Governor Releases Property Tax Reform Plan

Last Tuesday, Governor Greg Abbott released a property tax reform plan on his campaign website, which unsurprisingly features revenue caps as its cornerstone. What is surprising, however, is that the cap proposed by Governor Abbott is far harsher than any revenue cap proposed to date.

The governor proposes a 2.5 percent revenue cap on all cities, counties, special purpose districts, and school districts in the state. More specifically, the revenue cap would:

- Propose a property tax rollback rate of 2.5 percent;
- Provide that any proposed increases in excess of the cap may be only for certain purposes, like compensation for law enforcement personnel or critical infrastructure;
- Prohibit a local government from proposing any property tax increase, even for the purposes listed above, in excess of the statewide (not city-specific) increase in population plus inflation;
- Require that any proposed increase above the cap (but under the statewide population-plus-inflation rate) be approved by two-thirds of the elected officials of the governing body proposing the increase and be approved by two-thirds of the voters at an election; and
- Include a “carry forward” provision so that taxing entities can offset the effects of declines in property appraisal values during economic downturns.
According to the plan, the inspiration for the 2.5 percent revenue cap comes from a similar Massachusetts law passed in 1980. What the report fails to account for, however, is that local governments in Massachusetts are funded in a very different manner from local governments in Texas. Roughly 35 percent of Massachusetts cities’ general revenue comes directly from revenue generated by the state government. In 2017, the State of Massachusetts sent cities over $1 billion in unrestricted aid. Limiting Massachusetts cities’ discretion on property taxes can be somewhat justified given that there are other revenue sources, like state funding, to pay for necessary projects and services. In comparison, Texas cities receive only four percent of their general revenue from the state. (That amount is lower than all but three states.) A hard 2.5 percent revenue cap in Texas stifles city spending to a significantly greater degree than in other states like Massachusetts.

The property tax plan also focuses on limiting the issuance of local debt. In addition to adding various types of financial information to the ballot language that goes before the voters on a debt issuance, the plan includes recommendations to prohibit cities and counties from issuing certificates of obligation except for infrastructure projects on the heels of a natural disaster. It also proposes to require a bond proposition to receive the support of two-thirds of registered voters to pass.

One small consolation for local governments, given the remainder of the plan, is the recommendation to prohibit the legislature from passing unfunded mandates down to cities and counties.

The governor’s plan reflects a profound distrust of the relationship between local elected officials and the citizens they represent. As Texas’ population continues to grow, common sense dictates that local officials should retain the ability to provide the type of services and infrastructure that make our communities amongst the most attractive places to live in the entire nation. Judging by his proposals, the governor appears to disagree.

Governor Abbott’s proposal can be read in its entirety here.

**Finally: United States Supreme Court to Address Sales Taxes on Online Sales**

Last week, the United States Supreme Court decided to consider a case involving a recently-passed state law in South Dakota that requires out-of-state retailers to collect sales taxes. Last September, the South Dakota Supreme Court declared the new state law unconstitutional based upon the 1992 United States Supreme Court decision in *Quill v. North Dakota*. *Quill* provided that a business could not be required to collect and remit sales taxes to a state if it had not established a physical presence there.

For over 25 years, *Quill* has represented the law of the land regarding collection of state and local sales taxes on remote sales. By electing to hear this case, the Supreme Court has essentially decided to reconsider the *Quill* decision in light of the totally different retail landscape today (as compared to the one that existed in 1992). In today’s world of e-commerce and Internet sales,
Quill allows a large portion of online retail transactions to escape state and local sales taxes nationwide.

What does the Supreme Court’s decision to hear the South Dakota appeal mean for Texas cities? If the Court were to overturn the Quill standard in a broadly-applicable way, it might open the door for the Texas legislature to adopt a law resembling South Dakota’s that would require out-of-state and online retailers to collect state and local sales taxes on remote sales. If—and it’s a rather big “if” at this point—all of those dominoes were to fall, many Texas cities could expect to see a significant boost in sales tax collections due to the broadening of the sales tax base.

At this point the Court is expected to hear oral arguments in April, with a ruling coming in late June. League staff will continue to monitor the case closely and report on any future developments.

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