditor) evaluated CPA’s internal controls over Federal awards.⁵⁵⁸ KPMG identified a significant deficiency in the change management and user access internal controls of CPA’s CAPPs Central HR application.⁵⁵⁹ KPMG noted that out of a sample of 14 system changes to CAPPs Central HR, 4 of the changes “lacked documented approval of system and accessibility testing and . . . documented approval of user acceptance testing (UAT).”⁵⁶⁰ Additionally, four developers had inappropriate “access to migrate changes to the production environment” and “access to system administrator functions.”⁵⁶¹ Lastly, “[29] members of the Technical Team also had access to [an application modification tool] outside of their job responsibilities.”⁵⁶²

CPA “remediated [the change management] process during March 2018,” removed the inappropriate developer access “on May 14, 2018,” and restricted access to the application modification tool “[a]s of August 2, 2018.”⁵⁶³ Thus, KPMG noted that CPA “has corrected the change management and access issues noted prior to fiscal year end.”⁵⁶⁴

In addition, KPMG noted that CPA took corrective action to address an audit deficiency identified in FY 2018.⁵⁶⁵

B. Report No. 19-555: State of Texas Financial Portion of the Statewide Single Audit Report for the Year Ended August 31, 2018.

In Report No. 19-555, the State Auditor made no findings relating to CPA for the financial portion of the statewide single audit report.⁵⁶⁶ Additionally, the State Auditor noted that CPA took corrective action to resolve a prior year material weakness in response to a recommendation that the “Comptroller’s office should continue to strengthen its process for reviewing adjusting journal entries and its annual financial report to ensure that it accurately reports balances on its financial statements.”⁵⁶⁷

C. Report No. 20-317: State of Texas Federal Portion of the Statewide Single Audit Report for the Year Ended August 31, 2019.

In Report No. 20-317, CliftonLarsonAllen LLP (the independent auditor) did not identify any deficiencies in CPA’s internal controls over Federal awards.⁵⁶⁸ CliftonLarsonAllen reviewed the audit findings identified in the FY 2018 audit (Report No. 315) and noted that CPA implemented the corrective action plan.⁵⁶⁹

D. In Report No. 20-555, State of Texas Financial Portion of the Statewide Single Audit Report for the Year Ended August 31, 2019.

In Report No. 20-555, the State Auditor made no findings relating to CPA for the financial portion of the statewide single audit report.⁵⁷⁰ CPA had no outstanding audit findings at this time.⁵⁷¹

III. Audit Reports

A. Report No. 19-042: An Audit Report on the Vendor Performance Tracking System at the Office of the Comptroller of Public Accounts and Its Use by the Texas Workforce Commission and the Parks and Wildlife Department.

In Report No. 19-042, the State Auditor audited CPA’s implementation and administration of the Vendor Performance Tracking System (“VPTS”).⁵⁷² The goal of the VPTS “is to help state entities evaluate vendor performance and reduce risk in the contract awarding process.”⁵⁷³ VPTS is an application that allows “state agencies to rate vendor performance using an A through F scale . . . to identify vendors that have exceptional performance and protect the State from vendors with unethical business practices.”⁵⁷⁴ The audit objective relevant to the Committee’s interim charge is determining “whether the . . . Comptroller’s Office . . . has processes and related controls to help ensure that information contained in the . . . VPTS . . . is accurate and complete.”⁵⁷⁵

The State Auditor identified three issues during this audit.⁵⁷⁶ First, “[t]he Comptroller’s Office should improve controls related to key fields in VPTS” because the State Auditor “determined that 9 of 12 key [VPTS] data fields contained unexpected or unreasonable entries.”⁵⁷⁷ CPA “generally agree[d] with the [State Auditor] recommendations and has already begun to initiate system edits that will ensure that state agencies include information in all key

data fields . . . [and] reflect an end date for the contract.”⁵⁷⁸

Second, “[t]he Comptroller’s Office should improve its controls to ensure that access to VPTS is appropriate” because the State Auditor identified 63 of 3,229 VPTS user accounts belong to former state employees, and 1,033 accounts did not contain enough information for the State Auditor to determine if VPTS access is appropriate.⁵⁷⁹ CPA is researching those accounts further to confirm the access is appropriate or remove access.⁵⁸⁰

Third, “[t]he Comptroller’s Office should improve its processes for reviewing reports submitted to VPTS to help improve the accuracy and consistency of the information in VPTS that state agencies use to make vendor selection decisions” because the State Auditor identified 56 of 60 VPTS performance reports with assigned grades B through F that did not align with the grading criteria.⁵⁸¹ CPA agreed to initiate multiple system edits to ensure automatically calculated vendor grades are accurate and to individually review all performance reports with individualized comments from the submitting agency.⁵⁸²

The State Auditor rated each of these three audit findings as “high,” which means the “[i]ssues identified present risks or effects that if not addressed could substantially affect the audited entity’s ability to effectively administer the program(s)/function(s) audited.”⁵⁸³ CPA planned to implement all responses to the audit findings by August 31, 2020.⁵⁸⁴

B. Report No. 19-046: An Audit Report on Selected Major Agreements Under the Texas Economic Development Act.

In Report No. 19-046, the State Auditor audited four Texas Economic Development Act agreements for limitations on appraised values for qualifying property at three independent school districts.⁵⁸⁵ The Texas Economic Development act:

offers applicants a 10-year limitation on appraised value for a portion of the ISD property tax (ad valorem tax). In exchange for that limitation, the applicants agree to invest in new property, create jobs in the ISD, and maintain a presence in the community for a specified number of years.⁵⁸⁶

The State Auditor identified two issues relating to CPA’s administration of the agreements. First, the State Auditor noted that the agreements executed between January 1, 2014, and January 26, 2016, contained a clause “requiring qualified property to be located in a reinvestment zone until the final termination date of the agreement” and also had agreement “durations of 15 to 19 years.”⁵⁸⁷ Because the statutory maximum length for a reinvestment zone is ten years, a qualified property owner could not comply with the agreement.⁵⁸⁸ At the time of the audit, CPA had already updated the agreement template in January 2016 to address this issue, and CPA agreed to “send additional guidance to the ISDs with the 41 affected agreements.”⁵⁸⁹

Second, the State Auditor noted that “the Comptroller’s Office should provide guidance on what to do when an issue is identified in required reporting” because the State Auditor found that one independent school district “submitted to the Comptroller’s Office an incomplete report noting that the business was not current with its Texas franchise tax requirements.”⁵⁹⁰ CPA

agreed to “provid[] additional guidance to the ISDs on how to address incomplete Annual Eligibility Reports prior to submission.”⁵⁹¹

The State Auditor rated each of these two audit findings as “medium,” which means the “[i]ssues identified present risks or effects that if not addressed could moderately affect the audited entity’s ability to effectively administer the program(s)/function(s) audited.”⁵⁹² The Comptroller’s office planned to implement all responses to the audit findings by December 31, 2019.⁵⁹³

Recommendation

Based on the Committee’s review of the FY 2019 and 2020 State Auditor reports relating to CPA and the testimony at the February 5, 2020, hearing, CPA appears responsive to audit findings and prepares the State’s annual financial statements in a prompt, accurate manner. Therefore, the Committee has not identified any issues relating to audits of CPA requiring further Committee oversight or legislative recommendation at this time.

APPENDIX A: CHARGE 1.1 AUGUST 7 POSTCARD NOTICE COSTS

County:	# of Postcards:	Total Cost:	Cost per Postcard:
Harris	1,821,544	\$673,971.28	\$0.37
Dallas	713,977	\$221,789.59	\$0.31
Tarrant	759,605	\$213,464.33	\$0.28
Bexar	593,284	\$183,932.11	\$0.31
Travis	385,527	\$108,450.36	\$0.28
El Paso	302,097	\$103,160.00	\$0.34
Collin	313,950	\$99,267.00	\$0.32
Hidalgo	293,037	\$94,757.79	\$0.32
Denton	278,599	\$89,660.12	\$0.32
Fort Bend	273,250	\$87,244.00	\$0.32
Montgomery	227,397	\$76,428.00	\$0.34
Williamson	196,138	\$62,006.36	\$0.32
Cameron	156,000	\$57,926.00	\$0.37
Brazoria	142,262	\$52,518.00	\$0.37
Galveston	141,226	\$52,008.67	\$0.37
Nueces	115,608	\$42,702.00	\$0.37
Smith	101,522	\$37,514.00	\$0.37
Lubbock	109,705	\$36,008.51	\$0.33
Webb	93,035	\$34,993.00	\$0.38
Bell	123,983	\$34,370.43	\$0.28
Jefferson	103,572	\$32,506.00	\$0.31
McLennan	81,408	\$31,077.00	\$0.38
Brazos	84,000	\$26,000.00	\$0.31
Hays	45,000	\$17,195.00	\$0.38
Total:	7,455,726	\$2,468,949.55	\$0.33

APPENDIX B: CHARGE 1.3 HOTEL PROJECT STATUS

Municipality:	Actual or Anticipated Open Date:	Project Description:	Project Status:
City of Abilene	2024	206-room Hilton Doubletree Convention Center Hotel (construction delayed by COVID-19)	Development agreement approved
City of Alvin	N/A - no response	N/A - no response	No response
City of Amarillo	2017	Amarillo Embassy Suites: 226-room hotel with two full-service restaurants, 19,000 square feet of meeting space, and a 10,000-square-foot ballroom	Open (rebate period in progress)
City of Arlington	2019	Live! By Lowes: 14-story, 300-room hotel with 35,000 square feet of meeting space, multiple restaurants, a swimming pool, and fitness center	Open (rebate period in progress)
City of Arlington	2023	888-room hotel and 150,000-square-foot convention center	Development agreement approved
City of Austin	N/A - no response	N/A - no response	No response
City of Baytown	N/A - no response	N/A - no response	No response
City of Cedar Hill	2022	136-room hotel and 12,000-square-foot convention center (construction delayed by COVID-19)	Development agreement approved
City of Cedar Park	N/A - pre-planning	N/A - pre-planning	Pre-planning (on hold because of COVID-19)
City of Celina	N/A - no response	N/A - no response	No response
City of Commerce	N/A - no response	N/A - no response	No response
City of Conroe	2022	250-room hotel and 44,000-square-foot convention center with food and beverage service facilities and a 440-car parking garage	Development agreement approved
City of Corpus Christi	N/A - pre-planning	N/A - pre-planning	Pre-planning (no development agreement approved and no project seriously underway)
City of Dallas	2011	Omni Dallas Hotel: 23-story, 1001-room hotel with restaurants, bars, and a gift shop	Open (rebate period in progress)
City of El Paso	2018	Courtyard Marriot: 151-room hotel connected to Judson F. Williams Convention Center	Open (rebate requested)
City of El Paso	2020	Plaza Hotel Pioneer Park: 130-room hotel and 540-car parking garage connected to Judson F. Williams Convention Center	Open (rebate requested)
City of El Paso	2020	Marriott Autograph Paso del Norte Hotel: 300-room hotel connected to Judson F. Williams Convention Center	Open (rebate requested)

