



TEXAS MUNICIPAL LEAGUE
Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

April 27, 2023

The Honorable Paul Bettencourt
Chairman, Senate Local Government Committee
Texas Senate
P.O. Box 12068
Austin, TX 78768-2068

Dear Chairman Bettencourt:

I am writing on behalf of the Texas Municipal League to express our opposition to **S.B. 978**. S.B. 978 would repeal the de minimis rate and the associated tax rate adoption procedure for smaller taxing units calculating the de minimis rate. From a city perspective, the de minimis rate is designed to provide a small degree of flexibility to cities under 30,000 population. This bill would eliminate that flexibility, making it more difficult for small communities to finance necessary services and infrastructure.

When the concept of the de minimis rate was adopted as part of S.B. 2 in 2019, many referred to it as the “fire truck” provision. The de minimis rate is the amount necessary to generate an additional \$500,000. In smaller taxing jurisdictions, the 3.5 multiplier in the voter-approval rate calculation may only increase the property tax revenue for the city by a few hundred or a few thousand dollars. This means that if a city needed to buy a new fire truck, for instance, and wished to do so with maintenance and operation property tax revenue, it wouldn’t be able to do so without holding an election. (It should be pointed out, however, that the cost for a ladder truck in 2023 exceeds the de minimis amount of \$500,000 by a healthy margin.) In some cases, the cost of holding the election may exceed the amount of money generated by the proposed tax rate in a small town.

Important safeguards were added to S.B. 2 to ensure accountability for small taxing units to which the de minimis rate applies. Instead of simply allowing smaller taxing units to go up to the de minimis rate without any accountability to the voters, the legislature established a process allowing voters to petition for an election on a tax rate adopted by a smaller taxing entity even if the proposed rate doesn’t exceed the de minimis rate. In other words, a balance was struck in S.B. 2 to provide necessary flexibility to small communities while still preserving accountability to the voters. S.B. 978 would eliminate that safeguard by deleting the petition process altogether.

There also is no evidence that small cities are routinely adopting tax rates in excess of the voter approval tax rate, much less the de minimis tax rate. The comptroller’s 2021 tax rate data for cities shows that over 82 percent of cities under 30,000 population adopted a tax rate less than or equal

to the voter approval rate.¹ Though the comptroller doesn't track the de minimis rate in each city under 30,000 population, the League is unaware of any automatic November election for a city under 30,000 population because the adopted rate exceeded the de minimis rate. Further, we are only aware of one petitioned-for election in a small city for a rate exceeding the voter approval rate but less than the de minimis rate. All of this supports the conclusion that the framework established by S.B. 2 involving the de minimis rate is not being abused by Texas cities.

By repealing S.B. 2's de minimis rate framework, S.B. 978 would handcuff small towns in Texas at a time many are focusing on economic development efforts to revitalize their communities. The bill would undermine existing fiscal flexibility in these communities, despite a lack of evidence of abuse of the current structure. S.B. 978 would also force small towns towards debt, as financing capital costs or equipment on a pay-as-you-go basis becomes less feasible with the bill's changes. In short, repealing the de minimis rate altogether is unneeded, and ultimately harmful to small towns and other rural taxing units.

For the reasons stated above, the League opposes S.B. 978.

Sincerely,

A handwritten signature in black ink, appearing to read 'Monty Wynn', with a stylized flourish at the end.

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League

¹ See City Rates and Levies, 2021. <https://comptroller.texas.gov/taxes/property-tax/docs/2021-city-rates-levies.xlsx>.