

## Wrap-Up for the 87<sup>th</sup> Legislature Tax and Fiscal Policy

By all accounts, it was to be a modestly productive legislative session. When lawmakers convened in January, Texas and the nation were in the grips of a horrendous pandemic that would ultimately take the lives of well over half a million Americans. Legislative procedures were adopted that would protect the health of the public, legislators, and their staffs, but would also make it more difficult to hear, negotiate, and pass new legislation. And money was tight, though federal aid would forestall talk of tax hikes.

Then, in February, the state's electrical grid sagged under the pressures of an unprecedented winter freeze, and lawmakers had to confront a complicated challenge to strengthen the state's generating capacity. But as the pandemic eased, lawmakers turned their attention to a number of politically controversial topics, and though the state's fiscal position had

improved substantially, there was little interest in taking up many tax-related issues.

But while there were no landmark bills like the prior session's property tax and school finance reforms, there were improvements in tax administration. Still, the defining tax issue of the session – a must-pass bill extending the state's key property tax incentive program – got swept aside by a distracted Legislature, leaving Texas to unilaterally disarm itself in the economic competition among the states.

In this report, TTARA summarizes the tax-related legislation that passed and failed in 2021. It is the first of three reports on the actions of the 87<sup>th</sup> Legislature, which will include a separate wrap-up on the state budget and another on school finance changes.

---

### Property Tax

TTARA tracked 360 bills that made property tax system changes, 43 of which will become law (a 12% passage rate). Bills addressed a number of aspects of the property tax, but most dealt with appraisal, assessment, and exemptions.

#### Bills that Passed

**SB 2 Technical Correction Bills.** Given the comprehensive reforms of 2019's Property Tax Reform and Transparency Act (SB 2 by Bettencourt), it was inevitable that some clean-up would be needed. That

Act created a "real-time" tax notice allowing property owners to assess how each jurisdiction's proposed rates will impact their tax bills, while reducing the rate by which many jurisdictions may raise property taxes. Most taxing units are subject to a 3.5% tax revenue increase threshold (i.e., "voter-approval rate") before voters must approve the proposed tax rate, rather than the previous 8% limit (above which voters had to file a petition for an election on the tax increase). A "de minimis" rate was added to provide a bit more flexibility for smaller taxing units. Taxing

units in an area under a disaster declaration are allowed to calculate their voter-approval rate to allow for an 8% property tax increase, rather than the 3.5% which would normally apply.

Technical corrections dealt with the new tax rate notice and the disaster provisions.

- **HB 2429 by Meyer** (R-Dallas) clarifies the language used in the real time tax notice when the de minimis rate (if applicable) exceeds the voter-approval rate.
- **HB 2723 by Meyer** (R-Dallas) requires the state's Department of Information Resources to create a central website, [Texas.gov/PropertyTaxes](https://www.texas.gov/PropertyTaxes), that will provide property owners a direct link to their local appraisal district's "real-time" tax information. The bill was needed as local website naming conventions vary widely, creating confusion for taxpayers.
- **SB 1427 by Bettencourt** (R-Houston) addressed the exemption that can apply to properties impacted by a disaster. This past year there was confusion over whether a property that was not physically damaged but had its value impacted by the pandemic could qualify for a disaster exemption. SB 1427 requires a property to be physically damaged for the exemption to apply, essentially codifying Attorney General Opinion KP-0299.
- **SB 1438 by Bettencourt** (R-Houston) clarifies the language pertaining to tax rate adoption under declared disaster provisions. A taxing unit may raise its property tax by 8% before triggering an election if any or part of it is located in a declared disaster area *and* the disaster caused physical damage to property within its borders. The 8% threshold applies until the earlier of the first year the taxable value exceeds that on January 1 in the year of the disaster or the third year after the disaster. A revenue claw back provision is included to reset the tax rate calculations so that the higher disaster-related tax rates do not permanently inflate the revenue base once the disaster is over. The adjustment is accomplished through a new rate calculation, the "Emergency Revenue Rate."

**HB 988 by Shine** (R-Temple) began as a fairly simple four-page bill to allow a property owner to bring suit against property tax authorities to compel compliance with procedural requirements of the protest process. By the time it finally passed, the bill had ballooned to 32 pages by the addition of a number of amendments.