Municipality:	Actual or Anticipated Open Date:	Project Description:	Project Status:
City of Fort Worth	2009	Omni Fort Worth Hotel: 614-room hotel with two restaurants, a bar, a coffee shop, and a gift shop	Open (rebate period complete)
City of Fredericksburg	N/A - pre-planning	161-room hotel with 17,000 square feet of meeting space	Pre-planning (on hold because of COVID-19)
City of Frisco	2025	500-room hotel with 127,000-square-foot conference center (construction delayed by COVID-19)	Development agreement approved
City of Grand Prairie	2022	272-room hotel and 12,500-square-foot convention center with over 291,000 square feet of new restaurant and retail commercial development	Development agreement approved
City of Houston	2003	Hilton Americas Houston: 24-story, 1,200,000-square-foot, 1,200-room hotel with a 1,600-car garage, 40,000-square-foot ballroom, three restaurants, a swimming pool, a spa, and a health club	Open (rebate period complete)
City of Houston	2016	Marriott Marquis Houston: 1,000-room hotel with a Texas-shaped lazy river and multiple restaurants	Open (rebate period in progress)
City of Hutto	N/A - no response	N/A - no response	No response
City of Irving	2018	Irving Texican Court: 152-room Spanish Mission-style hotel	Open (rebate period in progress)
City of Irving	2019	Irving Westin: 13-story, 350-room hotel	Open (rebate period in progress)
City of Katy	TBD	300-room hotel including restaurant, bar, pool, and fitness center with 43,000-square-foot conference center, 155,000 square feet of retail space, and 60,000 square feet of office space	Development agreement approved
City of Kemah	N/A - no response	N/A - no response	No response
City of Kerrville	N/A - COVID-19 delay	N/A - COVID-19 delay	COVID-19 Delay (no development agreement approved and no project seriously underway)
City of Kyle	N/A - COVID-19 delay	N/A - COVID-19 delay	COVID-19 Delay (no development agreement approved and no project seriously underway)
City of League City	N/A - no response	N/A - no response	No response
City of Lewisville	N/A - pre-planning	N/A - pre-planning	Pre-planning (addressing financial feasibility of envisioned project)
City of Lubbock	N/A - no response	N/A - no response	No response
City of Midland	2022	200-room hotel with 14,000 square feet of meeting space, 10,000 square feet of restaurant space, and 400-space parking garage	Development agreement approved
City of Nacogdoches	2017	Fredonia Hotel: renovated and reopened the historic Fredonia Hotel building	Open (rebate period in progress)

Municipality:	Actual or Anticipated Open Date:	Project Description:	Project Status:
City of Odessa	2019	Odessa Marriott Hotel: 217-room hotel and 80,000-square-foot conference center	Open (rebate period in progress)
City of Pearland	N/A - COVID-19 delay	N/A - COVID-19 delay	COVID-19 Delay (no development agreement approved and no project seriously underway)
City of Port Aransas	N/A - no response	N/A - no response	No response
City of Presidio	N/A - no response	N/A - no response	No response
City of Richmond	N/A - no response	N/A - no response	No response
City of Rio Grande City	N/A - no response	N/A - no response	No response
City of Roanoke	TBD	(257-room hotel with 42,000 square foot convention center (construction delayed by COVID-19))	Development agreement approved
City of Round Rock	2020	Kalahari Resort: 975 guestrooms and a 200,000 square foot convention center	Open (rebate requested)
City of Rowlett	N/A - no response	N/A - no response	No response
City of San Antonio	2005	The Grand Hyatt San Antonio: 34-story, 1,003-room hotel	Open (rebate period complete)
City of San Benito	2024	142-room hotel and 23,000 square feet of meeting space	Development agreement approved
City of Seabrook	TBD	170-room hotel, 70-room extended stay hotel, and 21,000-square-foot conference center	Development agreement approved
City of Sugar Land	N/A - pre-planning	N/A - pre-planning	Pre-planning (on hold because of COVID-19)
City of The Colony	N/A - no response	N/A - no response	No response
City of Tyler	N/A - COVID-19 delay	N/A - COVID-19 delay	COVID-19 delay (no development agreement approved and no project seriously underway)
City of Weatherford	2023	200-room hotel and 25,000 square feet of meeting space with 42,000 square feet of office and 68,000 square feet of retail and dining	Pre-planning (preparing RFP for early 2021 RFP award)
City of Webster	2023	350-room hotel and 22,000-square-foot conference center	Development agreement approved
Town of Prosper	N/A - COVID-19 delay	N/A - COVID-19 delay	COVID-19 Delay (no development agreement approved and no project seriously underway)

APPENDIX C: CHARGE 2 LBB POTENTIAL REVENUE SOURCES

Revenue Source:	Description:	Amount of Property Tax Relief:
Dedicate Existing Source	Limited Sales and Use Tax (92% not dedicated)	Tier I
Dedicate Existing Source	All Non-dedicated Revenue (38.6% not dedicated)	Tier I
Increase Existing Rates	Sales and Use Tax	Tier I
Expand Taxable Base	Repeal Sales Tax Exemption for Gas and Electricity	Tier I
Expand Taxable Base	Repeal Sales Tax Exemption for Food	Tier I
Expand Taxable Base	Repeal Sales Tax Exemption for Property Used in Manufacturing	Tier I
Expand Taxable Base	Add Advertising Media Services to Taxable Services	Tier I
Expand Taxable Base	Add Healthcare Services to Taxable Services	Tier I
Establish New Tax	Personal Income Tax (43 states)	Tier I
Establish New Tax	Value Added Tax (1 state)	Tier I
Establish New Tax	Corporate Income Tax (46 states)	Tier I
Establish New Tax	Commercial Casino/Racino Tax (25 states)	Tier I
Dedicate Existing Source	Motor Vehicle Sales and Rental Taxes (99.1% not dedicated)	Tier II
Dedicate Existing Source	Non-dedicated Revenue Growth Above a Trigger (such as state population and inflation growth rate)	Tier II
Increase Existing Rates	Motor Vehicle Sales and Use Tax	Tier II
Increase Existing Rates	Franchise Tax	Tier II
Increase Existing Rates	Gasoline Tax	Tier II
Increase Existing Rates	Oil Production Tax	Tier II
Increase Existing Rates	Insurance Premium Tax	Tier II
Expand Taxable Base	Repeal Franchise Tax Credit and Sales Tax Exemption for Research and Development Activities	Tier II
Expand Taxable Base	Repeal Tax Collection Allowances	Tier II
Expand Taxable Base	Repeal the Tax Reduction for High-cost Gas	Tier II
Expand Taxable Base	Repeal the Trade-in Allowance Exemption of the Motor Vehicle Sales Tax	Tier II
Expand Taxable Base	Repeal the No Tax Due Threshold for the Franchise Tax	Tier II
Expand Taxable Base	Repeal the Retail/Wholesale Rate and the EZ Rate for the Franchise Tax	Tier II
Expand Taxable Base	Repeal Sales Tax Exemption for Water	Tier II
Expand Taxable Base	Repeal Sales Tax Exemption for Agricultural and Timber Items	Tier II
Expand Taxable Base	Repeal Sales Tax Exemption for Health Care Supplies	Tier II
Expand Taxable Base	Add Currently Excluded Repair, Remodeling, Maintenance, and Restoration Services to Taxable Services	Tier II
Expand Taxable Base	Add Construction Services to Taxable Services	Tier II
Expand Taxable Base	Add Accounting and Audit Services to Taxable Services	Tier II
Expand Taxable Base	Add Engineering Services to Taxable Services	Tier II
Expand Taxable Base	Add Legal Services to Taxable Services	Tier II

Revenue Source:	Description:	Amount of Property Tax Relief:
Expand Taxable Base	Add Real Estate Brokerage and Agency Services to Taxable Services	Tier II
Expand Taxable Base	Add Financial Services to Taxable Services	Tier II
Expand Taxable Base	Add Temporary Labor Supply Services to Taxable Services	Tier II
Expand Taxable Base	Add Transportation Services to Taxable Services	Tier II
Establish New Tax	Estate/Gift Tax (16 states)	Tier II
Establish New Tax	Documentary/Real Estate Transfer Tax (34 states)	Tier II
Establish New Tax	Marijuana Tax (7 states)	Tier II
Dedicate Existing Source	Motor Fuels Taxes (0.3% not dedicated)	Tier III
Dedicate Existing Source	Franchise Tax (77.7% not dedicated)	Tier III
Dedicate Existing Source	Oil Production Tax (10.2% not dedicated)	Tier III
Dedicate Existing Source	Insurance Taxes (70.5% not dedicated)	Tier III
Dedicate Existing Source	Cigarette and Tobacco Taxes (39.7% not dedicated)	Tier III
Dedicate Existing Source	Natural Gas Production Tax (26.4% not dedicated)	Tier III
Dedicate Existing Source	Alcoholic Beverages Taxes (100% not dedicated)	Tier III
Dedicate Existing Source	Hotel Occupancy Tax (97.3% not dedicated)	Tier III
Dedicate Existing Source	Utility Taxes (79.6% not dedicated)	Tier III
Dedicate Existing Source	Other Taxes (83.7% not dedicated)	Tier III
Increase Existing Rates	Boat and Boat Motor Sales and Use Tax	Tier III
Increase Existing Rates	Tax on Motor Vehicle of New Resident	Tier III
Increase Existing Rates	Tax on Even Exchange of Motor Vehicle	Tier III
Increase Existing Rates	Tax on Gift of Motor Vehicle	Tier III
Increase Existing Rates	Motor Vehicle Rental Tax	Tier III
Increase Existing Rates	Manufactured Housing Sales and Use Tax	Tier III
Increase Existing Rates	Diesel Tax	Tier III
Increase Existing Rates	Liquefied and Compressed Natural Gas Tax	Tier III
Increase Existing Rates	Natural Gas Production Tax	Tier III
Increase Existing Rates	Mixed Beverage Gross Receipts Tax	Tier III
Increase Existing Rates	Mixed Beverage Sales Tax	Tier III
Increase Existing Rates	Liquor Tax	Tier III
Increase Existing Rates	Wine Tax	Tier III
Increase Existing Rates	Ale and Malt Liquor Tax	Tier III
Increase Existing Rates	Beer Tax	Tier III
Increase Existing Rates	Cigarette Tax	Tier III
Increase Existing Rates	Cigar and Tobacco Products Tax	Tier III
Increase Existing Rates	Hotel Occupancy Tax	Tier III
Increase Existing Rates	Public Utility Gross Receipts Assessment	Tier III
Increase Existing Rates	Gas Utility Pipeline Tax	Tier III
Increase Existing Rates	Miscellaneous Gross Receipts Tax	Tier III
Increase Existing Rates	Oil Well Service Tax	Tier III
Increase Existing Rates	Cement Production Tax	Tier III
Increase Existing Rates	Employment and Investment Training Assessment	Tier III
Increase Existing Rates	Coin-Operated Amusement Machine Tax	Tier III

