

SB2 IN A NUTSHELL

R. Bruce Medley & Kyle Dickson

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Well, at the time of writing, the Texas House and Senate have both passed what has been touted as the largest tax relief Bill in the history of the State. Only time will tell what the long-term effects of the Bill will be, but in the short-term we have to try to implement the provisions as best we can. As an attorney, I must preface this analysis with several caveats (legal Latin for warnings). First, this article is one opinion only, you are encouraged to seek your own legal counsel. Secondly, keep in mind that our understanding of the Bill may change as implementation gets underway – the tax system is a complex one and making one change may have unintended consequences down the road. Third, this is only a brief analysis and is not intended to answer all questions (hint, ask your lawyer). We will be attempting to look mostly at practical applications.

SB2 and HJR 2

SB2 is broken down into eight articles, each with a separate focus and each with its own effective date provisions.

Article 1 is the Title (The Property Tax Relief Act) and Article 8 contains the effective dates. Article 7 makes this Bill conditional on passage of SB3 on Franchise Tax Reform (which has passed both Houses). We will look at the substantive articles below and will address the when as well as the what in each section.

HJR 2 is the constitutional amendment authorizing the changes to compression, the homestead exemption, ceiling, “circuit breaker”, and the election of three additional Directors in counties with 75,000 or more in population as well as authorizing the Legislature to exceed spending limits for tax relief purposes. This was bundled into one ballot provision, so if a taxpayer wants the increased exemption, they’ll have to vote yes to all.

Article 2- School District Tax Rate Compression

For the 2023-2024 school year, the MCR (Maximum Compressed Rate) is to be determined as always by the Commissioner of Education and then further reduced by \$0.107. This article also provides for additional state aid for lost entitlement due to compression. This reduction needs to be implemented by TEA before the School Rates are actually adopted – See transitional provisions in article 6.

Article 3 - School District Residence Homestead Exemption

The general state mandated school residence homestead exemption is increased from \$40,000 to \$100,000. A school district, city, or county that adopted a local option homestead for the 2022 tax year cannot reduce or repeal the exemption until 2028. For those units that have already voted in 2023 to reduce/repeal, this issue of retroactive binding has been approved by both the AG’s office and the Texas Courts (in the ***Kilgore ISD*** cases. For applying the exemption in 2023, please see Article 6 below.

This article also requires the recalculation of the ceiling for those persons who had a ceiling in 2022 or 2023 to consider the increases in the homestead exemption. As to when this recalculation will occur, the effective date is when the Constitutional amendment presumably passes in November 2023. However, as pointed out in article 6, the “provisional bills” mailed by the Tax Office for 2023 shall be calculated as if SB2 were in effect for 2023. So arguably, the additional reduction in the ceiling will need to be reflected in the Bills.

The Education Code and Government Code are also amended to provide for changes in additional state aid, computation of wealth, and the property value study in light of the changes made in this article.

Article 4 – Circuit Breaker Limitation

Starting in 2024 (if the voters approve the amendment) and going through 2026, certain properties will have a limitation on increases in value from the preceding year. Qualified properties include all real property 5 million or under in value (for 2024) and that does not qualify as either a residence homestead (under 11.13) or appraised under productivity appraisal (Chap 23, Subchapter C through H). There are a lot of ifs, ands, or buts in this. Tax Years 2025 and 2026 will have the maximum value adjusted as per the consumer price index. New improvements are excepted from the limitation unless the new improvement is a replacement structure due to casualty loss, as defined by the section. 25.19 notices in the effected years will require new language as to the circuit breaker and whether a property qualifies for the limitation can also be protested. The Property Value Study is also adjusted to take the limitation into account.

Article 5 – Boards of Directors of Appraisal Districts

For Appraisal Districts in a county with a population of 75,000 or more, there are several changes starting in 2024 concerning the Board of Directors, which include the following:

- Alternate Selection and Staggered Terms provisions (Tax Code §§ 6.031, 6.034) do not apply to those CADs.
- There will be nine directors. Five will be appointed and three elected (as are county officers) The County TAC is an ex officio director whether or not the CAD collects for the County. Appointed Directors serve staggered terms.
- A vacancy in an elected position will be filled by majority vote of the BOD
- The BOD in these CADs will have the appointing authority for the ARB and will, with the assistance of the Taxpayer Liaison Officer, appoint the members of the ARB (with approval of at least two of the elected members) and will choose the officers of the ARB.
- Governing bodies cannot disapprove Board actions pursuant to Tax Code § 6.10.

Article 6- Transitional Tax Year Provisions

The assessor/collector (and/or person designated by the governing body), shall calculate the tax rates for 2023 as if SB2 was in effect. Based on said rates, the tax bills for each property are to be calculated as if SB2 were in effect. The CADs are required to reflect the changes made SB2 immediately upon passage of the Act (signature by the Governor) since the Bill passed by 2/3 of each house. The 2023 Tax Bills shall contain provisional language stating that the amounts are dependent on passage of the Constitutional amendment and showing what the dollar differences would be if the amendment is unsuccessful. If the amendment is approved by the voters in November, the provisional bill becomes final; provided it comports with certain notice requirements, it will become delinquent on February 1.

The provisional language is statutory and mandatory – I have had some assessors ask if they could just delay the bill until after the election and then send out a regular bill. The short answer is that the 2023 tax bills, even though the amounts due are final and known, are still supposed to include the provisional language. Also, the provisional bill includes language addressing the tax savings in SB2 – it does not give any input as to how those savings are to be calculated. The tax office may only have the increased exemption numbers, one MCR, and a recalculated ceiling – a true calculation of savings for a school would include recalculating the rate (without the increased exemption) with a \$.107/\$100 added back into the MCR and with a ceiling that removes the exemption adjustment.

If the extraordinary happens and HJR does not pass, the bills are to be re-calculated and supplemental bills sent for the additional tax. That supplemental Bill will go delinquent March 1, instead of Feb 1.