The bill now requires an appraisal review board (ARB) to conduct hearings in accordance with adopted hearing procedures. It allows a property owner to request limited binding arbitration to compel compliance with certain procedural requirements related to protests and makes changes to the selection of the appraisal district board of directors in counties with a population of 120,000 or more.

Among the provisions added to the bill:

1. Amendment by Canales (D-Edinburg) and Burrows (R-Lubbock) created a state jail felony if a member of the taxing unit tries to influence the value through communications with the appraisal district. This was reduced to a Class A misdemeanor in the Senate.
2. Amendment by Bonnen (R-Friendswood) requires an informal conference prior to hearing a protest.
3. Amendment by Lucio III (D-Brownsville) inserted a multitude of items into the bill. It allows for an extension of goods-in-transit to no more than 270 days. It requires unique account numbers for each appraisal record and allows for combination or separation of contiguous parcels. The chief appraiser may no longer deliver amended notices of value after June 1 for rendered property unless it is to include omitted property or to correct clerical errors. A single-member ARB panel is allowed at the request of the taxpayer. Lastly, a person leasing property is permitted to appeal an order of the ARB for property that the property owner chooses not to appeal.

**HB 1090 by Bailes** (R-Shepherd) lowers the discovery time period from five to three years for real property previously omitted from the tax roll.

**HB 1869 by Burrows** (R-Lubbock) did not deal with technical corrections but built on SB 2's reforms. Part of the growth in Texans' property tax bills over the years has been a major increase in debt issued by taxing units without the approval of voters. As introduced, Burrows' bill would have limited the property tax for debt service to only that debt approved by a jurisdiction's voters. Jurisdictions could still issue debt without the approval of voters, but it would be subject to the revenue restrictions in SB 2. The final version of the bill was substantially weaker in the face of opposition from local governments, adding a substantial list of exceptions for certain debt:

1. Debt that has been approved in an election,
2. Self-supporting debt (which ironically is not self-supporting if it requires property taxes to service it),
3. Debt related to a state or federal financial assistance program loan,
4. Debt issued for certain "designated infrastructure,"
5. A refunding bond,
6. Debt in response to an emergency,
7. Debt for renovating, improving, or equipping existing buildings or facilities,
8. Debt for vehicles or equipment, or
9. Debt issued for a project in a "reinvestment zone" under Chapter 311 of the Tax Code or for highway improvements under Chapter 222 of the Transportation Code.

**HB 2941 by Burns** (D-Cleburne) requires members of appraisal review boards to be appointed by the local administrative district judge, eliminating an exception for smaller counties in which the appointments were made by the central appraisal district board.

**SB 63 by Nelson** (R-Flower Mound) allows for distance ARB training and amends the eligibility requirements of appraisal district boards of directors by instituting a five-term limit and restricting the appraisal district from employing appraisal review board members who have served in the previous

two years. The bill allows for an opt-in electronic communications reminder in counties with a population of 120,000 or more. A deadline of 90 days is created for several appraisal district procedures:

1. The removal, if warranted, of an ARB member,
2. The approval or denial of exemptions and special appraisal designations once all necessary information is received by the appraisal district (the chief appraiser has 30 days to request additional information and the applicant has 30 days to respond), or
3. For protest hearings from the date the board approves the appraisal records, as well as a 90-day deadline for hearings under Section 25.25 depending on the date the request for a hearing is made.

**SB 1357 by Hughes** (R-Mineola) amends budget deadlines for certain counties. A proposed budget must be prepared and filed by Aug. 15th. The corresponding hearing must be held no later than 25 days after the budget is filed, but before the tax rate is adopted. The budget hearing notice must be posted no earlier than 30 days and no later than 10 days before the hearing.

**SB 1421 by Bettencourt** (R-Houston) allows for correction of a tax roll for the current and preceding two years due to an error or omission in a taxpayer's rendition statement.

**SB 1449 by Bettencourt** (R-Houston) raises the exemption for personal property used by a business from \$500 to \$2,500.

**"Defunding the Police"** – Two bills passed in an effort to counteract reductions in local law enforcement budgets stemming from the "Defunding the Police" movement and could have property tax implications.