Revenue Source:	Description:	Amount of Property Tax Relief:
Increase Existing Rates	Combative Sports Admissions Tax	Tier III
Expand Taxable Base	Repeal Exemption of Vented and Flared Gas	Tier III
Expand Taxable Base	Repeal the Tax Reduction for Oil Produced from an Enhanced Recovery Project	Tier III
Expand Taxable Base	Repeal Off-highway Use Refund	Tier III
Expand Taxable Base	Repeal the Interstate Vehicle Exemption of the Motor Vehicle Sales Tax	Tier III
Expand Taxable Base	Repeal the Optional \$1.0 Million Subtraction for the Franchise Tax	Tier III
Expand Taxable Base	Repeal the Temporary Credit on Taxable Margin for the Franchise Tax	Tier III
Expand Taxable Base	Repeal the Credit for Rehabilitation of Certified Historic Structures for the Franchise Tax	Tier III
Expand Taxable Base	Repeal Sales Tax Holidays	Tier III
Expand Taxable Base	Repeal Sales Tax Exemptions for Information and Data Processing Services and Data Centers	Tier III
Expand Taxable Base	Repeal Media-related Sales Tax Exemptions	Tier III
Expand Taxable Base	Repeal Sales Tax Exemption for Containers	Tier III
Expand Taxable Base	Repeal Sales Tax Exemption for Aircraft, Ships, and Rolling Stock	Tier III
Expand Taxable Base	Repeal Sales Tax Exemption for Printed Materials	Tier III
Expand Taxable Base	Add Automotive Services to Taxable Services	Tier III
Expand Taxable Base	Add Barbering and Cosmetology Services to Taxable Services	Tier III
Expand Taxable Base	Add Debt Management Services to Taxable Services	Tier III
Expand Taxable Base	Add Funeral Services to Taxable Services	Tier III
Expand Taxable Base	Add Hunting or Fishing Guide Services to Taxable Services	Tier III
Expand Taxable Base	Add Interior Design or Interior Decorating Services to Taxable Services	Tier III
Expand Taxable Base	Add Massage Therapy Services to Taxable Services	Tier III
Expand Taxable Base	Add Packing Services to Taxable Services	Tier III
Expand Taxable Base	Add Personal Instruction Services to Taxable Services	Tier III
Expand Taxable Base	Add Veterinary Services to Taxable Services	Tier III
Expand Taxable Base	Add Architectural Services to Taxable Services	Tier III
Expand Taxable Base	Add Commercial Research, Development, and Testing Services to Taxable Services	Tier III
Expand Taxable Base	Add Employment Agency Services to Taxable Services	Tier III
Expand Taxable Base	Add Management, Consulting, or Public Relations Services to Taxable Services	Tier III
Expand Taxable Base	Add Data Storage Services to Taxable Services	Tier III

ENDNOTES

¹ Tex. H.R. Rule 3, § 34, Tex. H.R. 4, 86th Leg., R.S., 2019 H.J. of Tex. 50, 77–78, *reprinted in Rules of the House*, Texas Legislative Manual 42–43 (2019).

² *Id.*

³ Honorable Dennis Bonnen, Tex. House of Representatives, Standing Committee Appointments by Committee 37 (2019), <https://house.texas.gov/media/pdf/committee86.pdf>.

⁴ Tex. H.R. Rule 1, § 17, Tex. H.R. 4, 86th Leg., R.S., 2019 H.J. of Tex. 50, 54, *reprinted in Rules of the House*, Texas Legislative Manual 11 (2019).

⁵ Tex. H.R. Rule 4, § 24, Tex. H.R. 4, 86th Leg., R.S., 2019 H.J. of Tex. 50, 86, *reprinted in Rules of the House*, Texas Legislative Manual 59–60 (2019).

⁶ Honorable Dennis Bonnen, Tex. House of Representatives, Interim Committee Charges 48–49 (Nov. 2019), <https://house.texas.gov/media/pdf/interim-charges-86th.pdf>.

⁷ *Id.* at 48.

⁸ Tex. H. Comm. on Ways & Means Minutes 1, 86th Leg., R.S. (Feb. 5, 2020), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C4902020020510001.PDF>.

⁹ Tex. H. Comm. on Ways & Means Witness List 1–2, 86th Leg., R.S. (Feb. 5, 2020), <https://capitol.texas.gov/tlodocs/86R/witlistmtg/pdf/C4902020020510001.PDF>; Tex. H. Comm. on Ways & Means, *86th Session Committee Broadcast Archives*, TEX. HOUSE OF REPRESENTATIVES (Feb. 5, 2020, 10:09 AM), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

¹⁰ Press Release, Tex. State Pres. Bd., State Preservation Board Agency Closes Capitol and Other Properties Until Further Notice (Mar. 17, 2020), https://tspb.texas.gov/plan/events/post/Press_Release_Capitol_Closing_due_to_COVID-19_3-17-2020.pdf.

¹¹ *See* Tex. Gov’t Code § 301.015(b).

¹² Memorandum from Hugh L. Brady & Sharon Carter, House Parliamentarians, Tex. House of Reps., to the House Comm. Chairs (Jul. 16, 2020) (on file with author).

¹³ Tex. H. Comm. on Ways & Means Notice of Formal Request for Information on Interim Charge 1.1 at 1, 86th Leg., R.S. (July 29, 2020), <https://capitol.texas.gov/tlodocs/86R/schedules/pdf/C4902020072900002.PDF>; Tex. H. Comm. on Ways & Means Notice of Formal Request for Information on Interim Charges 1.3, 2, 3, and 4 at 1–2, 86th Leg., R.S. (July 29, 2020), <https://capitol.texas.gov/tlodocs/86R/schedules/pdf/C4902020072900001.PDF>.

¹⁴ Texas Property Tax Reform and Transparency Act of 2019, 86th Leg., R.S., ch. 944, 2019 Tex. Gen. Laws ____.

¹⁵ Tex. Taxpayers & Rsch. Ass’n, *Wrap-Up for the 86th Legislature: Tax and Fiscal Policy 1* (July 2019), https://www.ttara.org/wp-content/uploads/2019/07/86thLegislativeSessionWrapUp_Report.pdf.

¹⁶ Tex. H. Comm. on Ways & Means Responses to Formal Request for Information on Interim Charge 1.1, 86th Leg., R.S. (Nov. 30, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/C4902020072900002.PDF>.

¹⁷ Tex. Tax Code §§ 11.43, 23.01.

¹⁸ *Id.* § 25.19.

¹⁹ *Id.* § 25.22.

²⁰ *Id.* §§ 41.01, .12.

²¹ *Id.* § 41.12.

²² *Id.* § 26.01.

²³ *Id.*

²⁴ *Id.* §§ 26.01, .05.

²⁵ *Id.* § 31.01(a).

²⁶ *Id.*

²⁷ *Id.* §§ 31.02, 33.01.

²⁸ *Id.* § 33.07.

²⁹ Act of May 27, 2013, 83rd Leg., R.S., ch. 1259, § 3, sec. 5.103(e), 2013 Tex. Gen. Laws 3182, 3184, *repealed by* Texas Property Tax Reform and Transparency Act of 2019, 86th Leg., R.S., ch. 944, § 14, 2019 Tex. Gen. Laws ____, ____ (codified at Tex. Tax Code § 5.104).

³⁰ *Id.*

³¹ Tex. Tax Code § 5.104(b).

³² *Id.* § 5.104(d)(2), (j).

³³ *Id.* § 5.104(k).

³⁴ Tex. Comptroller of Pub. Accts., *Form 50-823 Texas Comptroller of Public Accounts Appraisal Review Board Survey* (Jan. 2020), <https://comptroller.texas.gov/forms/50-823.pdf>; Tex. Comptroller of Pub. Accts., *Forma 50-823-S Encuesta de la Junta de Revisión de Tasaciones del Forma Contralor de Cuentas Públicas de Texas* (Jan. 2020), <https://comptroller.texas.gov/forms/50-823-s.pdf>.

³⁵ Tex. Comptroller of Pub. Accts., *Form 50-824 Appraisal Review Board Survey Implementation Instructions for Taxpayer Liaison Officers or Appraisal District Designees* (Jan. 2020), <https://comptroller.texas.gov/forms/50-824.pdf>; Tex. Comptroller of Pub. Accts., *Formulario 50-824-S Implementación para la Encuesta de la Junta de Revisión de Tasaciones* (Jan. 2020), <https://comptroller.texas.gov/forms/50-824-s.pdf>.

³⁶ Tex. Comptroller of Pub. Accts., *98-1023 ARB Survey Flyer* (Jan. 2020), <https://comptroller.texas.gov/taxes/property-tax/docs/98-1023.pdf>; Tex. Comptroller of Pub. Accts., *98-1023-S ARB Survey Flyer - Spanish* (Jan. 2020), <https://comptroller.texas.gov/taxes/property-tax/docs/98-1023-s.pdf>.

³⁷ Tex. Comptroller of Pub. Accts., *Appraisal Review Board Survey Property Owner Responses 2019 Results* (Mar. 2020), <https://comptroller.texas.gov/taxes/property-tax/docs/96-1776-19.pdf>.

³⁸ *Id.* at 5.

³⁹ *Id.* at 7.

⁴⁰ *Id.* at 9.

⁴¹ Texas Property Tax Reform and Transparency Act of 2019, 86th Leg., R.S., ch. 944, § 105(a), 2019 Tex. Gen. Laws _____, _____.

⁴² Tessa Weinberg, *A New Website Designed to Clear up Property Taxes Causes Confusion in Tarrant County*, FORT WORTH STAR-TELEGRAM (Aug. 10, 2020), <https://www.star-telegram.com/news/politics-government/article244769122.html>.

