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Ten Ways to Protect Property Tax Relief in 2023

by James Quintero
Policy Director, Government for the People

Key Points

- Tax relief is critical to achieve this legislative session. But so too is tax *reform*.
- Policymakers have many ways to make structural changes that protect taxpayers and promote good government.
- For this session to be a true success, the Legislature must advance tax reform along with tax relief.

The 88th Texas Legislature has an opportunity to provide a historic measure of tax relief to struggling homeowners and businesses. At present, policymakers are considering the merits of a $15 billion property tax reduction plan spread over the current and coming biennia, which Gov. Greg Abbott praised as being "a good start" in January (Johnson, 2023, para. 1). This comment may well signal that an even larger amount of tax relief will be realized by sine die.

Whatever the final amount, it is critical that the Legislature pair tax reforms with tax relief to protect the gains made during session and provide Texans with some much-needed peace of mind. To that end, here are 10 ways policymakers can improve the property tax system that are centered around strengthening the voter-approval tax rate, improving the local debt landscape, and contending with local spending.

Strengthening the Voter-Approval Tax Rate

1. **Simplify the Jargon.** The 2019 Texas Legislature's signature tax reform bill, Senate Bill 2 (2019), advanced a variety of good government changes, including one that replaced confusing jargon with easier-to-understand terminology. For instance, the approved measure "rename[d] the effective tax rate as the 'no-new-revenue tax rate' and the rollback rate as the 'voter-approved rate' so that property owners and local officials can better understand this benchmark for evaluating the tax rates proposed by local taxing units" (SB 2 Bill Analysis, 2019, p. 1). The 2023 Legislature should strive to further simplify complex terminology for public consumption. As an example, policymakers might consider renaming the voter-approval tax rate (VATR) election to something more user-friendly, like tax increase election (TIE). Similarly, policymakers could rename the tax ratification election[1] to TIE. These are the types of changes that will help voters better comprehend the nature of the items they are being asked to decide upon and yield more informed decision-making.

1 According to the Texas Comptroller of Public Accounts (n.d., para. 1), "If the governing body of a taxing unit adopts a tax rate that exceeds the voter-approval tax rate, in most cases it must automatically hold an election for voters to approve the tax increase. For school districts, this is called a tax rate ratification election or TRE."

continued

Recommendation: Rename difficult-to-decipher terms for improved public understanding.

2. **Lower the Limit.** The 86th Legislature passed two measures, House Bill 3 (2019) and Senate Bill 2 (2019), that established two different standards to govern property tax revenue growth—a 2.5% threshold for school districts and a 3.5% benchmark for cities, counties, and certain special districts. The different standards create a two-tiered system and add confusion to the process. The Legislature should consider lowering the 3.5% revenue limit for cities, counties, and special districts to 2.5% so that there is one uniform measure governing property tax revenue growth. By establishing one simple standard, policymakers can improve the understandability of the system.

   Recommendation: Reduce the VATR threshold to 2.5% or less for all taxing unit types.

3. **Equal Application.** The current 3.5% property tax revenue limit does not apply to all government types. Under the law, certain governing bodies, known as special taxing units, may calculate the VATR using the previous 8% threshold. The list of special taxing units includes political subdivisions, other than school districts, that levy a maintenance and operations tax rate below $0.025 per $100 of value, community colleges, and hospital districts (SB 2, 2019, p. 33). This discrepancy between taxing unit types permits inequitable tax treatment and adds another layer of complexity to an already difficult system. To remedy this issue, the Legislature should apply the same standard to all taxing unit types.

   Recommendation: Subject all taxing unit types to one uniform standard.

4. **True-Up the Threshold.** Presently, the VATR calculation excludes the value of new construction from its determination. By omitting this key variable, policymakers are effectively allowing taxing units to collect more than SB 2's (2019) revenue limitation would otherwise allow. This is because new growth and development are not accounted for in the tax limit calculations, which has the effect of allowing revenues to grow faster than they otherwise would. The Legislature should require political subdivisions to account for this factor in their VATR calculations.