- **SB 23 by Huffman** (R-Houston) requires certain counties to hold a public vote before reducing law enforcement spending, either in absolute dollars or as a percentage of the overall budget (with certain exclusions for one-time items). The bill applies only to Texas' largest counties: Harris, Dallas, Tarrant, Bexar, Travis, and Collin.

- **HB 1900 by Goldman** (R-Fort Worth) creates financial penalties for cities that are determined by the Governor's Criminal Justice Division to have reduced funding for law enforcement. The bill will only apply to cities with a population of 250,000 or more (including Houston, San Antonio, Dallas, Austin, Fort Worth, El Paso, Arlington, Corpus Christi, and Plano). Penalties include limits on property tax increases as well as the withholding of a city's local sales tax revenue by the state.

## Bills that Failed

**Exemptions and Appraisal Caps** – A number of filed bills would have either increased exemptions on homesteads or limited increases in their appraisals. Erroneously touted as “tax relief,” the measures did nothing to limit the growth in property tax revenue (which was done in SB 2 in 2019). In fact, any city/county/special district taxes saved by homeowners would generally be paid for with higher taxes on all other (i.e. mostly business) properties; school tax relief would have to be paid for by the state. Some of the bills were narrowed to classes of residential homesteads such as elderly, disabled, or veterans, while others targeted certain geographical areas (such as “gentrifying” areas experiencing rapidly increasing values). Many of these bills required a supporting change to the Texas Constitution, which can only be done by a voter-approved amendment. A selection of these bills are outlined below.

**HB 288/HJR 19 by Stephenson** (R-Wharton) would have entitled a person to an exemption of the full value of his/her residence homestead from school district M&O taxes. The lost revenue was intended to be replaced by new sales taxes on certain professional services, though fiscal estimates were never prepared as the bill failed to receive a hearing.

**HB 299/HJR 64 by Vasut** (R-Angleton) would have reduced the current 10% appraisal cap on homesteads to 3.5% and extended the lowered cap to all properties.

**HB 798/HJR 44 by Larson** (R-San Antonio) would have limited valuation increases to 5% on all property whose previous year's value was the result of a protest or appeal.

**HB 994/HJR 55 by Shine** (R-Temple) would have set a minimum city/county/special district homestead exemption of 5%, which could be increased as high as 25% on a local-option basis.

**HB 1393/HJR 77 by Middleton** (R-Wallisville) would have increased the local-option homestead exemption available to all taxing units from the current 20% to 100%. The result of the bill could be a massive tax increase on business and rental properties to finance the corresponding reduction in taxes on homeowners.

**HB 2311/HJR 108 by Krause** (R-Fort Worth) would have reduced the current 10% appraisal cap on homesteads to 5% and created a new appraisal cap of 10% on single family residences not eligible for a homestead exemption (i.e. rented).

**HB 2489 by Cook** (R-Mansfield) would not have allowed any increases in the appraised value of a residence homestead for three years following a tax year in which the appraised value was lowered as a result of a protest or appeal.

**A Non-Professional Property Tax System** – An increasing number of bills were filed to politicize the appraisal process by converting professional positions in the property tax system to elected offices.

**HB 3322 by Metcalf** (R-Conroe), and its Senate companion **SB 1099 by Creighton** (R-Conroe), would have established an elected appraisal review board in Montgomery County (ARB members in Montgomery County are currently appointed by the local administrative judge who reviews an extensive four-page application detailing a candidate's qualifications as well as a criminal background check). TTARA opposed the bill, which passed the House but died in the Senate.

**Mark your calendars for the TTARA Annual Meeting!**

**November 18-19, 2021 at the JW Marriott in Austin**

---

### Other bills that failed:

**HB 1544 by Guillen** (D-Rio Grande City) would have allowed for land to continue to be appraised as qualified open-spaced land if it was only temporarily used for sand mining operations. The bill was passed by the Legislature but vetoed by the Governor.

**SB 1436 by Bettencourt** (R-Houston) dealt with the value study conducted by the Comptroller to ensure that properties are correctly valued. The bill would

have allowed the owner of a property included in the value study whose tax liability is \$100,000 or more, with the approval of the school district, to join as a party in a de novo appeal to district court. SB 1436 passed the Senate only to die in the House. The House sponsor, Hugh Shine (R-Temple) briefly attached the bill as an amendment to SB 1421 in the House, only to have it removed in response to concerns expressed by Comptroller Hegar.