⁴³ Tex. Tax Code §§ 26.06(b-1) (applying when “the proposed tax rate exceeds the no-new-revenue tax rate and the voter-approval tax rate”), (b-2) (applying when “the proposed tax rate exceeds the no-new-revenue tax rate but does not exceed the voter-approval tax rate”), (b-3) (applying when “the proposed tax rate does not exceed the no-new-revenue tax rate but exceeds the voter-approval tax rate”), .061 (applying when the proposed tax rate “does not exceed the lower of the no-new-revenue tax rate or the voter-approval tax rate”).

⁴⁴ *Id.* §§ 26.06(b-1), (b-3).

⁴⁵ *Id.* § 26.06(b-1) (emphasis added).

⁴⁶ *Id.* § 26.063(b).

⁴⁷ *Id.* § 26.063(c).

⁴⁸ Letter from Honorable Dustin Burrows, Chair, House Comm. on Ways & Means, to Bill Longley, Legis. Couns., Tex. Mun. League (Aug. 18, 2020) (on file with author).

⁴⁹ City of Van Alstyne, *Notice of Public Hearing on Tax Increase 2* (Aug. 27, 2020), <https://cityofvanalstyne.us/wp-content/uploads/2020/08/Notice-of-Public-Hearing-City-of-VA.pdf>; City of Overton, *Notice of Public Hearing on Tax Increase 2* (Aug. 2020), <https://cityofoverton.com/wp-content/uploads/2020/08/50-873-Notice-of-Public-Hearing-Tax-Rate-FY-20-21.pdf>.

⁵⁰ Texas Property Tax Reform and Transparency Act of 2019, 86th Leg., R.S., ch. 944, § 121, 2019 Tex. Gen. Laws _____, _____.

⁵¹ Tex. Tax Code § 5.091.

⁵² *Tax Rates and Levies*, TEX. COMPTROLLER OF PUB. ACCTS., <https://comptroller.texas.gov/taxes/property-tax/rates/> (last visited Dec. 10, 2020).

⁵³ Tex. Tax Code § 26.012(19).

⁵⁴ *Id.* § 26.04(c)(2)(A).

⁵⁵ *Id.* §§ 26.04(c-1), .041(c-1); Tex. Water Code § 49.23602(d).

⁵⁶ Tex. Tax Code §§ 26.04(c-1) (applying to taxing units other than special taxing units), .041(c-1) (applying to taxing units that impose an additional sales and use tax other than special taxing units); Tex. Water Code § 49.23602(d) (applying to developed water districts).

⁵⁷ Tex. Gov’t Code § 418.014(a).

⁵⁸ *Id.* § 418.004(1).

⁵⁹ Tex. Tax Code § 26.04(c-1)(1)–(2).

⁶⁰ *Id.* § 26.04(c-1).

⁶¹ *Id.* § 26.012(8-a).

⁶² *Id.* § 26.075(b)–(c).

⁶³ Letter from Monty Wynn, Dir. – Grassroots & Legis. Servs., Tex. Mun. League, to the House Comm. on Ways & Means (Nov. 13, 2020) at 2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/45ca87ae-09f3-4f89-8693-38329df40809.PDF>.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Letter from Monty Wynn, Dir. – Grassroots & Legis. Servs., Tex. Mun. League, to the House Comm. on Ways & Means (Nov. 13, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/45ca87ae-09f3-4f89-8693-38329df40809.PDF>.

⁶⁷ *Id.* at 4.

⁶⁸ *Id.* at 5 (quoting Tex. Tax Code § 26.012(13)(A)(iii)).

⁶⁹ *Id.*

⁷⁰ Letter from Brian Maxwell, City Manager, City of Galveston, to the House Comm. on Ways & Means (Nov. 13, 2020) at 2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/19e607f3-8290-4e07-9d19-5404a4546448.PDF>.

⁷¹ *Id.*

⁷² *Id.* at 3.

⁷³ Letter from David S. Morgan, City Manager, City of Georgetown, to the House Comm. on Ways & Means (Nov. 12, 2020) at 2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/fce15e7e-69da-4195-aa87-e3b24ca5ae9e.PDF>.

⁷⁴ Tex. Tax Code § 26.061(a).

⁷⁵ Letter from David S. Morgan, City Manager, City of Georgetown, to the House Comm. on Ways & Means (Nov. 12, 2020) at 2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/fce15e7e-69da-4195-aa87-e3b24ca5ae9e.PDF>.

⁷⁶ Letter from Tantri Emo, Dir. of Fin., City of Houston, to the House Comm. on Ways & Means (Nov. 13, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/a35369bf-edc7-43e2-b1cf-50039cf4927e.PDF>.

⁷⁷ *Id.* at 1–2.

⁷⁸ *Id.* at 1.

⁷⁹ *Id.* at 2 (emphasis added).

⁸⁰ Letter from Victoria Runkle, Interim Fin. Dep’t Dir., & Melissa Neel, Assistant Fin. Dep’t Dir., City of San Marcos, to the House Comm. on Ways & Means (Nov. 13, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/74b5499f-f8d8-4982-af86-53d428f7b7b8.PDF>.

⁸¹ *Id.* at 1.

⁸² City of San Marcos, *Meeting Minutes: City Council Tuesday, June 2, 2020* at 13 (July 2020), <https://www.sanmarcostx.gov/AgendaCenter/ViewFile/Agenda/07072020-2178>.

⁸³ Tex. Loc. Gov’t Code § 271.049(c).

⁸⁴ Tex. Bond Rev. Bd., *2019 Local Government Annual Report Fiscal Year Ended August 31, 2019* at 37 (Jan. 2020), <http://www.br.b.state.tx.us/pub/lgs/fy2019/2019LocalARFinal.pdf>.

⁸⁵ *Id.* at 39.

⁸⁶ *Id.* at 41.

⁸⁷ Letter from Karen Selbo Hunt, Mayor, City of Coppell, to the House Comm. on Ways & Means (Oct. 15, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/bae8e675-5dff-4a20-bfe4-e33d299a0147.PDF>.

⁸⁸ *Id.* at 2.

⁸⁹ *Id.* at 1.

⁹⁰ Tex. Tax Code § 26.05(a).

⁹¹ Tex. Elec. Code § 3.005(c).

⁹² Letter from James P. Allison, Gen. Couns., Cnty. JJ. & Comm’rs Assoc. of Tex., to the House Comm. on Ways & Means (Nov. 13, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/89b42cb4-fb64-462f-896b-c5e4be687358.PDF>.

⁹³ *Id.* at 1–2.

⁹⁴ Letter from Adam Haynes, Pol’y Dir., Tex. Conf. of Urb. Cntys., to the House Comm. on Ways & Means (Nov. 12, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/b3ee0bee-bb59-4b6e-8755-b990047bac34.PDF>.

⁹⁵ *Id.* at 1–2.

⁹⁶ *Id.* at 2.

⁹⁷ Letter from Charles Reed, Assistant Cnty. Adm’r, Dallas Cnty., to the House Comm. on Ways & Means (Nov. 13, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/cb187224-a9ab-4690-bd61-49bbef2e20b0.PDF>.

⁹⁸ *Id.* at 2.

⁹⁹ Letter from Daniel F. Collins, Governmental Affs. Manager, El Paso Cnty., to the House Comm. on Ways & Means (Nov. 13, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/cb187224-a9ab-4690-bd61-49bbef2e20b0.PDF>.

¹⁰⁰ Letter from Russell Schaffner, Assistant Cnty. Adm'r – Legis. Affs., Tarrant Cnty., to the House Comm. on Ways & Means (Nov. 13, 2020) at 2–5, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/6fc54fbf-549f-4afe-b223-d59cb095c032.PDF>.

¹⁰¹ *About: Membership*, TEX. ASS'N OF APPRAISAL DISTS., <https://taad.org/about/> (last visited Dec. 11, 2020).

¹⁰² Letter from Brent South, Chair of Legis. Comm., Tex. Ass'n of Appraisal Dist., to the House Comm. on Ways & Means (Nov. 12, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/8f8c4f80-aea4-40c6-a01f-8ffc5780fbea.PDF>.

¹⁰³ *Id.* at 1.

¹⁰⁴ *Id.* at 2.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ Letter from Tammy McRae, President, & Larry Gaddes, Vice Chair of Legis. Comm. & S.B. 2 Chair, Tax Assessor-Collectors Ass'n of Tex., to the House Comm. on Ways & Means (Nov. 5, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/ff203c4a-fa87-4f06-8ccf-8d417e96a457.PDF>.

¹¹¹ Letter from Cheryl E. Johnson, Galveston Cnty. Tax Assessor-Collector, to the House Comm. on Ways & Means (Nov. 9, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/6e0a82c0-e183-4554-9434-83a414bc9686.PDF>.

¹¹² *Id.* at 3.

¹¹³ Tex. Tax Code § 5.05(a).

¹¹⁴ Letter from Cheryl E. Johnson, Galveston Cnty. Tax Assessor-Collector, to the House Comm. on Ways & Means (Nov. 9, 2020) at 3, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/6e0a82c0-e183-4554-9434-83a414bc9686.PDF>.

¹¹⁵ E-mail from Allison Mansfield, Assistant Dir. Legis. Affs., Tex. Comptroller of Pub. Accts., to author (Dec. 17, 2020, 12:08 PM) (on file with author).

¹¹⁶ *Id.*

¹¹⁷ *Id.* at 4.

¹¹⁸ *Id.* at 5.

¹¹⁹ Tex. Tax Code § 26.05(a).

¹²⁰ *Id.* § 26.07(c).

¹²¹ Tex. Elec. Code § 3.005(c).

¹²² *Id.* § 3.005(b).

¹²³ *Id.* § 3.006.

¹²⁴ *Id.* § 3.005(d).

¹²⁵ Tex. Att'y Gen. Op. No. KP-0307 (2020) at 6 (citing Tex. Tax Code § 41.45), <https://www.texasattorneygeneral.gov/sites/default/files/opinion-files/opinion/2020/kp-0307.pdf>.

¹²⁶ *About: What We Do*, TEX. TAXPAYERS & RSCH. ASS'N, <https://www.ttara.org/about/what-we-do/> (last visited Dec. 11, 2020).

¹²⁷ Letter from Carl Walker, Senior Analyst, & Dale Craymer, President, Tex. Taxpayers & Rsch. Ass'n, to the House Comm. on Ways & Means (Nov. 10, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/93d5a7e9-07b3-4b4f-8870-4a7eacd09f19.PDF>.

¹²⁸ *Id.*

¹²⁹ *Id.* at 1–2.

¹³⁰ *Id.* at 2.

¹³¹ *Id.*

¹³² *Id.* at 2–3.

¹³³ *Id.* at 3.

¹³⁴ *Id.*

¹³⁵ Tex. Tax Code § 26.04(e-5).

