

BILL ANALYSIS

H.B. 1958
By: Haggerty
Local Government Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

This bill gives tax payers the same right that taxing units currently have to sue appraisal districts, review boards, and the chief appraiser to make them follow the laws passed by the legislature. There is no system of checks and balances on appraisal districts so the legislature sets statewide standards and then each appraisal district decides whether they are going to follow those laws. This bill prohibits arbitrary conduct on the part of appraisal districts.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The Property Tax Code contains few provisions for checks and balances against arbitrary conduct by the chief appraiser, appraisal district or appraisal review board. Taxpayers are authorized to recover attorney's fee against an appraisal district if an appraisal district forces the taxpayer to go to trial on an issue of excessive valuation or unequal treatment. TEXAS PROPERTY TAX CODE 42.29. Taxpayers can sue an appraisal review board to force it to hold a hearing to which the taxpayers are entitled. TEXAS PROPERTY TAX CODE 41.45(f). Taxing units can sue the appraisal district to force it to follow existing law. TEXAS PROPERTY TAX CODE 43.01.

Taxpayers around the state are encountering numerous instances of chief appraisers, appraisal districts and chief appraisers refusing to follow laws passed by the Texas legislature. One of the most frequently violated provisions in the statute is the burden of proof on an appraisal district at an appraisal review board. TEXAS PROPERTY TAX CODE 41.43(a). Notwithstanding the clear provisions of this section, taxpayers are required to present their evidence first and continue to lose hearings where the only testimony presented by the appraisal district is a request that, "The appraisal review board sustain the district's value."

Similarly, taxpayers are entitled to obtain copies of the documentary evidence which an appraisal district intends to present at a hearing 14 days in advance of a hearing. TEXAS PROPERTY TAX CODE 41.461(a)(2). Several appraisal districts simply refuse to comply with this statutory directive.

Additionally, the legislature has prescribed that rollback taxes are not to be assessed on property which belongs to the government such as residential streets. TEXAS PROPERTY TAX CODE 23.55(f)(3). Certain chief appraisers, with knowledge of this legal requirement, continue to impose rollback taxes on such property unless a taxpayer calls their attention to the issue.

Also, the legislature has prescribed that a chief appraiser shall accept as binding a determination of the Texas Natural Resource Conservation Commission as to what property qualifies for a pollution control exemption. TEXAS PROPERTY TAX CODE 11.31(d)-(f). One chief appraiser, and his appraisal review board refused to follow this law, but instead have proceeded to make their own independent determinations as to which properties qualify for the exemption.

Further, the legislature has enacted provisions which allow taxpayers to file notes of protest belatedly and to obtain hearings belatedly upon a showing of "good cause." TEXAS

PROPERTY TAX CODE 41.44(b) and 41.45(e). Many appraisal review boards deny all such requests, refusing to recognize any reason as constituting “good cause.”

Many appraisal review boards establish procedural rules in excess of those standards set by the legislature creating unnecessary burdens and obstacles for taxpayers. A few taxpayers have managed to obtain relief in these circumstances by appealing value determinations, but the vast majority are harmed without the prospect of any relief.

This bill provides a mechanism for taxpayers and their representatives to force the tax officials to play by the rules as dictated by the Texas Legislature and to prohibit arbitrary conduct on their part. There is no negative impact to this bill because it only sanctions the government if it is found to be violating a taxpayer’s rights by failing to follow established law. The fiscal impact is zero.

EFFECTIVE DATE

September 5, 2005. The changes in law made by this Act apply only to a suit filed under Section 43.01, Tax Code, on or after the effective date of this Act. A suit filed under Section 43.01, Tax Code, before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.