---

## Sales Tax

Only eight of the 68 sales-tax-related bills introduced and tracked by TTARA managed to cross the finish line, amounting to a 12% passage rate.

### Bills That Passed

**HB 1445 by Oliverson** (R-Cypress) excludes from the definition of taxable insurance services “a medical billing service performed prior to the original submission of an insurance claim related to health coverage,” including verifying insurance eligibility and coding, preparing, and filing claims.

**HB 3799 By Metcalf** (R-Conroe) amends the existing exemption for sales by nonprofit organizations at county fairs to specify that the sale must take place at a fair operated by a county fair association on county-owned property.

As introduced, **SB 153 by Perry** (R-Lubbock) simply provided that taxable data processing service does not include “the processing of a payment made by credit card or debit card.” The Comptroller was concerned that the language might open the door for credit-related services other than the transfer of funds be included in the non-taxed fee. Consequently, an agreed compromise between Senator Perry, the Comptroller and stakeholders was crafted and the bill as passed in considerable detail clarifies that the taxability exclusion applies strictly to “payment processing services.”

**SB 197 by Nelson** (R-Flower Mound) extends the current exemption for animals purchased from non-

profit animal shelters to include rescue animals sold by nonprofit animal welfare organizations.

**SB 296 by Perry** (R-Lubbock) extends from 60 to 90 days, or a later date if agreed to by the Comptroller, the post-audit deadline by which a taxpayer must respond to a Comptroller demand to produce missing exemption certificates to support a tax-exempt sale.

**SB 477 by Nelson** (R-Flower Mound) was a Comptroller post-*Wayfair* legislation clean-up bill to make needed conforming changes to various statutes and to clarify the fees and taxes marketplace providers are required to collect, including those on sales of lead-acid batteries, prepaid wireless and admission tickets.

**SB 833 by Campbell** (R-New Braunfels) allows oil and natural gas producers that pay severance taxes but do not have a sales tax permit to directly file for a sales tax refund rather than following the current requirement to first acquire a refund assignment from the vendor that remitted the tax.

**SB 1524 by Hughes** (R-Mineola) establishes a Texas Workforce Commission pilot program to encourage employment of certain apprentices. A refund of the lesser of \$2,500 per apprentice of sales and use taxes paid by the employer during the calendar year can be obtained for employment of up to six apprentices if at least half are foster children, military veterans and spouses, or women.

---

## Bills that Failed

Bills that do not pass in any given session often are just as noteworthy as those that do, and that certainly applied to the bills introduced related to the sourcing of transactions for local sales tax purposes. In response to the Supreme Court's 2018 *Wayfair* decision allowing states to require out-of-state sellers to collect their sales/use taxes, Texas lawmakers in 2019 passed conforming legislation for sales over the internet. The Comptroller's implementing rules essentially require that all sales over the internet be sourced to the location of the purchaser – applying not only to out-of-state sellers but also sellers in Texas. This will shift certain existing sales from the jurisdiction in which the seller is located to the jurisdiction in which the purchaser is located, resulting in a substantial tax loss to certain communities with retail fulfillment centers, and a modest gain to most others. The rule's effective date was delayed until Oct. 1, 2021 to give the Legislature an opportunity to weigh in on the issue. Nine bills were proposed to either rescind or modify the pending change, but only one of those even got a committee hearing. That bill was **HB 4072** by House Ways and Means Committee Chair Morgan Meyer (R-Dallas) which would have mandated destination sourcing for ALL sales of tangible personal property, whether by internet or other means. Less certain were the

implications for sales of services. The bill was reported out of the Ways and Means Committee, which Meyer chairs, but was never brought before the full House for a vote.

Consequently, as of Oct. 1, sales over the internet will be destination (customer) sourced as the Comptroller's rule will take effect without change: "orders not received by sales personnel, including orders received by a shopping website or shopping software application" are deemed to be "received at locations that are not places of business of the seller" and the definition of a place of business will specifically exclude a "computer server, Internet protocol address, domain name, website, or software application."