¹³⁶ Letter from David Mintz, Vice President of Gov't Affs., Tex. Apartment Ass'n, to the House Comm. on Ways &

Means (Nov. 11, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/cb585109-ec19-4927-aba3-42b6eaf5baf8.PDF>.

¹³⁷ *Id.* at 2.

¹³⁸ Letter from Brian Schaeffer, President & CEO, Tex. Ass'n of Campground Owners, to the House Comm. on Ways & Means (Nov. 13, 2020) at 2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/5b061073-246c-44b2-a888-4df202d07e32.PDF>; Letter from Cheryl McLaughlin, President, Hatch RV Park, to the House Comm. on Ways & Means (Nov. 12, 2020) at 3, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/3bc87005-2d1e-47f4-9d40-319e502fceb2.PDF>.

¹³⁹ Letter from Cheryl McLaughlin, President, Hatch RV Park, to the House Comm. on Ways & Means (Nov. 12, 2020) at 3, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/3bc87005-2d1e-47f4-9d40-319e502fceb2.PDF>.

¹⁴⁰ *Id.* at 2.

¹⁴¹ Letter from Brian Schaeffer, President & CEO, Tex. Ass'n of Campground Owners, to the House Comm. on Ways & Means (Nov. 13, 2020) at 2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/5b061073-246c-44b2-a888-4df202d07e32.PDF>.

¹⁴² *Id.* at 3.

¹⁴³ *Id.* at 4.

¹⁴⁴ Act of June 2, 1997, 75th Leg., R.S., ch. 1039, § 22, Tex. Gen. Laws 3897, 3908 (amended 2003) (current version at Tex. Tax Code § 23.012).

¹⁴⁵ Tex. Tax Code § 23.0101 (emphasis added).

¹⁴⁶ Letter from John Kroll, Partner, HMWK Glob., to the House Comm. on Ways & Means (Nov. 11, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/ed01a026-70a9-4017-8436-4ce7758cb334.PDF>.

¹⁴⁷ *Id.* at 2.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ Tex. Comptroller of Pub. Accts., *Appraisal District Director's Manual* 14 (May 2020), <https://comptroller.texas.gov/taxes/property-tax/docs/96-301.pdf>.

¹⁵¹ Letter from Laura Lee Prather, Tex. Press Ass'n Consultant, Haynes & Boone, LLP, to the House Comm. on Ways & Means (Nov. 16, 2020) at 1, 4, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/b599f870-c3e7-44fd-b10a-2943442a81e4.PDF>.

¹⁵² *Id.* at 4.

¹⁵³ Act of Apr. 28, 1993, 73rd Leg., R.S., ch. 81, § 2, 1993 Tex. Gen. Laws 167, 168 (amended 2019) (current version at Tex. Tax Code § 26.04(e)) (emphasis added).

¹⁵⁴ Tex. Tax Code § 26.04(e) (emphasis added).

¹⁵⁵ *Id.* § 26.06(c).

¹⁵⁶ *Id.* § 26.06(b)–(c).

¹⁵⁷ Letter from Maureen Milligan, President & CEO, Teaching Hosps. of Tex., to the House Comm. on Ways & Means (Nov. 13, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900002/85d88e5d-caa5-4238-8858-dcea7ad4976f.PDF>.

¹⁵⁸ *Id.* at 2.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at 3.

¹⁶¹ Tex. Tax Code § 26.012(19)(C).

¹⁶² Act of May 14, 2019, 86th Leg., R.S., ch. 182, §§ 1–4, 2019 Tex. Gen. Laws ____, ____ (codified at Tex. Tax Code §§ 151.008(b), 151.0242, 321.203(e-1), 323.203(e-1)); Act of May 6, 2019, 86th Leg., R.S., ch. 51, §§ 2–3, 2019 Tex. Gen. Laws ____, ____ (codified at Tex. Tax Code § 151.0595, Tex. Gov't Code § 403.107).

¹⁶³ Tex. Tax Code § 151.0242(a)(1).

¹⁶⁴ Shannon Halbrook, *Taxing Out-of-State Sellers: New State Tax Laws May Bring in \$500 Million Annually*, FISCAL NOTES: SEPTEMBER 2019, at 6, 7 (Sept. 2019), <https://comptroller.texas.gov/economy/fiscal-notes/2019/sep/docs/fn.pdf>.

¹⁶⁵ Tex. Tax Code §§ 151.005, 010, .0101, .051 (defining “sale,” “taxable item,” and “taxable service” and stating that “tax is imposed on each sale of a taxable item in this state.”).

¹⁶⁶ House Comm. on Ways & Means, Bill Analysis, Tex. H.B. 1525, 86th Leg., R.S. (2010), <https://capitol.texas.gov/tlodocs/86R/analysis/pdf/HB01525H.pdf#navpanes=0>.

¹⁶⁷ *Id.*

¹⁶⁸ Fiscal Note, Tex. H.B. 1525, 86th Leg., R.S. (2019), <https://capitol.texas.gov/tlodocs/86R/fiscalnotes/pdf/HB01525F.pdf#navpanes=0>.

¹⁶⁹ Tex. Tax Code § 151.0595(a).

¹⁷⁰ *Quill Corp. v. N. Dakota By & Through Heitkamp*, 504 U.S. 298, 317 (1992), overruled by *S. Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018); *Nat'l Bellas Hess, Inc. v. Dep't of Revenue of State of Ill.*, 386 U.S. 753, 760 (1967), overruled by *Quill Corp. v. N. Dakota By & Through Heitkamp*, 504 U.S. 298 (1992), and *S. Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

¹⁷¹ *Wayfair, Inc.*, 138 S. Ct. at 2099.

¹⁷² *Id.*

¹⁷³ *Id.* at 2099–100.

¹⁷⁴ 43 Tex. Reg. 7969, 8133 (2018) (codified as an amendment to 34 Tex. Admin. Code § 3.286) (proposed Oct. 19, 2018) (Tex. Comptroller of Pub. Accts., Seller's and Purchaser's Responsibilities).

¹⁷⁵ 34 Tex. Admin. Code § 3.286(b)(2)(B)(i) (2020) (Tex. Comptroller of Pub. Accts., Seller's and Purchaser's Responsibilities).

¹⁷⁶ *Id.* § 3.286(b)(2)(E).

¹⁷⁷ House Comm. on Ways & Means, Bill Analysis, Tex. H.B. 2153, 86th Leg., R.S. (2019), <https://capitol.texas.gov/tlodocs/86R/analysis/pdf/HB02153H.pdf#navpanes=0>.

¹⁷⁸ Tex. H. Comm. on Ways & Means Minutes 2, 86th Leg., R.S. (Feb. 5, 2020), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C4902020020510001.PDF>.

¹⁷⁹ Tex. H. Comm. on Ways & Means Witness List 1, 86th Leg., R.S. (Feb. 5, 2020), <https://capitol.texas.gov/tlodocs/86R/witlistmtg/pdf/C4902020020510001.PDF>.

¹⁸⁰ Letter from Jason Stuebe, City Manager, City of Humble, to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

¹⁸¹ 44 Tex. Reg. 8117, 8317 (2019) (codified as an amendment to 34 Tex. Admin. Code § 3.286) (proposed Nov. 1, 2019) (Tex. Comptroller of Pub. Accts., Seller's and Purchaser's Responsibilities); 45 Tex. Reg. 3389, 3499 (2020) (codified as an amendment to 34 Tex. Admin. Code § 3.334) (proposed Jan. 3, 2020) (Tex. Comptroller of Pub. Accts., Local Sales and Use Taxes).

¹⁸² 44 Tex. Reg. 8117, 8317 (2019) (codified as an amendment to 34 Tex. Admin. Code § 3.286) (proposed Nov. 1, 2019) (Tex. Comptroller of Pub. Accts., Seller's and Purchaser's Responsibilities).

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 8317–18.

¹⁸⁵ 45 Tex. Reg. 3389, 3499 (2020) (codified as an amendment to 34 Tex. Admin. Code § 3.334) (proposed Jan. 3, 2020) (Tex. Comptroller of Pub. Accts., Local Sales and Use Taxes).

¹⁸⁶ *Id.*

¹⁸⁷ *Id.* at 3500.

¹⁸⁸ *Id.* at 3505–06.

¹⁸⁹ *Id.* at 3500.

¹⁹⁰ *Marketplace Providers Search*, TEX. COMPTROLLER OF PUB. ACCTS., <https://comptroller.texas.gov/taxes/sales/marketplace-providers.php> (last visited Dec. 13, 2020); *Single Local Use Tax Rate Taxpayer Search*, TEX. COMPTROLLER OF PUB. ACCTS., <https://comptroller.texas.gov/taxes/sales/single-local-tax-rates.php> (last visited Dec. 13, 2020).

¹⁹¹ Testimony of Honorable Glenn Hegar, Tex. Comptroller of Pub. Accts., to the Tex. Legis. Budget Bd. at 05:30 (Nov. 30, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=13&clip_id=18900.

¹⁹² 45 Tex. Reg. 1, 98 (2020) (to be codified as an amendment to 34 Tex. Admin. Code § 3.334) (Tex. Comptroller of Pub. Accts., Local Sales and Use Taxes).

¹⁹³ Testimony of Honorable Glenn Hegar, Tex. Comptroller of Pub. Accts., to the House Comm. on Ways & Means at 03:23 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

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¹⁹⁵ Testimony of John Kroll, Partner, HMWK Glob., to the House Comm. on Ways & Means at 03:25:51 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

¹⁹⁶ Testimony of Karen Selbo Hunt, Mayor, City of Coppell, to the House Comm. on Ways & Means at 01:21:53 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

¹⁹⁷ Testimony of Robert Camareno, City Manager, City of New Braunfels, to the House Comm. on Ways & Means at 01:44:16 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

¹⁹⁸ Testimony of Steve Presley, Mayor, City of Palestine, to the House Comm. on Ways & Means at 02:42:44 (Feb.

5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

¹⁹⁹ Testimony of Keith Wright, City Manager, City of Lufkin, to the House Comm. on Ways & Means at 03:12:40 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

²⁰⁰ 45 Tex. Reg. 3389, 3499 (2020) (codified as an amendment to 34 Tex. Admin. Code § 3.334) (proposed Jan. 3, 2020) (Tex. Comptroller of Pub. Accts., Local Sales and Use Taxes).

²⁰¹ *Id.* at 3506.

²⁰² Act of May 14, 1993, 73rd Leg., R.S., ch. 231, 1993 Tex. Gen. Laws 480.

²⁰³ Tex. Tax Code § 351.156.

²⁰⁴ *Id.* § 351.158.

²⁰⁵ Tex. Gov't Code § 2303.003(8).

