



512/463-4000

LBJ State Office Building

The Honorable Daniel C. Morales
Attorney General of Texas
Price Daniel, Sr. Building
209 West 14th Street, 8th Floor
Austin, Texas 78701-1614

Dear General Morales:

This letter is to request your opinion concerning overlapping amendments to Texas Tax Code, Section 26.08. The amendments appear in two statutes enacted during the 74th Legislative Session.

Both Senate Bill No. 1 (S.B. 1) and House Bill No. 2610 (H.B. 2610) specify two identical formulas for calculating school district "rollback" tax rates. First, both bills create a rate that triggers a tax rate rollback election (*rollback trigger rate*). Second, both bills enact a rate that serves as the upper limit on the tax rate a school district may adopt following a successful election to roll back the tax rate (*rollback election rate*).

In some cases, this second formula (for calculating the rollback election rate) may result in a rate that is higher than the rollback trigger rate. In addition, the ballot language contained in both bills tells voters that they are voting to "limit" their school taxes.

S.B. 1 became effective on May 30, 1995, on its signature by the Governor. This lengthy bill deals with education and school finance and, among other things, provides that if a school district adopts a tax rate higher than the trigger rate, the registered voters may petition the school district's board to call an election to rollback the tax rate.

H.B. 2610, however, becomes effective on September 1, 1995, and requires an automatic tax rate rollback election if the school district adopts a tax rate that is above the rollback trigger rate. As passed, H.B. 2610 contains this specific provision in Section 4(b):

This section prevails over the amendment to Section 26.08, Tax Code, provided by S.B. No. 1, acts of the 74th Legislature, Regular Session, 1995, regardless of the relative dates of enactment.

Amended Section 26.08(a), Tax Code, sets the so-called "rollback trigger" rate for the adoption of a school district tax rate. Under S.B. 1, voters may petition for an election to rollback the tax rate if the school district adopts a rate that exceeds the sum of the district's effective maintenance rate, a rate of \$0.08, and the district's current debt rate.

Under H.B. 2610, however, the rollback trigger rate is determined by using the same formula as that adopted by S.B. 1, but the election is automatically held if the district adopts a tax rate that exceeds the rollback trigger rate.

John Sharp

Comptroller of Public Accounts
Austin, Texas 78774

July 13, 1995

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Opinion Committee

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Thus, my first question is this: If a school district adopts a tax rate above the "rollback trigger rate" before September 1, 1995, is a rollback election subject to the petition process required by S.B. 1 or do the automatic rollback election provisions of H.B. 2610 prevail after September 1, 1995, so that the election will automatically occur regardless of whether the petition had been begun, and regardless of whether it was successful?

Neither bill's rollback trigger rate makes allowance for loss of state education aid caused by changes in the method of finance, nor does either bill allow an adjustment to the trigger rate for projected rapid student enrollment growth. The rollback election rate established by the bills, however, is the sum of the district's effective maintenance rate, an enrollment rate, a rate of \$0.08, and the district's current debt rate. In addition, Section 26.08(e)(2), as amended, provides that a school district certified by the commissioner of education to have suffered a revenue loss may calculate its rollback rate as provided by Section 26.04 or by subsection (c) of amended Section 26.08.

As shown above, for some school districts the maximum allowable tax rate could be *higher* than the rate which triggered the "rollback" election. If a rollback election is called, the ballot language specified by Section 26.08(b), as amended, is as follows:

Limiting the ad valorem tax rate in (name of school district) for the current year from (the rate adopted) to (the school district rollback tax rate).

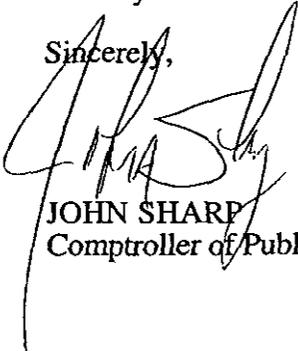
My second question is this: If a school district has a maximum authorized rate (rollback election rate) that is higher than the rollback trigger rate, may the district change the ballot language to reflect the fact that the tax rate could actually increase as a result of the election? If not, may a school district give any type of notice to its voters concerning the possible increase in the tax rate?

Texas school districts generally set their ad valorem taxing rates in August. My Property Tax Division has received numerous requests for guidance concerning the tax rate adoption issues raised by the two bills.

The process of giving notice and holding hearings (the Truth in Taxation process) usually starts by late July. Your opinion will be most helpful to school districts if it is issued promptly, thereby providing an opportunity to notify the school districts of the procedures that they must follow and allowing them time to react accordingly.

Thank you in advance for your prompt attention to this request.

Sincerely,



JOHN SHARP
Comptroller of Public Accounts

The Honorable Daniel C. Morales
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cc: The Honorable George W. Bush, Jr., Governor
The Honorable Bob Bullock, Lieutenant Governor
The Honorable Pete Laney, Speaker of the House
The Honorable Michael Moses, Commissioner of Education