Other bills worth noting that did not pass were **HB 4032 by Herrero** (D-Robstown) and its Senate companion **SB 778 by Hinojosa** (D-McAllen). These bills would have granted cities and other local governments access to the Comptroller's "audit reports and audit working papers" relating to their local sales taxes. The bills, not surprisingly, were supported by audit-for-hire firms, but strongly opposed by TTARA, out of concern that it could subject a taxpayer to multiple audits on settled issues. Although both bills were heard in their respective committees, they failed to advance.

---

## Franchise Tax

Only 31 bills were introduced dealing with the franchise, or "margin," tax – the lowest number since 2005.

### Bills that Passed

**HB 1195 by Geren** (R-Fort Worth) excludes certain pandemic-related relief loans forgiven under federal law from the calculation of "total revenue;" however, the expenditure of those funds may be included in the calculation of cost of goods sold and compensation. Even though the bill will reduce Texas revenue by \$221 million, it is a change that conforms with that of the federal calculation of net income and with that of most other states.

**HB 3777 by Noble** (R-Lucas) tightens the franchise tax credit for certified rehabilitation of certified historic structures by eliminating the credit on structures leased to an exempt entity.

**HB 3907 by Goldman** (R-Fort Worth) creates a franchise/insurance tax credit for certain eligible low-income housing projects.

**SB 938 by Campbell** (R-New Braunfels) exempts certain new veteran-owned businesses from certain business filing fees and franchise taxes for their first five years of operation.

---

## Bills that Failed

With its unique focus on an artificially defined tax base, Texas' franchise tax is largely unloved, yet as more years pass beyond its 2006 enactment, it is becoming a more accepted part of the state's tax system. A decade ago, there was substantial talk of repealing the tax, but those efforts are unlikely to resurface in coming years given the tax contributes more than \$4 billion annually to the state treasury.

Two bills that would have repealed the franchise tax (HB 3000 & HB 3404) failed to get a hearing given their multibillion revenue cost to the state.

A wide variety of other franchise tax bills failed passage, including those which would have provided new tax credits for healthy grocery stores (HB 209/SB 358), paid family leave (HB 361), contributions to flexible spending accounts (HB 864), donations for education/internships/etc. (HB 1797/SB 931/SB 1698), research and development expenses for energy storage technology (HB 2037), and motion picture production incentives (HB 4392 & HB 4431).

---

## Economic Development

Texas' economic development toolbox will be much lighter going forward as the Senate failed to act on a key bill that would have extended the Texas Economic Development Act. The program, found in Chapter 313 of the Tax Code, allows school districts to offer a temporary and limited discount against school maintenance and operations taxes to certain new investment projects.

Industrial properties in Texas suffer one of the nation's highest property tax burdens, and school taxes account for over half the average tax bill. A handful of economic development-related bills did pass, however, which will increase reporting requirements and also improve public access to information about incentives.

### Bills that Passed

**HB 2404 by Meyer** (R-Dallas) requires local governments to submit information on their economic development agreements under Chapters 380/381 of the Local Government Code to the Comptroller, who is required to post the information in an on-line database.

**SB 1257 by Birdwell** (R-Granbury) requires the Comptroller to include in his registry of economic development agreements under Chapter 312 of the Tax Code the kind, number and location of all pro-

posed property improvements covered by the agreement.

### Bills that Failed

Ultimately, the story of economic development in the 87<sup>th</sup> Legislature is one of failure, as lawmakers failed to extend Chapter 313 of the Tax Code beyond its slated expiration at the end of 2022. This law allows school districts to offer, on a temporary basis, a partial exemption against their taxes for maintenance and operations for certain new investment projects. The program, though ripe for reforms, has been the state's single most important economic development tool, as Texas' property tax bill on industrial projects rank 4<sup>th</sup> highest nationwide<sup>1</sup>, with school taxes accounting for over half of the average tax bill.

The program has been controversial. Critics contend the program is giving away tax dollars as projects will build in Texas absent any incentives (even though the law requires applicants to demonstrate that the incentive is a determining factor in their decision to invest here). Others contend that the revenue sharing school districts typically demand of participants threatens the level of equity in Texas school finance (as well as diminishing the net benefit of the program).

---

<sup>1</sup> 50-State Property Tax Comparison Study for Taxes Paid in 2019, Minnesota Center for Fiscal Excellence and the Lincoln Institute of Land Policy, June 2020.