²⁰⁶ Tex. Tax Code § 351.102(b).

²⁰⁷ Letter from Honorable Glenn Hegar, Tex. Comptroller of Pub. Accts., to the House Comm. on Ways & Means (Sept. 14, 2020) at 2–4, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/00a4de84-48f4-45c9-a5c3-cf09a8ae9a9f.PDF>.

²⁰⁸ Tex. H. Comm. on Ways & Means Responses to Formal Request for Information on Interim Charge 1.3, 2, 3 and 4 at 1, 86th Leg., R.S. (Oct. 30, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/C4902020072900001.PDF>.

²⁰⁹ Report from the Tex. Hotel & Lodging Ass'n to the House Comm. on Ways & Means (Sept. 25, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/264cd308-8a5f-42c3-a692-5731d5cf63de.PDF> (“THLA Report”).

²¹⁰ *Id.*

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²¹⁴ Act of May 20, 2015, 84th Leg., R.S., ch. 277, § 2, sec. 351.102(b), 2015 Tex. Gen. Laws 1317, 1318–1319 (current version at Tex. Tax Code § 351.152(10)).

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²¹⁷ Rebecca Macias, *Kalahari Resorts debuts in Round Rock*, AUSTIN AM.-STATESMAN (Nov. 12, 2020), <https://www.statesman.com/story/news/local/round-rock/2020/11/12/kalahari-resorts-debuts-in-round-rock/114885966/>.

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²²⁰ Letter from Honorable Glenn Hegar, Tex. Comptroller of Pub. Accts., to the House Comm. on Ways & Means (Sept. 14, 2020) at 4–5, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/00a4de84-48f4-45c9-a5c3-cf09a8ae9a9f.PDF>.

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²³⁴ *Id.*

²³⁵ *R.R. Comm'n of Tex. v. Tex. Citizens for a Safe Future & Clean Water*, 336 S.W.3d 619, 625 (Tex. 2011) (internal quotation marks and citations omitted).

²³⁶ Tex. Gov't Code § 311.023.

²³⁷ *Tex. Health Presbyterian Hosp. of Denton v. D.A.*, 569 S.W.3d 126, 136 (Tex. 2018), reh'g denied (Mar. 29, 2019).

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²³⁹ *Id.*

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²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Id.*

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²⁵³ Tex. Educ. Code § 48.2554(a).

²⁵⁴ Tex. Gov't Code § 403.014(a).

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²⁵⁶ Legis. Budget Bd., *Study on District Property Tax Compression 29–40* (Sept. 2020), https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6391_HB3_Revenue_Policy_Report.pdf.

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²⁵⁸ *Id.* at 10–11.

²⁵⁹ *Id.* at 11.

²⁶⁰ *Id.* at 14.

²⁶¹ *Id.* at 10.

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ *Housing Activity for Texas*, TEX. A&M UNIV. REAL EST. CTR., <https://www.recenter.tamu.edu/data/housing-activity/#!/activity/State/Texas> (last visited Dec. 20, 2020).

²⁶⁵ Tex. Const. art. VIII, § 24-a; Tex. Legis. Council, *Amendments to the Texas Constitution Since 1876* at 105 (Feb.

2020), <https://tlc.texas.gov/docs/amendments/Constamend1876.pdf>.

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²⁶⁸ *Id.* at 1.

²⁶⁹ *Id.* at 4.

²⁷⁰ Legis. Budget Bd., *Study on District Property Tax Compression* 36–39 (Sept. 2020), https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6391_HB3_Revenue_Policy_Report.pdf.

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²⁷⁸ Letter from Jim Allison, Gen. Couns., Cnty. JJ. & Comm’rs Assoc. of Tex., to the House Comm. on Ways & Means (Sept. 14, 2020) 1–2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/69072b03-d2fd-411a-ba36-b53eb7ee6bf3.PDF>.

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²⁸⁸ *Id.*

²⁸⁹ Letter from Adam Haynes, Pol’y Dir., Tex. Conf. of Urb. Cntys., to the House Comm. on Ways & Means (Sept. 11, 2020) 2, 4–5, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/f7569d9e-a897-4bf2-a87a-b8aca5977517.PDF>.

²⁹⁰ *Id.* at 3.

²⁹¹ *Id.*

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²⁹³ *See, e.g.*, Tex. Tax Code § 26.012.

²⁹⁴ *Id.* § 26.07.

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²⁹⁷ *Id.* at 5.

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³¹⁰ *Id.* at 1.

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³³⁵ *Id.* at 4.

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³⁷⁰ *Id.* at 3.

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³⁷² Letter from Brian Panell, Dir. – U.S. Transaction Tax, Dell Techs., to the House Comm. on Ways & Means (Sept. 14, 2020) at 2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/3fa1473f-714c-45fe-930f-82014819e50c.PDF>.

³⁷³ *Id.* at 3.

³⁷⁴ Letter from HD Supply Facilities Maint., Ltd. to the House Comm. on Ways & Means (Sept. 14, 2020) at 5, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/c46efa73-2929-4f66-8268-6820b4f385b9.PDF>.

³⁷⁵ *Id.* at 3.

³⁷⁶ Letter from John Kroll, Partner, HMWK Glob., to the House Comm. on Ways & Means (Sept. 14, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/836853c7-92a7-418a-b918-ebcf138d05d1.PDF>; Letter from Kyle Kasner, Founder, TexasCityServices LLC, to the House Comm. on Ways & Means (Sept. 14, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/b10ae146-787e-48e5-9a52-2e9190d7f3b6.PDF>; Letter from John Christian, Dir. - Controversy Resol., Ryan, LLC, to the House Comm. on Ways & Means (Sept. 14, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/363b1e34-c444-43ba-81eb-1d6985afd24b.PDF>.

³⁷⁷ Letter from Heather Hurlbert, Dir. of Fin. & Bus. Analysis, City of Corpus Christi, to the House Comm. on Ways & Means (Sept. 14, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/f4204405-58a1-4af6-b939-57f194658532.PDF>.

³⁷⁸ *Id.*

³⁷⁹ *Id.*

³⁸⁰ Letter from Hilary J. Shine, Exec. Dir. of Commc'ns & Legis. Affs., City of Killeen, to the House Comm. on Ways & Means (Sept. 10, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/5e5bf56e-f8d4-437e-ac03-798c7bb1f64f.PDF>.

³⁸¹ *Id.*

³⁸² *Id.* at 2.

³⁸³ *Id.*

³⁸⁴ Letter from Cathy Stein, Place 3 Alderman, City of Dalworthington Gardens, to the House Comm. on Ways & Means (Sept. 14, 2020) at 2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/2f670768-f6e6-43f1-a298-e034fa0454d3.PDF>.

³⁸⁵ *Id.*

³⁸⁶ *Id.*

³⁸⁷ Letter from Honorable Glenn Hegar, Tex. Comptroller of Pub. Accts., to the House Comm. on Ways & Means (Sept. 14, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/be6dfca8-8adb-4567-900d-f5c1c9a04391.PDF>.

³⁸⁸ *Id.*

³⁸⁹ *Id.* at 2.

³⁹⁰ *Id.*

³⁹¹ *Id.*

³⁹² *Id.* at 3.

³⁹³ Letter from Monty Wynn, Dir. – Grassroots & Legis. Servs., Tex. Mun. League, to the House Comm. on Ways & Means (Sept. 14, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/5bccaed1-b105-4e65-b810-5b39bfc41b05.PDF>.

³⁹⁴ *Id.*

³⁹⁵ Letter from Susan L. Morgan, Chief Fin. Officer, City of Round Rock, to the House Comm. on Ways & Means (Sept. 11, 2020) at 1–2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/17ecbd56-3056-4902-974e-49867662a42e.PDF>.

³⁹⁶ *Id.* at 1.

³⁹⁷ *Id.* at 2.

³⁹⁸ Letter from Chris Hillman, City Manager, City of Irving, to the House Comm. on Ways & Means (Sept. 14, 2020) at 1, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/33c86eea-0073-41cd-9fc3-144e2b7df083.PDF>.

³⁹⁹ *Id.*

⁴⁰⁰ *Id.*

⁴⁰¹ Letter from Iain Vasey, President & CEO, Corpus Christi Reg'l Econ. Dev. Corp., to the House Comm. on Ways & Means (Sept. 10, 2020) at 1, 3, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/0a322f73-0e54-4c46-96b0-43b85d144939.PDF>.

⁴⁰² *Id.* at 1.

⁴⁰³ *Id.*

⁴⁰⁴ *Id.* at 2.

⁴⁰⁵ Letter from Tex. Conservative Coal. Rsch. Inst. to the House Comm. on Ways & Means (Sept. 14, 2020) at 3, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/86cf41a7-5e06-4750-b6c0-c75234693871.PDF>.

⁴⁰⁶ Letter from John Kennedy, Senior Analyst, & Dale Craymer, President, Tex. Taxpayers & Rsch. Ass'n, to the House Comm. on Ways & Means (Sept. 14, 2020) at 2, <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/d36f4ae1-8394-4eea-8d26-4c04f7ecdb87.PDF>.

⁴⁰⁷ *Id.*

⁴⁰⁸ *Id.*

⁴⁰⁹ *Id.* at 5.

⁴¹⁰ *Id.*

⁴¹¹ *Id.*

⁴¹² Ground Water Prot. Council, *Produced Water Report: Regulations, Current Practices, and Research Needs* 5 (June 2019), <https://www.owrb.ok.gov/2060/PWWG/Produced%20Water%20Full%20Report%20-%20Digital%20Use.pdf>.

⁴¹³ *Id.* at 1.

⁴¹⁴ John Veil, *U.S. Produced Water Volumes and Management Practices in 2017* at 20–22 (Feb. 2020), <http://www.gwpc.org/sites/default/files/pw%20report%202017%20-%20final.pdf>.

⁴¹⁵ Tex. R.R. Comm'n, *RRC Energy Minute 1* (Jan. 2020), https://www.rrc.state.tx.us/media/55977/rrc-energy-minute_vol-10_120.pdf.

⁴¹⁶ *Id.*

⁴¹⁷ Ground Water Prot. Council, *Produced Water Report: Regulations, Current Practices, and Research Needs* 9 (June 2019), <https://www.owrb.ok.gov/2060/PWWG/Produced%20Water%20Full%20Report%20-%20Digital%20Use.pdf>.

⁴¹⁸ Tex. H.B. 2545, 86th Leg., R.S. (2019); Tex. H.B. 3067, 86th Leg., R.S. (2019); Tex. H.B. 3717, 86th Leg., R.S. (2019).