   Recommendation: Include the value of new property growth and development in the VATR calculation.

Improving the Local Debt Landscape

5. **Strengthen HB 1869.** The 87th Legislature passed HB 1869 (2021) with the intent of "specify[ing] the types of debt included in the calculation of a local taxing unit's voter-approval tax rate, ensuring that taxing units did not increase debt to circumvent tax limitations" (HB 1869 Bill Analysis, 2021, p. 3). While the bill's passage was a step in the right direction, further changes are still needed to ensure that debt paid for with property taxes is included in the VATR calculation. As an example, under the current version of HB 1869, political subdivisions are allowed to exclude the value of property tax–related debt issued for the purpose of furthering "designated infrastructure," a broad term encompassing a wide variety of projects and pursuits. This term should be eliminated in future legislation, thereby better ensuring that taxing units are not "increase[ing] debt to circumvent tax limitations" (HB 1869 Bill Analysis, 2021, p. 3).

   Recommendation: Include debt paid for with property taxes in VATR calculations.

6. **Greater Government Disclosure.** Another provision in HB 3 (2019, p. 13) requires school districts to include the following disclosure on every bond proposition: "THIS IS A PROPERTY TAX INCREASE." The intent of this provision is to help voters make the connection between new debt and new taxes. Policymakers should build upon this concept by applying it to all other bond proposition types, that is, those put forward by cities, counties, and special districts. Extending this requirement to all taxing unit types is a simple way to improve debt transparency and encourage more informed decision-making.

   Recommendation: Extend the school district debt disclosure requirement to all taxing unit types.

7. **Strengthen the Voter Information Document.** The 86th Legislature passed another good government measure, HB 477 (2019), which requires political subdivisions with more than 250 registered voters to create a Voter Information Document (VID) for each bond proposition that contains the following information (HB 477 Bill Analysis, 2019, p. 2):

a. The language that would appear on the ballot;

b. A table with the principal, estimated interest, and estimated combined principal and interest required for full payment of the proposed bonds and the principal, estimated interest, and estimated combined principal and interest required for full payment of all outstanding bonds as of the date the political subdivision adopted the debt obligation order;

c. The estimated maximum annual increase in taxes that would be imposed on a residence homestead with an appraised value of $100,000, based on certain assumptions made by the governing body of the political subdivision detailed in the bill; and

d. Any other information considered relevant or necessary to explain the other information in the document.

However, in spite of the Legislature's attempt to improve debt transparency, some problems have emerged with the information relayed on the VID related to statistical manipulation, the use of rosy assumptions, and the nondisclosure of certain details.[2] To remedy these issues and improve the VID's effectiveness, the Legislature should amend state law to eliminate the arbitrary $100,000 appraised value estimate (HB 477, 2019, p. 6) and replace it with the current year's average taxable value for a residence homestead in the jurisdiction; force political subdivisions to disclose all underlying data; and require the VID to be prominently posted online, either on the political subdivision's home page or its bond election website, if it has one.

Recommendations: Strengthen the VID by reinforcing the statute and requiring political subdivisions to be more transparent.

8. **Timing and Turnout.** Bond elections are ordinarily held on a uniform election date set in either May or November. "Section 41.001 of the Election Code states a uniform election date is one of the following: the first Saturday in May in an odd numbered year; the first Saturday in May in an even numbered year (excluding counties); or the first Tuesday after the first Monday in November" (Texas Bond Review Board, 2023, p. 43). But while bond elections may be considered during either month, "the data suggests that more Texans vote in the November election cycle than any other election date" (Quintero, 2019, p. 1). Given this dynamic, the preferred timeframe to ask voters to approve new debt is November since this period sees maximal voter turnout. In light of this, policymakers should consider requiring bond elections to be held in November. Further, it would be prudent to establish a minimum voter turnout threshold for the approval of new debt and tax increases. In so doing, the Legislature can engineer a system that solicits input from the greatest number of voters and ensures that a small minority of special interests is not unduly influencing election outcomes.