---

**HB 1556 by Murphy** (R-Houston) as introduced would have substantially reformed the program, simplifying the incentive while standardizing school revenue sharing (although at a much lower level than under current practice). Schools opposed the bill, and Murphy offered a substitute bill that would have provided a 70% tax discount with local schools getting the rest, but the change was not sufficient to garner their support.

Ultimately, schools and several business associations agreed to a bill that would have retained the existing benefit structure, which offers an average tax discount of 40%. Of the 60% taxpayer savings, schools could reclaim up to 38% of that as a part of a revenue sharing agreement. When the bill came to the floor, it began to accumulate several hostile amendments, and Murphy pulled down the bill, clearing the path for **HB 4242 by Meyer** (R-Dallas), the Ways and Means Committee chairman, which would have extended the program through 2024. Meyer's bill easily passed the House, but was never brought up for consideration by the Senate.

The Senate's 313 reform bill, **SB 1255 by Birdwell** (R-Granbury) never advanced out of the Senate Natural Resources and Economic Development Committee. This bill would have strengthened public posting requirements, and also would have removed renewable energy projects from the program – a sticking point for several senators.

**SB 1256 by Birdwell** (R-Granbury) would have prohibited any project from receiving a city/county property tax abatement under Chapter 312 of the Tax Code if a solar energy device or a wind-powered energy device was installed or constructed at the facility. That bill failed to advance out of his committee.

It is possible, though unlikely, the extension of Chapter 313 will be added to the agenda of an upcoming special session. More likely, lawmakers will spend extensive time over the interim evaluating alternative approaches to school tax incentives for consideration by the 88<sup>th</sup> Legislature.

---

## Administration and Other Tax

Instead of proposing a single omnibus “technical corrections” bill to make various tax administration changes, the Comptroller put forward several targeted, single subject bills as a way of limiting potential amendments. Not surprisingly given the Comptroller's influence, the 39% success rate (seven of 18 tracked) of this category of bills was more than double that of other categories. Of those that passed, all but one was a Comptroller bill, and the result was decidedly taxpayer friendly, particularly regarding the tax appeal process.

### Bills that Passed

Arguably, the most notable bill is **SB 903 by Perry** (R-Lubbock) which was the lone non-Comptroller bill that passed. It allows a protesting taxpayer to elect to bypass an administrative hearing at the State Office of Administrative Hearings (SOAH) before filing a district court appeal. By filing a prescribed no-

tice within 60 days of the Comptroller's denial of a refund claim, a taxpayer is authorized to pursue a court appeal of that determination. However, the Comptroller within 30 days can require a conference be convened to clarify material facts or legal positions in dispute and to discuss the availability of additional documentation that could aid in resolving any outstanding unsettled elements of the case. The taxpayer's notice must assert the material facts and each specific legal basis on which a specified refund amount is sought. The only issues that may be raised in court are those enumerated in the tax refund claim.

TTARA supported and testified in favor of the bill which was patterned after direct court appeal legislation passed by the Arizona legislature in 2018. A TTARA Research Foundation report issued just prior to the session reviewed the results of almost 3,000 hearings decisions published since SOAH's assump-

tion of that duty in 2007 and showed that the results were decidedly one-sided, with taxpayers prevailing just under 5% of the time. The report asserted that Arizona's streamlined process of direct court access "may provide taxpayers with a more efficient mechanism for resolving tax cases," and was cited as supporting information during the bill's consideration.

**HB 2080 by Leman** (R-Iola) does away with the so-called "pay-to-play" requirement that a taxpayer pay the entire assessed tax liability (both the contested and uncontested amounts) before being allowed to take the case to court. Going forward, only the undisputed amount must first be paid; however, any unpaid disputed amount that is finally determined to be due will be subject to penalty and interest. The entire administrative appeal process (motion for re-determination, SOAH hearing and denial for rehearing) must be completed before going to court, suit must be brought within 90 days of rehearing denial, and a third party may not intervene.

Among several other provisions: no attorney's fees awarded in tax cases; no injunctions to prevent tax collection; no class action lawsuits, and no precedential value for a court decision unless the policy issues, liability periods, and parties to the suit are the same.

**HB 1258 by Ashby** (R-Lufkin) requires financial institutions to quarterly exchange data with the Comptroller, or a designated agent, to facilitate matching the names of delinquent taxpayers with those of account holders.