⁴¹⁹ Tex. H.R. Comm. on Ways & Means Minutes 13, 86th Leg., R.S. (Apr. 3, 2019), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C4902019040308001.PDF>.

⁴²⁰ Tex. H.R. Comm. on Ways & Means Minutes 17, 86th Leg., R.S. (Apr. 17, 2019), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C4902019041708001.PDF>.

⁴²¹ *Id.* at 5–6.

⁴²² Tex. H.B. 2545, 86th Leg., R.S. (2019).

⁴²³ Fiscal Note, Tex. H.B. 2545, 86th Leg., R.S. (2019) at 2, <https://capitol.texas.gov/tlodocs/86R/fiscalnotes/pdf/HB02545E.pdf#navpanes=0>.

⁴²⁴ *Id.* at 1.

⁴²⁵ Tex. H.B. 2545, 86th Leg., R.S. (2019).

⁴²⁶ *Id.*

⁴²⁷ *Id.*

⁴²⁸ Fiscal Note, Tex. H.B. 2545, 86th Leg., R.S. (2019) at 3, <https://capitol.texas.gov/tlodocs/86R/fiscalnotes/pdf/HB02545E.pdf#navpanes=0>.

⁴²⁹ Fiscal Note, Tex. H.B. 2545, 86th Leg., R.S. (2019) at 1, <https://capitol.texas.gov/tlodocs/86R/fiscalnotes/pdf/HB02545I.pdf#navpanes=0>.

⁴³⁰ *Id.* at 3.

⁴³¹ *Id.*

⁴³² Tex. H. Comm. on Ways & Means Minutes 15, 86th Leg., R.S. (Apr. 10, 2019), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C4902019041008001.PDF>.

⁴³³ H.J. of Tex., 86th Leg., R.S. 2872 (2019).

⁴³⁴ Tex. S. Comm. on Fin. Minutes 4, 86th Leg., R.S. (May 17, 2019), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C5402019051709001.PDF>.

⁴³⁵ Tex. H.B. 3067, 86th Leg., R.S. (2019).

⁴³⁶ *Id.*

⁴³⁷ Fiscal Note, Tex. H.B. 3067, 86th Leg., R.S. (2019) at 3.

⁴³⁸ *Id.*

⁴³⁹ *Id.*

⁴⁴⁰ *Id.* at 1–2.

⁴⁴¹ Tex. H. Comm. on Ways & Means Minutes 17, 86th Leg., R.S. (Apr. 17, 2019), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C4902019041708001.PDF>.

⁴⁴² Tex. H.B. 3717, 86th Leg., R.S. (2019).

⁴⁴³ *Id.*

⁴⁴⁴ Fiscal Note, Tex. H.B. 3717, 86th Leg., R.S. (2019) at 3.

⁴⁴⁵ *Id.*

⁴⁴⁶ *Id.*

⁴⁴⁷ *Id.* at 1–2.

⁴⁴⁸ Tex. H. Comm. on Ways & Means Minutes 5, 86th Leg., R.S. (Apr. 17, 2019), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C4902019041708001.PDF>.

⁴⁴⁹ Letter from Todd Staples, President, Tex. Oil & Gas Ass'n, to the House Comm. on Ways & Means (Sept. 14, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/8c845cea-18e3-4eb1-a417-82fe758979f3.PDF> (“TXOGA Letter”); Letter from Jason Modglin, President, Tex. All. of Energy Producers, to the House Comm. on Ways & Means (Sept. 14, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/b994ce16-ed8e-40f3-9932-69b8a16d63c0.PDF> (“Alliance Letter”); Letter from Colin Leydon, Dir. - Legis. & Regul. Affs. - Energy, Env't Def. Fund, to the House Comm. on Ways & Means (Sept. 14, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/c8b98ce6-499f-4a29-9688-333149ca2bea.PDF> (“EDF Letter”); Letter from Ed Longanecker, President, Tex. Indep. Producers and Royalty Owners Ass'n, to the

House Comm. on Ways & Means (Sept. 14, 2020), <https://capitol.texas.gov/tlodocs/86R/handouts/C4902020072900001/8b136abf-7977-4a71-9d82-5112292571f7.PDF> (“TIPRO Letter”).

⁴⁵⁰ TXOGA Letter at 1.

⁴⁵¹ *Id.*

⁴⁵² *Id.* at 3.

⁴⁵³ *Id.*

⁴⁵⁴ *Id.*

⁴⁵⁵ Alliance Letter at 1.

⁴⁵⁶ *Id.* at 2.

⁴⁵⁷ *Id.*

⁴⁵⁸ *Id.*

⁴⁵⁹ *Id.* at 1; Blythe Lyons, Jon Tintera & Kylie Wright, Sustainable Produced Water Policy, Regulatory Framework, and Management in the Texas Oil and Natural Gas Industry: 2019 and Beyond 1 (Sept. 16, 2019), <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3A2c7b5154-f581-47dc-9c19-314d82c8de05#pageNum=1>.

⁴⁶⁰ *Id.* at 30.

⁴⁶¹ *Id.*

⁴⁶² EDF Letter at 1.

⁴⁶³ *Id.*

⁴⁶⁴ *Id.* at 2.

⁴⁶⁵ *Id.*

⁴⁶⁶ *Id.* at 3.

⁴⁶⁷ *Id.* at 2.

⁴⁶⁸ TIPRO Letter at 1.

⁴⁶⁹ *Id.*

⁴⁷⁰ *Id.*

⁴⁷¹ *Id.*

⁴⁷² Tex. Tax Code §§ 31.02(b)–(g) (extending the delinquency date for “person[s] serving on active duty in any branch of the United States armed forces”), .03 (allowing split payments of property taxes), .04 (postponing the delinquency date based on the mailing date of a tax bill).

⁴⁷³ *Id.* § 31.02(a).

⁴⁷⁴ *Id.* § 33.01(a); *City of Bellaire v. Sewell*, 426 S.W.3d 116, 121 (Tex. App.—Houston [1st Dist.] 2012, no pet.).

⁴⁷⁵ Tex. Tax Code § 33.01(c).

⁴⁷⁶ *Id.* § 6.30.

⁴⁷⁷ *Id.* § 6.30(a), (c).

⁴⁷⁸ *Id.* § 6.30(b).

⁴⁷⁹ *Id.* § 6.30(b–c).

⁴⁸⁰ *Id.* §§ 33.07–.08, 33.48(a)(5).

⁴⁸¹ *Id.* § 6.30(c).

⁴⁸² *Id.* §§ 33.07–.08.

⁴⁸³ *Id.* § 33.07(a).

⁴⁸⁴ *Id.*

⁴⁸⁵ *Id.* §§ 33.07(c), .08(e).

⁴⁸⁶ *Id.* § 33.48(a)(5).

⁴⁸⁷ *Id.* §§ 33.07(c), .08(e); *Uvalde Cnty. Appraisal Dist. v. Parker*, 733 S.W.2d 609, 611 (Tex. App.—San Antonio 1987, writ ref’d n.r.e.); *Lakeridge Dev. Corp. v. Travis Cnty. Water Control & Improvement Dist. No. 18*, 677 S.W.2d 764, 766 (Tex. App.—Austin 1984, no writ); *Lawler v. Collin Cnty.*, 05-95-00487-CV, 1996 WL 403986, at *4 (Tex. App.—Dallas July 12, 1996, writ denied).

⁴⁸⁸ *City of Houston v. First City*, 827 S.W.2d 462, 474 (Tex. App.—Houston [1st Dist.] 1992, writ denied).

⁴⁸⁹ Tex. H. Comm. on Ways & Means Minutes 2, 86th Leg., R.S. (Feb. 5, 2020), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C4902020020510001.PDF>.

⁴⁹⁰ Tex. H. Comm. on Ways & Means Witness List 2, 86th Leg., R.S. (Feb. 5, 2020), <https://capitol.texas.gov/tlodocs/86R/witlistmtg/pdf/C4902020020510001.PDF>.

⁴⁹¹ Letter from Joseph R. Crawford, Assistant City Attorney, City of Houston, to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author); Letter from Ricardo A. Samaniego, Cnty. J., El Paso Cnty., to the House Comm.

on Ways & Means (Feb. 5, 2020) (on file with author); Letter from Betsy Price, Mayor, City of Fort Worth, to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

⁴⁹² Testimony of David Patterson, President, Assessments of the Sw., Inc., to the House Comm. on Ways & Means at 05:20:52 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁴⁹³ Written Testimony David Patterson, President, Assessments of the Sw., Inc., to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

⁴⁹⁴ Written testimony from Larry Gaddes, Vice Chair – Legis. Comm., Tax Assessor-Collectors Ass’n of Tex., to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

⁴⁹⁵ Testimony of Donald Postell to the House Comm. on Ways & Means at 04:42:30 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁴⁹⁶ Joseph Crawford, *Presentation to the City of Houston Budget and Fiscal Affairs Committee: Delinquent Tax Collections 2* (Mar. 31, 2020), <http://www.houstontx.gov/council/committees/bfacommittee/20200331/delinquent-tax-collections.pdf>.

⁴⁹⁷ *Id.* at 5.

⁴⁹⁸ *Id.* at 6.

⁴⁹⁹ Letter from Joseph R. Crawford, Assistant City Att’y, City of Houston, to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

⁵⁰⁰ *Id.*

⁵⁰¹ *Id.*

⁵⁰² City of Fort Worth, *Fort Worth City Secretary Contract No. 54120 Agreement for Professional Ad Valorem Tax Collection Services 1* (July 8, 2020), <https://publicdocuments.fortworthtexas.gov/CSODOCS/DocView.aspx?id=210755&dbid=0&repo=City-Secretary>.

⁵⁰³ City of Fort Worth, *Mayor and Council Communication M&C 20-0397* at 2 (June 16, 2020), <https://fortworthgov.legistar.com/View.ashx?M=F&ID=8605510&GUID=E1FD4F59-2C6E-4360-B0E4-425DD8781C3F>.

⁵⁰⁴ Letter from Betsy Price, Mayor, City of Fort Worth, to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

⁵⁰⁵ *Id.*

⁵⁰⁶ *Id.*

⁵⁰⁷ City of El Paso, *Fiscal Year 2019-2020 Budget 54* (Aug. 19, 2020), <https://www.elpasotexas.gov/~media/files/coep/office%20of%20management%20and%20budget/fy20%20budget/fy%202020%20adopted%20budget%20book%20-%20updated.pdf>.

⁵⁰⁸ Letter from Ricardo A. Samaniego, Cnty. J., El Paso Cnty., to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

⁵⁰⁹ Testimony of Larry Gaddes, Vice Chair - Legis. Comm., Tax Assessor-Collectors Ass’n of Tex., to the House Comm. on Ways & Means at 04:36:23 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵¹⁰ *Id.* at 04:36:31.