   Recommendations: Instruct political subdivisions to hold bond elections on the uniform election date in November and establish a minimum voter turnout requirement.

Contending With Local Spending

9. **Expect Efficiency.** Another provision in HB 3 (2019) requires school districts to conduct an efficiency audit prior to holding a tax ratification election that seeks to allow the district to exceed the 2.5% limit on property tax revenue growth. The purpose of this audit is to investigate "the operations of a school district to examine fiscal management, efficiency, and utilization of resources" (Legislative Budget Board, 2020, p. 1). Once completed, this type of audit must be "posted on the district's website at least 30 days before the election" (Texas Education Agency, n.d., p. 48). The benefit of this type of reform is two-fold. First, it provides voters with a greater level of confidence in the stewardship of their tax dollars. Second, it identifies opportunities for local officials to improve their operations. Policymakers should build on this good government concept by extending the requirement to all other taxing unit types that seek voter-approval for a large tax increase. Likewise, any audit findings should be made public before a VATR election may be held and the cost of the audit should be borne by the taxing unit. Imposing this requirement on all local governmental entities will promote voter confidence and ensure more efficient operations.

2 To learn more about the VID concept's challenges, see the Texas Public Policy Foundation's article: *Are you using this taxpayer tool?* (Quintero, 2022).

Recommendation: Require all taxing unit types to undergo an efficiency audit of their budget and operations before being allowed to hold a VATR election.

10. **Limit Local Spending Growth.** The Texas Constitution imposes four different types of expenditure growth limits on state government operations—a debt limit, a welfare spending limit, a pay-as-you-go limit, and a tax spending limit (Legislative Budget Board, 2022, p. 2). In addition, the state's finances are subject to a statutory limit on the spending of consolidated general revenue.[3] Yet while state spending operates under these types of constraints, Texas' local governments do not operate under any similar requirements. As a result, local government spending growth tends to be higher than it should be,[4] placing upward pressure on those jurisdictions' primary revenue source: property taxes. In order to better protect taxpayers from runaway budgets—and the tax increases necessary to sustain them—the Legislature would be wise to impose strict fiscal rules on local government spending.

    Recommendation: Limit local government spending growth to population and inflation and require a two-thirds supermajority to exceed the threshold.

By adopting these 10 recommendations, policymakers can better control the local property tax burden and guard any tax relief gains made by the 2023 Texas Legislature.

3 The bill analysis for SB 1336 (2021, p. 2) defines consolidated general revenue appropriations as: "the general revenue fund in the state treasury; a dedicated account in the general revenue fund in the state treasury; or a general revenue-related fund in the state treasury."

4 In 2022, the Texas Public Policy Foundation's researchers studied multi-year budget growth in the following jurisdictions: Austin and Travis County (Ginn & Quintero, 2022a); Brownsville and Cameron County (Ginn & Quintero, 2022b); Dallas and Dallas County (Ginn & Quintero, 2022c); Fort Worth and Tarrant County (Ginn & Quintero, 2022d); Houston and Harris County (Ginn & Quintero, 2022e); Lubbock and Lubbock County (Ginn & Quintero, 2022f); and San Antonio and Bexar County (Ginn & Quintero, 2022g). Only the city of Brownsville's budget grew below population and inflation (P&I) growth. All other jurisdictions' budgets grew faster than the P&I benchmark.

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ABOUT THE AUTHOR

James Quintero is the policy director for the Texas Public Policy Foundation's Government for the People initiative. Having joined the Foundation in 2008, Quintero's research covers a wide range of issues, mostly related to local government matters, including: taxes, spending, debt, transparency, annexation, and pension reform. His work has been featured in the New York Times, Forbes, Fox News, Breitbart, and more.

Quintero received an M.P.A. from Texas State University and a B.A. from the University of Texas at Austin. He is currently seeking a Ph.D. in public policy from Liberty University. In 2022, he was appointed to serve a three-year term on the Commission for Lawyer Discipline.

Quintero and his wife, Tricia, are blessed with five beautiful children, a Great Dane, a Boston Terrier, and an exceptionally large grocery bill.

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