**HB 1658 by Murphy** (R-Houston) allows the Comptroller to send both deficiency and jeopardy determinations by email in addition to mail or personal service, the two current options.

**HB 2530 by Ashby** (R-Lufkin) moves the period for the Comptroller's annual determination of the tax refund interest rate (lesser of prime plus 1% or the

interest rate earned on state treasury deposits) back one month from December to November.

**HB 2857 by Frullo** (R-Lubbock) deals with access to the Comptroller's audit lists. At present, a list of taxpayers under or proposed for audit may be obtained from the Comptroller but may not be used to solicit business for six days. This bill replaces the six-day waiting period with a provision prohibiting the Comptroller from listing taxpayers until 14 days after they are mailed a notice of intent to audit. The bill is an attempt to allow taxpayers to first hear from the state that they will be audited before they are contacted about private representation.

**SB 873 by Hancock** (R-North Richland Hills) provides an exception to the general confidentiality protection requirement for a certificate issued, on request, by the Comptroller to the purchaser of a business stating that no tax is due or the amount due that must be paid before a certificate's issuance.

**Unemployment Insurance (UI) Tax.** The unemployment compensation system is self-balancing in that employers are taxed to recover the cost of benefits paid to unemployed workers in the previous year. The total tax rate for each employer is the sum of five different components. The principal component is the experience-based general tax rate levied to recover benefit payments paid to an employer's laid-off personnel. However, each year some amount of paid benefits cannot be effectively charged back because employers have either reached the maximum tax rate or cannot pay because, for example, they are out of business. A replenishment tax is spread among all employers to recover one-half of those ineffective chargebacks.

Because of the COVID pandemic, the level of ineffective chargebacks dramatically inflated to more than \$7 billion, which would have triggered a very large replenishment tax on all employers. **HB 7 by Button** (R-Garland) markedly decreases the replenishment

**Mark your calendars for the TTARA Golf Tournament!**

**September 16, 2021 at Falconhead Golf Club in Austin**

Texas Taxpayers and Research Association  
400 West 15<sup>th</sup> Street, Suite 400  
Austin, Texas 78701

tax by excluding from its calculation the benefits paid and not effectively charged to an employer's account due to the effects of an order or proclamation by the governor declaring at least 50% of the state's counties to be in a state of disaster or emergency. Consequently, the total UI tax bill for employers next year will be some \$5.4 billion less than otherwise. However, those funds will still have to be recovered, which will be done over a period of time with bond financing.

**Unclaimed Property.** Personal property (i.e., bank accounts, insurance proceeds, utility deposits, dividends, and mineral interests) that is unclaimed for more than three years is presumed abandoned. Holders of such property must report and remit the property to the Comptroller, who holds it indefinitely until returned to the rightful owner. In the 2019

session, HB 3598 was passed to address the Comptroller's concerns that the law at that time did not clearly provide the enforcement authority needed to effectively compel holders to report and remit unclaimed property and fully cooperate in compliance audits.

This session, as requested by the Comptroller, **HB 1514 by Landgraf** (R-Odessa) was passed to make several technical/clean-up/clarifying revisions to statutory provisions concerning reporting, delivery, and claims processing. Notably, among the many program elements adjusted are statutory applicability, reporting and notice requirements, Comptroller sale of securities, property claims and appeals, and recovered property agreements. Although no significant substantive change is envisioned, some compliance parameters have been altered.

## The TTARA Team

Franchise Tax & State Budget - Dale Craymer

[dcraymer@ttara.org](mailto:dcraymer@ttara.org)

Sales & Property Tax - John Kennedy

[jkennedy@ttara.org](mailto:jkennedy@ttara.org)

Property Tax - Carl Walker

[cwalker@ttara.org](mailto:cwalker@ttara.org)

School Finance - Sheryl Pace

[space@ttara.org](mailto:space@ttara.org)

Communications - Ryan Ash

[ryan@ttara.org](mailto:ryan@ttara.org)

Office Manager - Betty Wranischar

[bwranschar@ttara.org](mailto:bwranschar@ttara.org)

Membership - Cindy Ferguson

[cferguson@ttara.org](mailto:cferguson@ttara.org)