⁵¹¹ Written testimony from Larry Gaddes, Vice Chair - Legis. Comm., Tax Assessor-Collectors Ass’n of Tex., to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

⁵¹² Testimony of Larry Gaddes, Vice Chair - Legis. Comm., Tax Assessor-Collectors Ass’n of Tex., to the House Comm. on Ways & Means at 04:37:59 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵¹³ *Id.* at 04:38:09.

⁵¹⁴ *See, e.g., Perdue, Brackett, Flores, Utt & Burns v. Linebarger, Goggan, Blair, Sampson & Meeks, L.L.P.*, 291 S.W.3d 448, 455 (Tex. App.—Fort Worth 2009, no pet.) (Examining allegations of defamation, tortious interference, business disparagement, and conspiracy made by Perdue against Linebarger based on a presentation to the City of Fort Worth).

⁵¹⁵ Written testimony from Linebarger Goggan Blair & Sampson, LLP to the House Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

⁵¹⁶ *Id.*

⁵¹⁷ *Id.*

⁵¹⁸ Testimony of Edward Lopez Jr., Senior Partner, Linebarger Goggan Blair & Sampson, LLP, to the House Comm. on Ways & Means at 05:02:23 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵¹⁹ Written testimony from Robert Mott, Of Counsel, Perdue Brandon Fielder Collins & Mott, LLP, to the House

Comm. on Ways & Means (Feb. 5, 2020) (on file with author).

⁵²⁰ *Id.*

⁵²¹ Testimony of Matthew Tepper, Shareholder, McCreary, Veselka, Bragg & Allen, P.C. Att’y’s at Law, to the House Comm. on Ways & Means at 5:17:27 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵²² Testimony of Chad Timmons, Shareholder, Abernathy, Roeder, Boyd & Hullett P.C., to the House Comm. on Ways & Means at 05:26:00 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵²³ *Id.* at 05:27:29.

⁵²⁴ Testimony of Amy Samples, Assistant Cnty. Att’y, Harris Cnty. Att’y’s Off., to the House Comm. on Ways & Means at 04:20:59 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵²⁵ Harris Cnty. Comm’rs Ct., *Results of the Commissioners Court Meeting of 1-28-20* at 1 (Jan. 28, 2020) (“[S]upport[ing] legislation to provide flexibility to local governments in the collection of delinquent property taxes and to permit government attorneys to recover fees and costs in the same manner as third party law firms in the collection of delinquent taxes.”), <https://www.cclerk.hctx.net/commctagenda/2020/01-28-2020/Exceptions/01-28-20%20Exceptions.pdf>.

⁵²⁶ Testimony of Amy Samples, Assistant Cnty. Att’y, Harris Cnty. Att’y’s Off., to the House Comm. on Ways & Means at 04:24:07 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵²⁷ *Id.* at 04:24:07.

⁵²⁸ *Id.* at 04:24:14.

⁵²⁹ Tex. Tax Code § 33.01.

⁵³⁰ *Id.*

⁵³¹ Testimony of Mimi Han, Managing Att’y - Compliance Prac. Grp., Harris Cnty. Att’y’s Off., to the House Comm. on Ways & Means at 04:31:03 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵³² *Id.* at 4:33:06.

⁵³³ *E.g.*, Tex. H.B. 2404, 78th Leg., R.S. (2003); Tex. S.B. 74, 72nd Leg., R.S. (1991); Tex. S.B. 135, 72nd Leg., R.S. (1991); Tex. H.B. 1089, 70th Leg., R.S. (1987); Tex. H.B. 1855, 69th Leg., R.S. (1985).

⁵³⁴ Tex. Gov’t Code § 321.013(a).

⁵³⁵ *Id.* §§ 321.0131–321.0135.

⁵³⁶ *About*, TEX. ST. AUDITOR’S OFF., <https://www.sao.texas.gov/About/> (last visited Oct. 11, 2020).

⁵³⁷ Tex. H.R. Rule 3, §§ 1–34, Tex. H.R. 4, 86th Leg., R.S., 2019 H.J. of Tex. 50, 61–78, *reprinted in Rules of the House*, Texas Legislative Manual 27 (2019) (listing the jurisdiction of each standing House committee).

⁵³⁸ Tex. H.R. Rule 3, § 34, Tex. H.R. 4, 86th Leg., R.S., 2019 H.J. of Tex. 50, 78, *reprinted in Rules of the House*, Texas Legislative Manual 43 (2019).

⁵³⁹ Act of April 12, 1989, 71st Leg., R.S., ch. 24, § 3, 1989 Tex. Gen. Law 303 (codified at Tex. Tax Code §§ 141.002, .003, .006).

⁵⁴⁰ Tex. H. Comm. on Ways & Means Minutes 1, 86th Leg., R.S. (Feb. 5, 2020), <https://capitol.texas.gov/tlodocs/86R/minutes/pdf/C4902020020510001.PDF>.

⁵⁴¹ Tex. H. Comm. on Ways & Means Witness List 1, 86th Leg., R.S. (Feb. 5, 2020), <https://capitol.texas.gov/tlodocs/86R/witlistmtg/pdf/C4902020020510001.PDF>.

⁵⁴² Tex. State Auditor’s Off., *State Auditor’s Office Organizational Chart 1* (Feb. 2020), <https://www.sao.texas.gov/Documents/OrgChart/SAO%20Organizational%20Chart.pdf>.

⁵⁴³ Tex. Gov’t Code § 321.010(b)(2).

⁵⁴⁴ Testimony of Lisa Collier, First Assistant State Auditor, Tex. State Auditor’s Off., to the House Comm. on Ways & Means at 4:11:30 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵⁴⁵ *Id.* at 4:13:40.

⁵⁴⁶ *Id.* at 4:13:49.

⁵⁴⁷ Testimony of Robert Wood, Assoc. Deputy Comptroller for Operations & Support, Tex. Comptroller of Pub. Accts., to the House Comm. on Ways & Means at 4:19:35 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵⁴⁸ *Search SAO Reports*, TEX. ST. AUDITOR’S OFF., <https://www.sao.texas.gov/SAOReports/AdvancedSearch/> (enter “09/01/2018” in “Release Date From:”; enter “09/01/2020” in “Release Date To:”; select “Comptroller of Public Accounts (304)” from the “Agency” dropdown; then click “Search Reports”); *see also* Tex. State Auditor’s Off., *Annual Report for Fiscal Year 2019* at 8–10 (Oct. 2019), Tex. State Auditor’s Off., *Annual Report for Fiscal Year 2020* at 8 (Oct. 2020).

⁵⁴⁹ Tex. State Auditor’s Off., *A Report on Analysis of Quality Assurance Team Projects Report No. 19-007* at 1 (Nov. 2018).

⁵⁵⁰ *Id.* at 1–2.

⁵⁵¹ *Id.* at 2.

⁵⁵² *Id.* at 3.

⁵⁵³ Tex. State Auditor’s Off., *A Report on The Delegation of Authority to State Entities to Contract for External Audit Services Report No. 19-022* at 1 (Jan. 18, 2019).

⁵⁵⁴ *Id.* at 5.

⁵⁵⁵ Tex. State Auditor’s Off., *A Report on The Implementation Status of Prior State Auditor’s Office Recommendations Report No. 19-027* at 1 (Feb. 6, 2019).

⁵⁵⁶ *Id.* at 5–6.

⁵⁵⁷ *Id.* at 6–7.

⁵⁵⁸ Tex. State Auditor’s Off., *State of Texas Federal Portion of the Statewide Single Audit Report or the Year Ended August 31, 2018 Report No. 19-315* at 2 (Feb. 21, 2019).

⁵⁵⁹ *Id.* at 159.

⁵⁶⁰ *Id.*

⁵⁶¹ *Id.*

⁵⁶² *Id.*

⁵⁶³ *Id.*

⁵⁶⁴ *Id.* at 162.

⁵⁶⁵ *Id.* at 301.

⁵⁶⁶ Tex. State Auditor’s Off., *State of Texas Financial Portion of the Statewide Single Audit Report for the Year Ended August 31, 2018 Report No. 19-555* at 6–18 (Feb. 2019).

⁵⁶⁷ *Id.* at 22–23.

⁵⁶⁸ Tex. State Auditor’s Off., *State of Texas Federal Portion of the Statewide Single Audit Report or the Year Ended August 31, 2019 Report No. 20-317* at 6–10 (Feb. 25, 2020).

⁵⁶⁹ *Id.* at 210.

⁵⁷⁰ Tex. State Auditor’s Off., *State of Texas Financial Portion of the Statewide Single Audit Report for the Year Ended August 31, 2019 Report No. 20-555* at 7–12 (Feb. 2020).

⁵⁷¹ *Id.* 17–29.

⁵⁷² Tex. State Auditor’s Off., *An Audit Report on The Vendor Performance Tracking System at the Office of the Comptroller of Public Accounts and Its Use by the Texas Workforce Commission and the Parks and Wildlife Department Report No. 19-042* at 1 (July 2019).

⁵⁷³ *Id.*

⁵⁷⁴ *Id.* at i.

⁵⁷⁵ *Id.* at 20.

⁵⁷⁶ *Id.* at 3–4, 7.

⁵⁷⁷ *Id.* at 3.

⁵⁷⁸ *Id.* at 6.

⁵⁷⁹ *Id.* at 4.

⁵⁸⁰ *Id.*; Testimony of Lisa Collier, First Assistant State Auditor, Tex. State Auditor’s Off., to the House Comm. on Ways & Means at 4:17:59 (Feb. 5, 2020), https://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=18371.

⁵⁸¹ Tex. State Auditor’s Off., *An Audit Report on The Vendor Performance Tracking System at the Office of the Comptroller of Public Accounts and Its Use by the Texas Workforce Commission and the Parks and Wildlife Department Report No. 19-042* at 7–8 (July 2019).

⁵⁸² *Id.* at 10.

⁵⁸³ *Id.* at 3, 7, 24.

⁵⁸⁴ *Id.* at 6, 10.

⁵⁸⁵ Tex. State Auditor’s Off., *An Audit Report on Selected Major Agreements Under the Texas Economic Development Act Report No. 19-046* at i (July 2019).

⁵⁸⁶ *Id.* at 18.

⁵⁸⁷ *Id.* at 5.

⁵⁸⁸ *Id.*

⁵⁸⁹ *Id.*

⁵⁹⁰ *Id.* at 10–11.

⁵⁹¹ *Id.* at 11.

⁵⁹² *Id.* at 5, 10, 17.

⁵⁹³ *Id.* at 5, 12.